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AGENDA.

Agenda for the First Session of the Bombay Legislative Assembly commencing at the Assembly Hall, Bombay, on Monday, the 10th January 1938, at 2 p.m.

- I. OATHS OR AFFIRMATIONS OF ALLEGIANCE TO THE CROWN.
- II. NOMINATION OF FOUR CHAIRMEN BY THE SPEAKER.
- III. QUESTIONS AND ANSWERS.
- IV. GOVERNMENT BILLS—

(1) Bill No. XXV of 1937 (A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes)—*First, Second and Third readings.*

(2) Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888)—*First, Second and Third readings.*

(3) Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation)—*First, Second and Third readings.*

(4) Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923)—*First, Second and Third readings.*

(5) Bill No. II of 1938 (A Bill to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes)—*First, Second and Third readings.*

(6) Bill No. III of 1938 (A Bill to provide for the release on probation of offenders)—*First reading.*

(7) Bill No. IV of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888)—*First reading.*

- V. GOVERNMENT MOTIONS—

MOTIONS BY THE HONOURABLE THE PRIME MINISTER.

Motion No. I.

“This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the Province and is, therefore, unacceptable. This Assembly therefore requests Government to intimate to the British Government not to impose it on the Province.”

Motion No. II.

“This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued.”

VI. NON-OFFICIAL BILLS—

(1) Bill No. VII of 1937 (A Bill to provide for recognition of registered trade unions in the Presidency of Bombay)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(2) Bill No. VIII of 1937 (A Bill to make proper provision for the fixation of Tariff for vehicles plying for hire in the Presidency of Bombay)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(3) Bill No. IX of 1937 (A Bill further to amend the Bombay Public Conveyances Act, 1920)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(4) Bill No. X of 1937 (A Bill further to amend the Bombay Public Conveyances Act, 1920)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(5) Bill No. XI of 1937 (A Bill further to amend the Bombay Motor Vehicles Tax Act, 1935)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(6) Bill No. XII of 1937 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(7) Bill No. XIII of 1937 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(8) Bill No. XIV of 1937 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(9) Bill No. XV of 1937 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First reading*—Mr. Ali Bahadur Bahadur Khan, M.L.A.

(10) Bill No. XVI of 1937 [A Bill further to amend the Code of Civil Procedure (Act V of 1908) in its application to the Bombay Presidency]—*First reading*—Mr. S. V. Parulekar, M.L.A.

(11) Bill No. XVII of 1937 (A Bill further to amend the Bombay Public Conveyances Act, 1920)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(12) Bill No. XVIII of 1937 (A Bill further to amend the Bombay Public Conveyances Act, 1920)—*First reading*—Mr. Ali Bahadur Bahadur Khan, M.L.A.

(13) Bill No. XIX of 1937 (A Bill to regulate the rents of premises in the Bombay Province)—*First reading*—Mr. Ali Bahadur Bahadur Khan, M.L.A.

(14) Bill No. XX of 1937 (A Bill to abolish the Khoti System)—*First reading*—Dr. B. R. Ambedkar, M.L.A.

(15) Bill No. XXI of 1937 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(16) Bill No. XXII of 1937 (A Bill to protect the tenants in certain matters against the unreasonable exactions of the landlord)—*First reading*—Mr. S. V. Parulekar, M.L.A.

(17) Bill No. XXIII of 1937 (A Bill to amend the Bombay Hereditary Offices Act, III of 1874)—*First reading*—Dr. B. R. Ambedkar, M.L.A.

(18) Bill No. XXIV of 1937 (A Bill further to amend the Bombay Public Conveyances Act, 1920)—*First reading*—Mr. S. H. Jhabvala, M.L.A.

(19) A Bill to consolidate the provisions of Muslim Law in its application to the Presidency of Bombay relating to the suits by married Muslim women for dissolution of marriage and to remove doubts as to the effects of apostasy of a married Muslim woman on her marriage tie—*Motion for leave to introduce the Bill*—Mr. Mirza Akhtar Hasan, M.L.A.

(20) A Bill to provide punishment for free or forced or compulsory labour—*Motion for leave to introduce the Bill*—Mr. S. V. Parulekar, M.L.A.

(21) A Bill further to amend the Bombay Maternity Benefit Act, 1929—*Motion for leave to introduce the Bill*—Mr. S. V. Parulekar, M.L.A.

(22) A Bill to provide for the establishment of Trade Boards for certain trades—*Motion for leave to introduce the Bill*—Mr. S. V. Parulekar, M.L.A.

(23) A Bill for prevention of animal sacrifice to deities in places of worship to which the public have free and unrestricted access—*Motion for leave to introduce the Bill*—Mr. S. R. Bhartiya, M.L.A.

(24) A Bill to provide Bombay Presidency Swadeshi Products Test—*Motion for leave to introduce the Bill*—Mr. S. H. Jhabvala, M.L.A.

VII. DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST* :—

Resolutions by Mr. K. G. Gokhale, M.L.A.

1. "This Assembly 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 non-Indian suppliers for the supply of stores, materials, machinery or services, a clause to the effect that the suppliers concerned shall afford 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."

2. "This Assembly recommends to Government that they should establish employment bureaus whose functions should be to keep registers of unemployed persons and to find out suitable employment for them."

Resolutions by Mr. B. D. Lala, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. Maganlal Nagindas, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

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

Resolutions by Mr. B. A. Khimji, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. J. P. Joshi, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. M. C. Ghia, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. Lalchand Hirachand, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. S. K. Patil, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Rao Bahadur G. K. Chitale, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. B. P. Thakore, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Khan Bahadur Sardar Haji Amirsahab Mohiddin Saheb Rais, M.L.A.

1. "This Assembly recommends to Government to provide sufficient number of scholarships in the primary and secondary schools and in the colleges for the Muslim students of the Province in order to spread education amongst them."

2. "This Assembly recommends to Government to amend immediately all the Acts governing the Constitution of various local authorities so as to give the Muslims, as Minority Community, proportionate representation in these bodies according to the policy laid down in the Government of India Act, 1935."

3. "This Assembly recommends to Government to help all the Muslim educational institutions in the Province substantially by giving them grants."

4. "This Assembly recommends to Government to provide suitable services to Muslims in all Government and semi-Government departments in such a way that the percentage of their recruitment will be at least 30 per cent. of the total number of persons employed in public services."

5. "This Assembly recommends to Government that with a view to provide sufficient medical aid to the villagers early steps should be taken to establish free dispensaries in every electoral group of villages in a taluka throughout the Province and that the Medical Officer-in-charge should be instructed to visit every village of the group at least once a fortnight."

6. "This Assembly recommends to Government to abolish the levy of non-agricultural assessment immediately."

7. "This Assembly recommends to Government that in view of the heavy traffic on the low level bridges on the Surya river between Palghar and Manor, and the Tansa and Vaitarna rivers between Wada and Bhiwandi, and of the serious accidents caused to human lives, they should be pleased to construct high level bridges on the said rivers immediately."

Resolutions by Mr. Sakarlal Balabhai, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. M. M. Gandhi, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mrs. Lalavati K. Munshi, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)

2. "This Assembly recommends to Government that in view of wide-spread prevalence of unemployment in the Presidency a Committee should be appointed to inquire into its causes and to recommend measures for its relief."

3. "This Assembly recommends to Government to convey to the Government of India the desire of this House that they should be pleased to take such measures through legislation or otherwise so as to protect indigenous products against unhealthy foreign competition."

4. "This Assembly recommends to Government that they should be pleased to appoint a committee to devise ways and means to develop the natural resources of the Presidency."

5. "This Assembly recommends to Government that immediate steps should be taken to set up machinery in all the districts of this Presidency for the purpose of demonstrating improved methods in agriculture and of improving the breed of cattle."

6. "This Assembly recommends to Government that in order to encourage Indian industries a suitable ground in the City of Bombay may be reserved for holding of periodic exhibitions of only Indian-made goods."

Resolutions by Mr. D. N. Desai, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. S. H. Jhabvala, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)
3. This Assembly recommends to Government to appoint a Committee to report at an early date on—
 - (a) the necessity and desirability of establishing State control over the rents charged by landlords and house-owners on residential quarters and petty shops in the town and island of Bombay ;
 - (b) standardisation of rents of residential quarters and petty shops ;
 - (c) fixing of rate of interest earned by house-owners ;
 - (d) reduction of rents not exceeding Rs. 50 per mensem of all private, Municipal, Government and other buildings ; and
 - (e) provision of ample supply of water, light, bath-rooms, kitchens, passages in chawls, latrines, gutters and drains, and a common room for library.
4. This Assembly recommends to Government that Government Notification in the Home Department No. 6211/3, dated the 25th September 1937, may be rescinded so far as the deletion of rule 30-A of the Public Conveyance (Motor Vehicles) Rules, 1922, is concerned.
5. This Assembly recommends to Government to appoint a committee consisting of members of this House to consider the rules framed by the Government of Bombay under the Payment of Wages Act, 1936 (IV of 1936), and to suggest suitable changes therein, if and where necessary.
6. This Assembly recommends to Government that municipal corporations and district local boards should be empowered to frame rules and regulations regulating the following matters :—
 - (a) import of cattle from outside for the purpose of slaughtering them for human consumption ;
 - (b) slaughter of imported animals within municipal or local board limits ;
 - (c) disposal and distribution of meat, skin and bones of slaughtered animals ;
 - (d) prohibition of slaughter of milch-cattle.

Resolutions by Mr. W. S. Mukadam, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. I. H. Siddiqui, M.L.A.

1. "This Assembly recommends to Government that the knowledge of Muslim culture being essential to the Muslims in their daily life, the

teaching of the Quran and Sunnah should be made compulsory for Muslim boys in the primary and secondary schools and colleges in the Province of Bombay."

2. "This Assembly recommends to Government that the study of the Arabic language should be made compulsory for Muslim boys in the secondary schools and colleges in the Province of Bombay."

3. "This Assembly recommends to Government that a proportionate number of learned persons from the various communities selected by the communities themselves should be included in the text-book committees appointed by Government from time to time to prescribe text-books for schools and colleges so as to enable the Committees to suggest text-books which will deal with the culture of all the communities in India in its various aspects."

Resolutions by Mr. Ali Bahadur Bahadur Khan, M.L.A.

1. "This Assembly recommends to Government to terminate the present administration of the Kurla Municipality, to restore the right of the management to the citizens of Kurla and to take immediate steps to re-establish the municipality."

2. "This Assembly recommends to Government to take necessary steps to stop betting at the race course."

Resolutions by Mr. S. R. Bhartiya, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. I. K. Vyas, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

Resolutions by Mr. K. K. Desai, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale.)
2. (As No. 2 of Mr. K. G. Gokhale.)

VIII. PAPERS* PRESENTED TO THE ASSEMBLY—

(1) Government Notification in the Revenue Department No. 375/28, dated the 1st February 1937, containing amendments made in rule 38 of, and schedules to, the Bombay Cotton Markets Rules, 1929. [Placed on the Assembly table in accordance with sub-section (4) of section 6 of the Bombay Cotton Markets Act, 1927, as adapted.]

(2) Revised Election Rules Nos. 13, 14, 17 and 18 of the Amalner Municipal Borough. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

*Kept in Secretary's Office.

(3) Government Notification in the General Department No. 1907/33, dated the 19th July 1937, containing amendments made in rule 136 of the Bombay Weights and Measures Rules, 1934. (Placed on the Assembly table in accordance with section 4 of the Bombay Weights and Measures Act, 1932, as adapted.)

(4) Government Notification in the Revenue Department No. 375/28, dated the 6th August 1937, containing amendments made in rule 26 of the Bombay Cotton Markets Rules, 1929. [Placed on the Assembly table in accordance with sub-section (4) of section 6 of the Bombay Cotton Markets Act, 1927, as adapted.]

(5) Government Notification in the General Department No. 909/33, dated the 2nd August 1937, containing amendment made in sub-rule (2) of rule (4) of the Bombay Nurses, Midwives and Health Visitors Registration Rules, 1935. [Placed on the Assembly table in accordance with sub-section (3) of section 22 of the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, as adapted.]

(6) Revised Election Rules of the Nadiad Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

(7) Revised Election Rules Nos. 13, 15, 17 and 18 of the Jalgaon Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

(8) Revised Election Rules of the Ahmedabad Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

(9) Revised Election Rules of the Barsi Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

(10) Government Notification in the General Department No. 909/33, dated the 6th September 1937, containing amendment in rule 20 of the Bombay Nurses, Midwives and Health Visitors Registration Rules, 1935. [Placed on the Assembly table in accordance with sub-section (3) of section 22 of the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, as adapted.]

(11) Government Resolution, Finance Department, No. 2019/33, dated the 15th September 1937, regarding agreements between the Government of Bombay and the Reserve Bank of India.

(12) Election Rules Nos. 13, 14 (5), 17 and 18 (1) of the Chalisgaon Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

(13) Government Resolution, General Department, No. 2252/33, dated the 11th October 1937, regarding grant from the Government of India to Handloom Industry and Organisation of Industrial Co-operative Associations.

(14) Government Resolution, General Department, No. 238/33, dated the 20th October 1937, regarding Scheme for the development

of the cottage and small scale woollen industries and grant-in-aid from Government of India for the industries.

(15) Government Notification in the General Department No. 1907/33, dated 13th October 1937, containing amendment made in table XXI appended to the Bombay Weights and Measures Rules, 1934. [Placed on the Assembly table in accordance with sub-section (3) of section 41 of the Bombay Weights and Measures Act, 1932, as adapted.]

(16) Government Resolution, General Department, No. 1613/33, dated 18th November 1937, regarding training of educated young men in industries to relieve unemployment and scheme for vocational schools.

(17) Government Resolution, Revenue Department, No. L.C. 604, dated the 25th November 1937, regarding revision of suspension and remission rules.

(18) Revised Election Rules of the Bandra Municipality. (Placed on the Assembly table in accordance with section 221 of the Bombay Municipal Boroughs Act, 1925, as adapted.)

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Bombay, 10th January 1938.

AMENDMENTS TO BILLS.

Bill No. XXV of 1937 (A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes).

Serial No.	Clause.	Amendment.	Mover.
1	Clause 3	In clause 3 of Bill No. XXV of 1937 the words and comma "other than a tax affecting agriculturists," should be inserted between the words "tax and comma" and the words "the Provincial Government" where they occur in line 4 of the clause.	Mr. D. W. Raut.

Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888).

Serial No.	Clause.	Amendment.	Mover.
1	Clause 3	In clause (c) of sub-section (1) of section 78-A for the words "rupees fifteen hundred and not less than rupees twelve hundred" the words "rupees one thousand" shall be substituted.	Hon. Mr. L. M. Patil.

Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923).

Serial No.	Clause.	Amendment.	Mover.
1	Clause 3	In clause 3, sub-clause 2 insert the figure "(2)" between the words "sub-sections" and the figure "(3)".	Mr. B. M. Gupte.
2	Clause 3 (Section 5 of Original Act).	Keep section 5 of the said Act as it at present stands and substitute in sub-section (5) for the words "by appointment by the Government" the following words :— "By co-option from among the elected members." If the above arrangement of the amendment is not feasible the	Mr. S. H. Jhabvala.

Serial No.	Clause.	Amendment.	Mover.
2	Clause 3 (Section 5 of Original Act) — <i>contd.</i>	following amendment is suggested:— After (5), in the amendment amended as follows take for the words “by appointment by the Government,” the following:— “by co-option from among the elected members.”	
3	Clause 4	In Section 6 (1) after general take the following:— “Constituencies which shall consist of peasants and workers either intellectual or manual.” Delete everything else besides.	Mr. S. H. Jhabvaia.
4	Clause 4	In clause 4, sub-clause (1) (b) for the words: “In the area constituting the general Constituency.” Substitute the words “in the local board area”.	Mr. B. M. Gupte.

Bill No. II of 1938 (A Bill to amend the District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925).

Serial No.	Clause.	Amendment.	Mover.
1	Clause 7	In clause 7, sub-clause 2 (c) (b) substitute “in municipal area” for “in such wards”.	Mr. B. M. Gupte.

H. K. CHAINANI,
Secretary to the Bombay Legislative Assembly.

Correction Slip No. 1 to the Agenda.

Under the heading "VI.—Non-Official Bills—" the following entries be added :—

(25) A Bill to provide for the prevention of Unequal Marriages in the Province of Bombay.—Motion for leave to introduce the Bill—Mrs. Lilavati K. Munshi, M.L.A.

(26) A Bill to provide for the prevention of bigamous marriages among Hindus in the Province of Bombay.—Motion for leave to introduce the Bill—Mrs. Lilavati K. Munshi, M.L.A.

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Correction Slip No. 2 to the Agenda.

Under the heading "IV.—Government Bills—" the following entry be added :—

(8) Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples)—*First, second and third readings.*

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Monday, the 10th January 1938.

The Assembly met at the Assembly Hall, Bombay, on Monday, the 10th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 CURRION, Mr. FRED J.
 DABHI, Mr. FULSINEJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESAI, Mr. S. B.
 DESEMHUKH, Mr. K. B.
 DESHPANDE, Mr. G. H.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.

GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOLDING, Mr. C. F.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HALLIKERI, Mr. N. F.
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KANUGA, Mrs. VIJAYAGOURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NAVLE, Rao Bahadur N. E.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K. B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED HAJI SHAIKH KALLA, K.B.
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.

VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

NEW MEMBERS SWORN.

Mr. J. B. Greaves.
 Mr. R. B. Wadekar.

NOMINATION OF CHAIRMEN.

The Honourable the SPEAKER: I appoint the following four members to the panel of Chairmen :

1. Sir Ali Mahomed Khan Dehlavi,
2. Mr. Namdeorao Budhajirao Marathe,
3. Sardar N. G. Vinchoorkar, and
4. Mr. Jamnadas M. Mehta.

GOVERNOR'S ASSENT TO ACTS.

The Honourable the SPEAKER: Since the close of the last session, the following Acts have received the assent of His Excellency the Governor :

Bombay Act No. I of 1937 (An Act to provide for the Removal of certain disqualifications for being chosen as and for being a member of the Bombay Legislative Assembly and the Bombay Legislative Council).

Bombay Act No. II of 1937 (An Act to provide for the salaries of the President and the Deputy President of the Bombay Legislative Council and of the Speaker and Deputy Speaker of the Bombay Legislative Assembly and certain other matters).

Bombay Act No. III of 1937 (An Act to provide for the salaries and allowances of members of the Bombay Legislature).

Bombay Act No. IV of 1937 (An Act to provide for the salaries of the Ministers of the Government of Bombay and certain other matters).

Bombay Act No. V of 1937 (An Act to amend the Bombay Weights and Measures Act, 1932).

BUSINESS OF THE HOUSE.

The Honourable the SPEAKER: I have also to make one further announcement, and it is that the Honourable Minister for Local Self-Government does not intend to introduce Bill No. XXVIII of 1937 (A Bill to amend the Bombay Local Boards Act, 1923) in the present session of the Bombay Legislative Assembly.

RE : ADJOURNMENT MOTIONS.

Mr. JAMNADAS M. MEHTA (Railway Unions): Are there no questions and answers today ?

The Honourable the SPEAKER : No.

Mr. JAMNADAS M. MEHTA : Then I wish to make a submission. I tendered this morning, Sir, for your consideration a notice of adjournment and I shall be thankful if you will be pleased to say whether I can ask for leave of the House to move it. Shall I read that ?

Mr. S. L. KARANDIKAR (Ratnagiri, North) : Sir, before you proceed to answer that question, I would like to put before you this that questions and answers are not here on the table. Now, if we turn to Standing Order IV, 6, we find that when members have given questions and a certain period of notice has elapsed, the rule requires that time shall be reserved for questions and answers. The obligatory language of that rule makes it incumbent that when questions have been given answers shall be kept ready on the table.

The Honourable the SPEAKER : What rule is the honourable member referring to ?

Mr. S. L. KARANDIKAR : Rule 6 at page 21 of the Bombay Legislative Assembly Manual, which reads as under :

“ After new members have taken their seats and the elections of a Speaker and of a Deputy Speaker have taken place, a period of one hour at every meeting except during voting of demands of the annual budget when half an hour shall be allowed, shall be available for the asking and answering of questions.”

That means that one hour for questions shall be always available and when questions have been submitted and the due period of ten days has elapsed, it is the duty of the Ministers in charge to supply answers.

The Honourable the SPEAKER : There is no time limit prescribed for the answering of questions. So unless the answers are there, it is difficult to see as to how time can be reserved for asking and answering of questions.

Mr. S. L. KARANDIKAR : Is it to be understood then that any amount of time can be allowed to pass after questions are sent ? There were several questions due to be answered during the last session but those questions have remained unanswered. So many questions have been sent and answers to none of those questions are here on the table. What are we to understand ? That any amount of time can be allowed to elapse ?

The Honourable the SPEAKER : The honourable member is raising an entirely different question. The point involved was, in the beginning, as to whether time should necessarily be reserved for questions. I do not wish to be understood to say anything either way on the point now raised by the honourable member.

Mr. JAMNADAS M. MEHTA : I was submitting to you, Sir, that I have tendered this morning to you a notice of adjournment ; I wanted a ruling of the Chair thereon ; but you have been pleased informally to give me to understand that you are not inclined to admit the motion. If that has been finally decided by the Chair, I should like to make a submission for reconsideration of the ruling. Rule 11 of the old Bombay Legislative Council Rules, which appears at page 216 of the Manual, reads as follows :

“ A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President.”

I do hope that you will give your consent, but in order to assist you in giving your ruling, I would invite attention to that rule. There are certain limitations placed on this right of moving an adjournment of the House. These are that you can only raise one such motion on one day in one sitting, that in the motion you must confine yourself to one specific matter of recent occurrence, that you should not revive a discussion on a matter which has been discussed during the session, and that the motion must not anticipate a matter which has been previously appointed for consideration. Lastly it says that you cannot move an adjournment motion on a matter on which a resolution could not be moved. All these limitations are placed on members with respect to the right of moving an adjournment of the House. I understand, Sir, that you are not pleased to favour my motion for an adjournment of the House, i.e., to allow me to seek the permission of the House for moving it on the ground that in the past there have been uniform rulings from the Chair that if there was time to table a resolution then the right to move an adjournment of the House is barred. On this I wish to make my submission and to request you to revise that ruling, because the Chair is not bound by any precedent in this respect. My reasons for the submission are that the right of moving an adjournment of the House—

The Honourable the SPEAKER : May I invite the attention of the honourable member and of the House also to the consistent string of rulings, right from 1924 up to date, over this matter ? The real question is as to what you mean by “ urgent ”:— The matter has to be a public one, has to be of sufficient importance, has to be definite and has also to be urgent : and the test of urgency as laid down by my predecessors is this—I am reading from the rulings :

“ The urgency is to be decided by considering whether the matter occurs at a period which does not give the member moving the adjournment motion an opportunity to table a resolution and of bringing the matter up for discussion before the House.”

This ruling was first given in 1924 by the late Sir Narayan Chandavarkar. It was followed in 1926 by Sir Ibrahim Rahimtoola, and in 1929 and 1934 by Sir Ali Mahomed Khan Dehlavi. There has also been another ruling which says that if there was time enough for a member to table a resolution on a certain matter, then it is not a matter of urgent

[The Speaker]

importance to justify a proposal for an adjournment motion. This was also the ruling of the late Sir Narayan Chandavarkar in 1924, which was followed subsequently.

Mr. JAMNADAS M. MEHTA : My submission is that while unhappily the rulings in the past in this House have been to the effect that you have just read out, I shall with your permission place before you the precedent of the Delhi Assembly about this, and the hardship of not following it, and if my submission induces the Chair to revise the ruling and make a new one, I shall feel grateful.

My reason for submitting to the Chair to revise the ruling is that in the body of the rules the limitations do not include this, that because a resolution could have been tabled therefore the adjournment motion could not be moved. There is not that limitation in rule No. 12. It is suggested that the matter must be "urgent" and if there is time to move a resolution and you do not move it, it ceases to be urgent. If the right to move a resolution were absolute, I could understand it. This right to move an adjournment of the House is a definite right. With regard to a resolution, you have only the right of tabling it, and the actual right of moving it is problematic. In the ballot it may find a place which is so low that for all practical purposes the resolution will never come up for consideration. Therefore, on the one hand, the right which a member enjoys under rule 11 is taken away by that ruling, and on the other hand the alternative right conferred is a most problematic one. If you want to give one thing for another then I submit it must be equal. Here, one is the "bird in the hand", but the other is not even the "two in the bush". Therefore, Sir, I think that ruling needs revision.

My second ground for saying so is that in the Delhi Assembly this is not the interpretation given to the word "urgent". I am not going to occupy the time of the House by quoting it in extenso, but in the Delhi Assembly it has been held that if a member had no opportunity of moving an adjournment on the happening of an event except on the first day of the next session, then if he avails himself on the first day of the new session of the right to move an adjournment of the House on that proposition, that is considered to be sufficient compliance with the rules. But here it is not so. Here, the ruling takes away a definite right and gives a problematic one. Moreover, Sir, if a member is deprived of this right under Rule 12, he becomes helpless and he is thrown back on rule No. 12A, which means that he is thrown back to a more drastic attitude than he is anxious to adopt. On this particular question I was desiring to move an adjournment of the House in regard to what is now well known as the "Loka Shakti" resolution of the Government. I do not wish to say anything on that, because until my right accrues I have no right to criticise it. I only want to indicate which particular matter I wanted to raise. On this I wanted to raise only one question, that Government might be pleased either to withdraw that circular and apologise for it because it goes against the purity of public administration, or that we should be allowed to discuss it. If this ruling bars my way, what am I to do ?

[Mr. Jamnadas M. Mehta]

Public opinion has unanimously condemned it. I feel that it is most undesirable for Government to issue such circulars, and if I am not allowed, by an interpretation of the word "urgent" which does not appear elsewhere, my only recourse would be to rule 12-A, namely, to censure Government and to say that I have no confidence in the Government which issues circulars of this character; I am not anxious to drive away this Government because there is no alternative Government and, secondly, I have not the power to drive away the Government; and, thirdly, because if we drive them away section 193 of the new Government of India Act will come into force, which I do not want; yet, as a result of that ruling I would be compelled to resort to rule 12A, which is far more drastic than rules 11 and 12, which I suppose was not the intention of the framers of the rules. A private member should have a point stretched in his favour, because he is powerless against the majority of the Government, and if interpretations exist which go to take away a right which the rules give him, I submit it is a clear case for the intervention of the Chair and for a revision of the ruling. I am certain, Sir, that you do not wish that members should be driven to a course far more drastic than the one which is appropriate for the occasion, namely, by an adjournment of the House to request Government to withdraw the steps they have taken which have not found favour with the public. For these reasons, Sir, I submit that you will be pleased to reconsider this ruling, and in the interest of the right of the private member will allow an adjournment motion on this matter to be moved.

Mr. R. R. BHOLE (Poona, West) : Mr. Speaker, I have also tabled an adjournment motion in regard to the promulgation of order under section 144 of the Criminal Procedure Code and the Criminal Law Amendment Act in the Cities of Sholapur and Ahmedabad. I submit that I am not going to enter into the merits of the subject matter of the motions.

The Honourable the SPEAKER : It is better that the subject matter of the motions is not discussed. I only want to hear arguments to see whether there are sufficient grounds for inducing me to differ from the consistent string of rulings laid down from 1924 up to now by very eminent persons who occupied the Chair. That is the only point on which members may speak.

Mr. R. R. BHOLE : There is no proper definition of urgency as such. In the absence of such a definition, we consider that the particular motion which has now been tabled must be considered urgent, because there was no session whatsoever intervening between the incident and the present session.

Another reason is this. We can certainly table a resolution on this subject and, as for the matter of that, we can table a resolution on any subject. That is not the point. The point is whether we can table a resolution on such an urgent matter. If a resolution is tabled on such an

[Mr. R. R. Bhole]

urgent matter, it may be by the method of ballot and the resolution may not reach the stage of discussion on the floor of this House. Then, the urgency of the resolution ceases. So, my humble submission is that a resolution cannot be tabled on an urgent matter like this. That is why an adjournment motion is brought on a subject matter which is urgent. I hope you will consider this question in that light.

Mr. MIRZA AKHTAR HASAN : Sir, on a point of information. I want to know whether the Chair is bound by the rulings of its predecessors and whether they should serve as a head-light or tail-light.

The Honourable Mr. B. G. KHER : Mr. Speaker, Sir, the point which has been raised by the honourable member is certainly one of very great constitutional importance. The occasion which may be availed of for resorting to an adjournment may or may not appeal to one party or the other. But we are governed by a constitution and by rules. If the word "urgent" has any meaning, it ought to be adhered to throughout and consistently. I do submit, Sir, that the interpretation that has been put so long upon this word has been the result of long experience and is a very wholesome check on the bringing up of unnecessary adjournment motions. No reason has been so far adduced by the other side which ought to induce the Chair to revise that ruling. It was stated that the alternative would be a no-confidence motion and the honourable member (Mr. Jamnadas Mehta) was so good as to observe that it would be a futile procedure, because there was no alternative government. May I submit that this Government is susceptible, sensitive and responsive to public opinion ? After the Chair has ruled on this important point, if it permits me, I would like to make a statement.

The Honourable the SPEAKER : Statement as to what ?

The Honourable Mr. B. G. KHER : A subject was mentioned as a reason for the adjournment motion. If the general question has been discussed in that abstract form, there would have been no point for me to meet. But the honourable member (Mr. Jamnadas Mehta) who raised the point said that he had in mind, and discussed incidentally,—so also did the other honourable member,—a circular which he was pleased to call the "Loka Shakti Circular". If it is of interest to the honourable member, although it may not be strictly permissible according to the rules, I may be permitted to make a statement, after the Chair has given its ruling, which has nothing to do with the circular but is in regard to the word "urgent".

Mr. JAMNADAS M. MEHTA : After the ruling, what is to happen ?

The Honourable Mr. B. G. KHER : After the ruling is given, I will, if permitted, make a statement on the "Loka Shakti" Circular.

Mr. JAMNADAS M. MEHTA : Will a counter-statement be permitted ? Otherwise, it would be taking one more advantage of the impotence of the House.

Khan Saheb FAIZ MAHOMED KHAN (Kaira District): Sir, the question boils down to this. It is in regard to the interpretation of the word "urgent". To my mind, the condition as it is today considerably differs from what it was before, as we see events in the world, particularly in India. We have now to think rapidly, we have to act rapidly and we have to see things rapidly. Are we now to be bound by the rulings of 1926 or 1928? You will have to see that the conditions at present are not the same as they were 10 years ago. My very humble suggestion to you is that the interpretation of the word "urgent" has to be revised in view of the changes that have taken place in the world. In the past it was not urgent to take notice of an army invading Delhi from Ajmere and you could have sat for ten days without doing anything to meet the enemy. You cannot do the same in 1937. [*An Honourable Member*: "We are in 1938".] A few days' difference does not make much difference. My submission is that you should reconsider the matter in view of the fact that many things which were not considered urgent in the past have now become very urgent.

The Honourable the SPEAKER: I think it will be better for me to reserve the consideration of the subject and give my decision after taking into consideration the arguments that have been urged, though I must confess that the argument about rapidity does not appeal to me so much. I find that this ruling was followed so recently as 1936 and we are now just at the end of 1937. I will consider the question and decide whether I should adhere to that ruling or differ from it. I shall then give to the House my considered ruling.

The question now for consideration is whether the Honourable the Prime Minister should be permitted to make a statement. It would have been better if the honourable member who raised the point to reconsider the ruling had not referred to the subject in connection with which he wanted to move the adjournment motion. When a reference to that has already been made, I do not see how, in fairness, I could refuse permission to the Honourable the Prime Minister to make a statement. There should not be a counter-statement as the circular is before the public and mention of it has already been made. The Honourable the Prime Minister may make a statement only, and no further debate will be allowed on that.

Sir ALI MAHOMED KHAN DEHLAVI: There is just one little point I wanted to bring to your notice. The honourable member over there (Mr. Jamnadas Mehta) has also given out a bit of his mind and stated that he may resort to the following section—

2-30 p.m. Mr. JAMNADAS M. MEHTA: I said "I may be driven".

Sir ALI MAHOMED KHAN DEHLAVI: —that he may be driven to resort to that.

Mr. JAMNADAS M. MEHTA: I do not wish it.

Sir ALI MAHOMED KHAN DEHLAVI : If the ruling goes against him, I presume he would be driven to resort to Rule 12-A.

Mr. JAMNADAS M. MEHTA : I hope to get 36 members to support a discussion of the motion.

Sir ALI MAHOMED KHAN DEHLAVI : In view of that, a statement from the Honourable the Prime Minister would not be fair to the honourable member who is waiting to see whether he would be driven to Rule 12A. The Honourable the Prime Minister by making a statement may take the wind out of the sails of my honourable friend if he moves under Rule 12A. You, Sir, have already permitted the Honourable the Prime Minister to make a statement, but I think it is for the Honourable the Prime Minister now to think over whether the proper time to make a statement would be today or tomorrow, that is, twenty-four hours hence, when our honourable friend may be driven to resort to Rule 12A.

Mr. JAMNADAS M. MEHTA : If you rise, there would be no need.

Sir ALI MAHOMED KHAN DEHLAVI : I thought that was worth bringing to your notice.

Mr. JAMNADAS M. MEHTA : Sir, I do not know if you have finally decided to allow the Prime Minister to make a statement. It is a matter for the Chair to decide, but I do make the submission that if the Prime Minister's statement is not to be followed by statements or questions from members, it will be a one-sided record and place Government in a position of undue advantage. You are the judge of the situation, and if you decide to allow him, I have nothing more to say.

The Honourable the SPEAKER : I have decided to allow him from one point of view only, and that is, the honourable member himself made a reference to the merits of the adjournment by referring to the circular.

Mr. JAMNADAS M. MEHTA : For purposes of identification.

The Honourable the SPEAKER : As a reference has been made, it is but fair that the other side should also have an opportunity to explain.

Mr. JAMNADAS M. MEHTA : One side is not before the House yet.

The Honourable Mr. B. G. KHER : Sir, may I say with reference to what fell from the honourable member Sir Ali Mahomed Khan Dehlavi, that if it is really the intention of the honourable member Mr. Jamnadas Mehta to move a motion of no confidence, it is not at all my desire to take the wind out of his sails? If he does not wish it, I would refrain from making that statement.

Mr. JAMNADAS M. MEHTA : I can bring wind to my sails.

The Honourable Mr. B. G. KHER : This is with reference to what the honourable member Sir Ali Mahomed Khan Dehlavi said. That was not at all my intention. I thought it would smooth matters if I made a statement. I am entirely in the hands of the Chair. If the Chair allows me, I shall make the statement.

Mr. JAMNADAS M. MEHTA : You should not assume that I will be driven to take recourse to Rule 12A. I hope that my submission will be acceptable to the House and the adjournment motion will be permitted. Until a decision is reached about that, I have no means of making up our mind. I think the Prime Minister will do justice to all of us if he holds up his statement for a day,—until the Chair has given a ruling.

The Honourable the SPEAKER : The considerations which led me to allow the Prime Minister to make a statement have nothing to do either with the merits of the proposal or with the possibilities of a censure motion coming in. As I stated previously, because a reference to the subject matter was made, I think, in fairness, permission has to be given. It would be for the Prime Minister to see whether he should make a statement or not.

The Honourable Mr. B. G. KHER : Sir, in view of the desire of the honourable member that I should wait, I shall not make my statement until at any rate the ruling on the adjournment has been given.

BILL No. XXVII OF 1937 (A BILL TO PROVIDE FOR THE EXTENSION OF THE TERM OF OFFICE OF THE MEMBERS OF THE BOMBAY MUNICIPAL CORPORATION).

The Honourable Mr. L. M. PATIL : Sir, I beg to introduce Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation).*

The Honourable the SPEAKER : Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation) is introduced.

The Honourable Mr. L. M. PATIL : Sir, I move that Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation) be read a first time.

Question proposed.

The Honourable Mr. L. M. PATIL : Sir, Government intend to introduce in the City of Bombay Municipal Act certain changes regarding revision and widening of the franchise and readjustment of the constitution of the Corporation so as to make the Corporation more democratic and more efficient. These changes are under consideration and Government are anxious to give effect to them as soon as possible. But as the term of office of the members of the present Corporation expires on the 31st of March 1938, and as it is not possible during the short period

[Mr. L. M. Patil]

available to give effect to the reforms intended, it is proposed by this Bill to extend the term of office of the present members of the Corporation by one year, so that, during the interval, it may be possible to revise the City of Bombay Municipal Act so as to give effect to the reforms which are intended to be introduced in the said Act.

Question put, and agreed to.

The Honourable Mr. L. M. PATIL : Sir, I now move that Bill XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

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

Clause 2 (*Extension of term of office of Councillors and retirement of members of certain Committees*) ordered to stand part of the Bill.

The preamble ordered to stand part of the Bill.

The Honourable Mr. L. M. PATIL : Sir, I move that Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation) be read a third time and passed.

Question put, and agreed to.

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

BILL No. XXVI OF 1937 (A BILL TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888.)

The Honourable Mr. L. M. PATIL : Sir, I beg to introduce Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888)*.

The Honourable the SPEAKER : The Bill is introduced.

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888) be read a first time.

Question proposed.

Mr. MIRZA AKHTAR HASAN : Sir, I have tabled an amendment to clause 3, new section 78-A.

*Appendix 2.

The Honourable the SPEAKER : The amendment, I find, is tabled by the honourable member Mr. Mahomedali Allabux.

Mr. MIRZA AKHTAR HASAN : My amendment is different.

The Honourable the SPEAKER : They seem to be amendments which should be taken up at the second reading.

The Honourable Mr. L. M. PATIL : Sir, under section 136 of the City of Bombay Municipal Act, the Bombay Corporation appoint two auditors to examine and audit the municipal accounts for every official year. The auditors so appointed receive the maximum amount of remuneration provided for under sub-section (3) of section 136, namely, Rs. 17,000. In return therefore they have to examine the municipal accounts ; and they have also to provide from their remuneration for the cost of the establishment, etc., required for the work. From this it will be seen that the term of office of the auditors is not secured and that their salary is not fixed, and also that the staff provided is not adequate. The Bombay Corporation has not been able, under the present state of affairs, to obtain, for the purpose of auditing, the services of persons of right stamp, high status and calibre who would be able to carry their point with the Corporation as against the executive.

These are the serious defects which the Bill intends to remedy. Experience has shown that the present arrangement as regards the audit of municipal accounts has proved to be inefficient. The audit has not reached that standard of efficiency which is essential in an important public body like the Bombay Corporation, whose revenues amount to one-fourth of the whole of the revenues of the Province of Bombay.

The object of the Bill is to introduce provisions under which a separate department for the purpose of auditing the accounts of the Bombay Corporation is to be created under the control and supervision of a Municipal Chief Auditor. There is also a provision under which an arrangement is made to have adequate staff. The nature of the appointment of the Chief Auditor is such as will attract persons of the required qualifications. Special provisions are also introduced defining in detail the powers and duties of the Municipal Chief Auditor.

This Bill will, I hope, remove all the defects and put the system of auditing of the accounts of the Bombay Corporation on a sound footing.

Dr. J. A. COLLACO (Bombay City) : Mr. Speaker, I rise to support the first reading of the Bill.

The City of Bombay Municipal Act came into existence in 1888. Though born in 1888, it is still going strong. [*Mr. D. J. Ferreira* : Like Johnnie Walker.] The life of Johnnie Walker, as far as this Presidency is concerned, is only 3 years.

[Dr. J. A. Collaco]

Sir, the reason is this. Whenever the Corporation finds by experience that a certain section or a certain clause does not tend to the proper working of the Act, it comes before this honourable house for the deletion or amendment of such section or clause. So far as the present Bill is concerned, the Corporation has found by experience that the present system of appointing municipal auditors is faulty and requires to be radically changed. At present we appoint two auditors and pay them a lump sum allowance of Rs. 17,000 per year. These auditors are generally superannuated gentlemen from the Audit Department of Government. They in turn appoint some clerks to help them to do the work and, human nature being what it is, they appoint as few clerks as possible so that their profit may be more and some of the clerks also are superannuated clerks from the Audit Department of Government. So the whole of the Audit Department is, so to say, a superannuated one. The present Bill has been brought forward to correct these defects.

Another difficulty is this: the clerks that are appointed by these auditors are neither responsible to the Corporation nor to the Standing Committee. They are only responsible to the auditors, and the Corporation as well as the Standing Committee can take no action, disciplinary or otherwise, against these clerks because they are not their servants. Another difficulty is that these auditors being appointed for one year, their position becomes very insecure and, at the beginning of every year, they have to start on a campaign of canvassing, so that their position may not be assailed by more qualified persons who are always trying to get this prize job in the Municipality. Sir, you know from your own experience in your Municipality that the man who canvasses the most is generally successful in spite of his merits or demerits. You can imagine their frame of mind for three months when they have to start canvassing and are doubtful about their job. Consequently, they cannot devote their mind, time and energy which a municipal audit requires.

The next thing is these municipal auditors lack independence. Many honourable members must have read the Auditor General's report about the different departments of this Government and have seen what scathing remarks are passed about the sins of commission and omission made by this Bombay Government. They, Sir, will realise what amount of independence is required by these auditors. This is hardly possible for a man whose position is insecure, who has to depend on the goodwill of the heads of departments, and has to depend entirely on the Commissioner to recommend him for re-appointment. For these reasons, they are far from independent and cannot discharge their duties as independently as the Auditor General does. The Bill, which the Honourable Minister has introduced, is for correcting all these defects. The auditor, being permanent, has not to worry about the insecurity of his office. The post is sure to attract more qualified persons because their term of office is not of only one year and it will give them time to study all the Acts, Rules and bye-laws in order to detect any discrepancies that may occur. It will stop the practice of keeping only a few clerks. The Corporation

[Dr. J. A. Collaco]

will appoint as many clerks and as many assistants as are required to carry on the work efficiently. There will be complete independence. The auditors will call a spade a spade without fear or favour. The Bill is recommended by the Corporation and accepted by the Government, and I request honourable members to give their blessing to it.

Rao Bahadur G. K. CHITALE (Ahmednagar South): Mr. Speaker, I have been wondering as to why this change is now found necessary in a democratic body after a lapse of 50 years. My party, I must make it clear, intends to support the Bill. I am speaking only for myself. I have not yet listened to a single argument as to how the Municipality, which is known as a model one all over India, has been going on with the kind of audit, which has just now been described by my honourable friend (Dr. Collaco), who is a member of the Corporation for a number of years, and why it was left to this Government to bring in a Bill—such a small Bill—if the evil assumed such proportions. Speaking for myself, again, I do say that if it is meant to bring in an official element from the Audit Department in order to control the finances of the Corporation, then this House will have to consider very seriously whether that is a proper step to take for the independence of the municipal and other local bodies. Surely, if the Bombay Municipality, as it has been stated, wants it, we have no right to object to it. May I know from the members of the Corporation, who are sitting here, whether the accounts are so badly kept, and whether that evil has grown to such proportions that a radical remedy of this nature of an outside audit is absolutely necessary? I do support the motion.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I beg to support the motion and would like to clarify some of the doubts and difficulties expressed by honourable members. Sir, this Bill is being introduced at the request of the Corporation. It is not that it is being foisted on the Corporation by Government; the request originally came from the Corporation. My friend Dr. Collaco has the disadvantage of being in the Corporation for a lesser number of years than I, and I, therefore, challenge every one of his statements about the municipal auditors. It is not that the municipal auditors of the Bombay Corporation have been at any time found to be wanting. In fact, I am proud to say that the municipal auditors have been of ripe and mature experience who know their job and who have never hesitated to tell the Commissioner or the Standing Committee of any irregularity or any lapse on the part of the authorities. Time and again, it has been to the credit of the Bombay Municipal Auditors that they have pointed out without being afraid of the Commissioner or the Corporation where the Standing Committee is wrong, and the records of the Bombay Municipal Corporation will bear this out. Dr. Collaco has been cruelly unjust to a body of people who have very strenuously, very sincerely and very successfully audited the accounts of the Bombay Municipality. It is true that they have been too old sometimes, but then they bring in experience. It is wrong to say that the Commissioner of the Bombay Municipal

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Corporation has any opportunity to show favour to them. The House appoints them; the Commissioner has no hand in appointing them and the Commissioner's frowns or favours do not concern the auditors of the Bombay Municipality.

Still, Sir, we support the present Bill because the present Municipal Auditors have got no establishment. As Dr. Collaco has stated, the Rs. 17,000 which they jointly get, they are keen on keeping to themselves; they do not keep a sufficiently large staff, and it is often feared that the absence of adequate staff perhaps might result in inefficiency. But no case of inefficiency of the Municipal Auditors of any serious character has ever been brought to the notice of the Corporation, nor has it ever been alleged that the Municipal Auditors have been anything but efficient. Khan Bahadur Katrak worked and it almost appeared that he would survive the Municipality. He always appeared to be quite a willing and able worker, and he showed no anxiety to retire. But honourable members know that familiarity breeds contempt. Year after year, the same gentleman was appointed, and many thought there was a case for retirement. On account of constant bickerings Khan Bahadur Katrak had to be sent away. Now we have got a comparatively junior man, junior to Khan Bahadur Katrak. He is from the Punjab and he looks far more vigorous than Dr. Collaco—

Dr. J. A. COLLACO: But he is also a retired person.

Mr. JAMNADAS M. MEHTA: We felt that the Bombay Municipal Auditors might well have permanent auditors with a staff of efficient and adequate character. This is the sole reason that has prompted the Municipal Corporation to approach the Government with a request that this Bill may be passed. In this connection, Sir, I would ask the Honourable Minister in charge that he might consider the advisability of not putting this Bill, when it becomes an Act, into force from the 1st of April 1938; the Municipal Corporation, I fear, will not be in a position to advertise for candidates before that time; moreover, it takes the Municipal Corporation quite a fair amount of time to make up its mind about the candidates. The Commissioner makes up a list and sends it to the Law and Procedure Committee; that Committee sits on it for a fairly long time, hatches the list—and it has been my experience that a loan of three crores of rupees will be granted in two minutes, but a job of Rs. 200 will take two months. I feel, therefore, that it will not be possible for the Executive of the Municipal Corporation to carry out everything within one day; it may not have the right to advertise for candidates before the Act comes into force. Some interval will be necessary. I, therefore, submit that some time to enable the change over from the existing arrangement to the new one might be allowed. Instead of fixing 1st April next it may be stated that the Bill should come into force on such day as the Government will notify in the Gazette.

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Secondly, the Corporation has asked for a provision of not less than Rs. 1,200 and not exceeding Rs. 1,500 for the salary of the auditor to audit the Corporation accounts. The Government, having already provided for that in the Bill, have now apparently reconsidered, and they propose to poach on our preserves and compel us to pay less than the minimum wage. I say that the accounts of the Corporation are so important, the scale on which the Corporation operates is so great and the great care and precision which are required to handle our accounts will be so great that they will put a very great strain on a competent person's time and energy. The maximum salary of one thousand rupees is too low for the Chief Auditor of an institution in which the expenditure amounts to nearly Rs. 3,25,00,000. Further, there has been the addition of the Improvement Trust accounts. In addition, the Loan works accounts of the Corporation go into crores of rupees and the total weekly operations are also on a tremendously large scale. I, therefore, beg of the Government not to bring certain ideas of their own into a self-governing body, which has assessed the value of the work to be done and which cannot be properly done, unless the salary of the occupant of the post of the Chief Auditor is started at Rs. 1,250. The scale of the salaries of the Officers of the Bombay Municipal Corporation is fixed on a certain standard and if the auditor is paid on a different and a lower standard, he will feel hurt and smart under the wrong that the Government unconsciously are doing to him. Therefore, I would like Government, first of all, to arrange in such a way that the passing over from the old state to the new may be rendered easy, and secondly, that the declared wish of the Corporation that they know what they want to pay to their auditor may be respected. Barring this, I entirely support the motion that has been moved by the Honourable Minister for Local Self-Government.

The Honourable Mr. L. M. PATIL: As regards the enforcement of the Act, if the honourable member desires to change the date, he can bring an amendment.

Mr. S. H. JHABVALA (Railway Unions): Mr. Speaker, Rule 10 (2) of the Bombay Legislative Assembly Rules says:

"Notice of the proposed amendment shall be sent to the Secretary seven clear days before the date on which the Bill is read a second time."

Then there is a proviso to the effect that the Speaker can dispense with such notice in any case. I have got a couple of amendments to move. May I have your permission, at a later stage, to move my amendments to this Bill?

The Honourable the SPEAKER: I believe the honourable member knows that during the course of the first reading of a Bill, amendments of principle can be moved and if they are not moved during the first reading, any amendment of principle will not be allowed in the second reading. So far as notice is concerned, I will probably be prepared to waive it. But unless the nature of the amendment is known,—as to whether it is one of principle or of detail,—it will be difficult for me to say whether I can

[The Speaker]

allow it or not. I am making this position clear. Mere waiver of a notice need not mislead the honourable member into an assumption that he would be entitled to move any amendment at the second reading.

Mr. S. H. JHABVALA : If I am required to explain to you the nature of my amendments, then I can read those amendments to you, so that, you can decide as to whether you can allow them or not. My first amendment is as regards the deletion of clause (c) of section 3 of this Bill and putting it in this way :

“ receive such monthly salary as the Corporation shall from time to time determine.”

I want to amend it in that fashion. My another amendment is pertaining to paragraph 6 on page 7, section 9, where it is written “ Sanctions to expenditure accorded by the municipal chief auditor shall be audited by an officer to be nominated by the Corporation after consultation with the chief auditor.” My amendment is that the expression “ after consultation with the chief auditor ” should be deleted. These are the two amendments that I desire to move. I could have given you notice of the same, but unfortunately I was in Poona and I did not know that this Bill was going to be rushed through on the very first day in such a rudely hastening fashion.

The Honourable the SPEAKER : The honourable member may commit his amendments to paper and hand them in. I believe they are amendments of detail and can be moved at the time of the second reading.

Question, “ That the Bill be read a first time, ” put, and agreed to.

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. XXVI of 1937 (A Bill 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 and commencement*).

(1) This Act may be called the City of Bombay Municipal (Amendment) Act, 1938.

(2) It shall come into force from the 1st day of April 1938.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I beg to move an amendment that this Act shall come into force from such date as Government may, by notification, in the Gazette, fix.

The Honourable Mr. L. M. PATIL : Sir, I accept the amendment.

The Honourable the SPEAKER : The amendment will require a little verbal alteration. Instead of saying that clause (2) shall read as follows, it should be said that the following words should be substituted for the others.

Mr. JAMNADAS M. MEHTA : All that is intended is that instead of the Act coming into force on the 1st of April 1938, a notification in the Gazette should fix the date.

Amendment put, and agreed to.

Clause 1 (2) as amended (" It shall come into force from such date as the Provincial Government may by notification in the Official Gazette appoint ") ordered to stand part of the Bill.

Clause 3 (*Insertion of new heading and new sections 78A and 78B in Bom. III of 1888*)—

After section 78 of the said Act, the following heading and sections shall be inserted, namely :—

" Municipal Chief Auditor.

78A. *Appointment of municipal chief auditor.*—(1) The Corporation shall from time to time appoint a fit person to be Municipal Chief Auditor, who shall

(a) perform such duties as he is directed by this Act to perform and such other duties with regard to the audit of the accounts of the Corporation as shall be required of him by the Corporation or by the standing committee ;

(b) devote his whole time and attention to the duties of his office ;

(c) receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the Corporation shall from time to time determine ;

(d) be removeable at any time from office for misconduct or for neglect of, or incapacity for the duties of his office on the votes of not less than two-thirds of the members present at a meeting of the Corporation.

(2) The municipal chief auditor shall not be eligible for further office under the Corporation after he has ceased to hold his office.

78B. *Appointment, salaries, fees, allowances and duties of assistant auditors, clerks and servants subordinate to the municipal chief auditor.*—(1) The standing committee may from time to time—

(a) appoint such assistant auditors, clerks and servants to be immediately subordinate to the municipal chief auditor as they think fit ;

(b) determine the nature and amount of the salaries, fees and allowances to be paid to the said assistant auditors, clerks and servants respectively ;

(c) prescribe or delegate to the municipal chief auditor the power of prescribing the duties of the said assistant auditors, clerks and servants.

(2) *Control, etc., of the said assistant auditors, clerks and servants.*—Subject to the orders of the standing committee, the municipal chief auditor shall exercise supervision and control over the acts and proceedings of the said assistant auditors, clerks and servants, and the standing committee, subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said assistant auditors, clerks and servants and their pay, privileges and allowances."

Mr. S. K. PATIL (Bombay City) : Sir, I beg to move an amendment to clause 3 of the Bill—

In clause (c) of sub-section (1) of section 78A for the words " rupees fifteen hundred and not less than rupees twelve hundred " the words " rupees one thousand " shall be substituted.

With this amendment the clause will read as follows :

(c) receive such monthly salary not exceeding rupees one thousand as the Corporation shall from time to time determine ;

I had thought that many words would not be necessary to commend this amendment to the acceptance of the House, but my honourable friend the member for Railway Unions (Mr. Jamnadas Mehta) seems to have anticipated it. He has made a plea that rupees one thousand is rather too small a pay for an officer of the description of the Auditor.

[Mr. S. K. Patil]

He has also tried to point out that in this respect the fullest scope should be given to the desires of the Corporation. If I am aware of the desires of the Corporation, the original suggestion that the Corporation itself had made in this behalf was that the salary should be from Rs. 750 to Rs. 1,000 and in moving this amendment I am not doing anything that is inconsistent with the desires of the Corporation. Looking to the tendency of the times and also to the noble example which the Ministers themselves have set, the salary from Rs. 1,250 to Rs. 1,500, in my opinion, is rather a big salary. My friend went to the extent of saying that the auditor will feel humiliated if he takes a little less salary. I do not think the factor of humiliation will creep in for a mere paltry sum of Rs. 250. If there is any analogy between the Accountant which the Municipal Corporation has got on the one hand and the Auditor that we are appointing on the other, it was a different matter altogether; but even if it were contended that the status of the Auditor should be the same as the Accountant, then my honourable friend will agree that the Accountant of the Bombay Municipality gets even more than Rs. 1,500. The provision suggested in the clause as it stands now and to which I am moving an amendment proposes, in any case, to pay the Chief Auditor less than what the Accountant has been getting today. Therefore, there is no question of loss of status or any humiliation in what I am proposing and, therefore, I commend this amendment to the acceptance of the House.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I have got an amendment to move, of which I have now given due notice.

The Honourable the SPEAKER : The amendments will be taken up one after the other.

Mr. JAMNADAS M. MEHTA (Railway Unions) : I oppose this amendment and support the original clause. I have already stated what I wished to say in brief, but since my honourable friend, Mr. S. K. Patil, suggests that this reduction is justified, I would like to submit that it is not. A few facts will be enough. My friend says that the Corporation itself had originally decided for one thousand. Will he show me any authority? I say that the salary that is being fixed is at the instance of the Corporation. From Rs. 1,000 to Rs. 1,250 is not the Government proposal but that of the Corporation. If my honourable friend will be able to show that his amendment represents the Corporation's decision, I shall have nothing to say. I say it is not their decision.

Mr. S. K. PATIL : If I may put in a word, Sir, I may say that I too was a member of the Law Committee of the Corporation when this question was discussed. This was the original suggestion of the Law Committee and it is in response to that suggestion that the Corporation must have fixed the salary at Rs. 750 to Rs. 1,000. I am not aware whether there was any later suggestion, but the suggestion to fix the maximum salary at Rs. 1,000, emanated, in the first instance, from the Corporation itself.

Mr. JAMNADAS M. MEHTA : As I said, if the Corporation itself has represented to Government that this Bill should contain a provision for the maximum salary of Rs. 1,000 and if the Corporation itself wants this, whatever may be my own view, I shall certainly yield, but I submit that the Government's original proposal of Rs. 1,000 minimum and Rs. 1,250 maximum is based on the Corporation's own request, and I say that the Corporation, in doing so, has acted wisely and it will be a very undesirable thing to cut down the salary of so important an office as the Auditor of the biggest municipality in this country. Our scale of operations is very big. The Corporation has an income much more than that of any other civic body in India. Its income exceeds the income of several provincial Governments and the gentleman who is in charge of our audit operations must therefore be a first class man who will be attracted to the job on account of a decent salary corresponding to his qualifications. No Auditor believes in the asceticism of the kind in which the Honourable Ministers think that they believe and we should not be guided in this matter by any particular standard which the Honourable Ministers fix for themselves. The Corporation is a self-governing body. It has a right to fix salaries of its own servants, and there should be no interference from this House. I am quite willing that the original papers may be referred to by the Honourable Minister and if the Corporation does want Rs. 1,000 as the maximum, I am out of court. But, Sir, just imagine if Rs. 1,000 is to be the maximum, where is it that the Chief Auditor or the Auditor of a city municipality like the Bombay Municipal Corporation will begin? He will begin at Rs. 750 or even less and, in these days, with a flat costing at least Rs. 200 and a small car driven by himself, he will be driven into debt. His actual salary will be cut substantially by Provident Fund contributions and Income Tax and the amount left to this unfortunate person will be much less than what will attract first class talent. The Auditors do not enter a job in the spirit of service and self-sacrifice of the kind which is supposed to animate the Ministers and I think we should be guided by the ordinary aspirations of mankind; a qualified man will demand a decent and reasonable salary corresponding to his qualifications. I, therefore, beg the Government not to impose and foist their own view on a self-governing body. The Corporation is an autonomous body and it should be left free to fix a decent grade of salary. The amendment is an interference with the power of an autonomous body. I, therefore, oppose the amendment of my honourable friend Mr. Patil. He said that there is no question of status or humiliation or loss of dignity. I say there is when a man doing similar work elsewhere, next door, in the Railways is paid at Rs. 2,000 and next door, in the Port Trust, is paid at a higher rate, and if a man with better qualifications is compelled by statute so that the Corporation themselves have no remedy to pay him a higher rate, he certainly will be indifferent and his efficiency will suffer. Rs. 1,250 for the job of auditing the income and expenditure of a Corporation which operates on the scale that the Bombay Municipal Corporation has got to operate is not a fortune at all. It is just a reasonable minimum in a city like Bombay which is more costly than London itself. Sir, I oppose.

Dr. J. A. COLLACO (Bombay City) : Sir, I wish to make an appeal to the Honourable Minister in charge. I do not know exactly the present salary which the Corporation has recommended. My honourable friend Mr. Patil may be right in saying that a particular sum was fixed by the Law Committee, but I want to know what salary has been fixed by the Corporation. If the honourable member Mr. Patil can convince us that the Corporation has asked for Rs. 1,200 as the maximum salary, I will have to abide by it ; and, if the Corporation has fixed what it considers a fair salary, it would not be right for this Government to go against that recommendation of the Corporation. The Corporation whatever it may be, is a self-governing body. We know our needs and we know our necessities, and we know the onus of carrying out our duties and responsibilities. I want, therefore, to ask the Honourable Minister what the Corporation itself has proposed.

The Honourable the SPEAKER : I now put the amendment—

Rao Bahadur G. K. CHITALE : May we know the final recommendation of the Corporation from the Honourable Minister, whether it is, as the honourable member Mr. Patil says, Rs. 750 to Rs. 1,000 or Rs. 1,250 to Rs. 1,500 ? That will clear the position, because I would like to support the view which the Corporation has put forward deliberately.

Mr. JAMNADAS M. MEHTA : May not the question be postponed, to get this information ?

The Honourable the SPEAKER : Is not the Honourable Minister in a position to give the information ?

The Honourable Mr. L. M. PATIL : Sir, originally the Corporation suggested that the salary of the Chief Auditor should be from Rs. 700 to Rs. 1,000. Then the last Government, which is mainly responsible for the drafting of the Bill, introduced the scale of Rs. 1,200 to Rs. 1,500, and in the end it was agreed to by the Corporation, but this was not the intention of the Corporation itself. I am very glad that the honourable member Mr. S. K. Patil has suggested the amendment and I accept it. In accepting it, I would like to make the position of Government clear in this matter. The honourable member Mr. Jamnadas Mehta has said that Government has no right to poke its nose in the affairs of the local bodies. But the local bodies themselves are the products of the legislature and it is the duty of the Government to point out to the legislature the mistakes committed by the local bodies and get them remedied. It is also the duty of the Government to supervise and control the affairs of the local bodies wherever it is possible and necessary. The policy of the present Government is to reduce the salaries as low as possible, and in consonance with that policy, whenever we get an opportunity we intend to reduce the salaries, not only of the Government servants but also of the servants of the local bodies, and I hope in this policy the honourable House will support us. The status or position of a servant does not depend on the amount of the salary that he receives. There are various other motives which inspire a man to do

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good and to put all his energy and intellect in the service. So it is not correct to say that because a certain servant gets less pay or salary he will not do his job in the proper manner. We have to change the whole mentality of the people and servants regarding the relation of salary and service. There is also some misunderstanding in the minds of many who say that we intend that Ministers only should receive low salaries and not others. Sooner this misunderstanding is removed the better for us and for the public at large. Looking to the deplorable conditions of the masses in our country it is really unfair and savage that the servants of the Government and local bodies should receive the huge salaries which they get at present. It is quite necessary and it is high time that we should reduce the salaries of the Government servants in order to give relief to the starving masses. With these words I accept the amendment.

Amendment put, and agreed to.

Mr. MOHAMEDALLY ALLABUX (Bombay City, South) (*Addressed the House in Gujarati*): Sir, I move the following amendment:

In new section 78A (I), in the first two lines, delete the words "from time to time" and substitute therefor the words "every three years".

Question proposed.

Mr. MOHAMEDALLY ALLABUX: In the section as it stands there is no period prescribed for which any person is to be appointed as Municipal Chief Auditor. The Corporation may appoint him for any time and may dispense with his services after any time. I have, therefore, proposed that the appointment shall be made every three years, and I hope that my amendment will be accepted. Because there must be some time fixed to explain the expression "time to time" in the section.

I, Sir, appeal to the House to accept my amendment.

Dr. J. A. COLLACO (Bombay City): Sir, I do not understand the amendment just moved. I do not know whether the honourable member means that if within three years the office of Chief Auditor falls vacant owing to death or resignation no auditor should be appointed. From time to time means at any time. I also do not know whether the honourable member wants to provide that the term of office of the Chief Auditor shall be only three years and after three years he should be reappointed. The Bill is brought just to correct that defect in the Act. Now the appointment is made every year and there is canvassing every year. The proposed amendment postpones the canvassing; instead of once every year, it will go on once in three years. If that is the object of the amendment, there is no use in moving the Bill at all.

Mr. JAMNADAS M. MEHTA (Railway Unions): I submit, Sir, the amendment should be opposed. "From time to time" only means "if there is a vacancy either by death or retirement or resignation", in each such case the Corporation shall have power to make the appointment. Subject to that, once the Corporation have made the appointment,

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there should not be any picking and choosing at the end of every three years. The Chief Auditor is independent of the executive, and it is just right that such a man should be allowed to do his duty without being thrown at the end of every three years to the tender mercies of canvassing. Canvassing in a Corporation like ours will be a very great evil, and the permanent officials should be saved from that. I say, Sir, the amendment is reactionary and I would request my honourable friend Mr. Mahomedali Allabux not to press it. It is not to the benefit of anybody. The Corporation will be disturbed; every new aspirant to the auditor's job will disturb the harmony of the Corporation and its affairs. I therefore oppose the amendment.

The Honourable Mr. L. M. PATIL : Sir, for the reasons already given by the two honourable members who have just spoken, I oppose the amendment moved.

Amendment put, and negatived.

Mr. S. H. JHABVALA (Railway Unions) : Sir, the amendment which I desire to move is as follows :

In clause (c) of sub-section (1) of new section 78A in clause 3 of the Bill, delete the words "not exceeding rupees fifteen hundred and not less than rupees twelve hundred."

As amended, the clause will read :

"receive such monthly salary as the Corporation shall from time to time determine ;"

I desire to take away the restriction that is imposed by this House upon a self-governing body like the Municipal Corporation of Bombay. I am surprised why my honourable friend who is sitting in front of me and who was once the Mayor of Bombay should have got up to lay down a particular restriction even with regard to an increased salary. I may—

Mr. NAGINDAS T. MASTER : Sir, I rise to a point of order. The point is, when an amendment fixing the salary at a figure not exceeding Rs. 1,000 has been passed, whether an amendment of the kind which the honourable member is now proposing to move can be allowed to be moved.

Mr. S. H. JHABVALA : May I know what the point of order is ?

The Honourable the SPEAKER : The point of order is, after the decision of the House that salary not exceeding Rs. 1,000 should be paid, whether it is now permissible for the honourable member to move his amendment which is contrary to the decision which the House has already taken.

Mr. S. H. JHABVALA : You have permitted it, Sir.

The Honourable the SPEAKER : I agreed to waive the notice ; that is all.

Mr. S. H. JHABVALA : Because you waived it, I got up.

Mr. JAMNADAS M. MEHTA : What was the intention of my honourable friend Mr. Jhabvala—to move his amendment before mine or afterwards ?

The Honourable the SPEAKER : The honourable member stood up just when the last amendment was taken up. His intention was not present to my mind.

Mr. S. H. JHABVALA : I thank you, Sir, for giving me so much encouragement. Can I continue ? [*Laughter.*]

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers) : Sir, I beg to move the following amendment :

In the proposed section 78B, in the first line, substitute the words "Municipal Corporation" for the words "Standing Committee."

Question proposed.

Mr. MIRZA AKHTAR HASAN : In this connection, I request the Honourable Minister in charge of the Bill to accept my suggestion, because during these days of democracy I do not know why the power now enjoyed by the Corporation, consisting of 112 members representing all interests, should be taken away from them and entrusted to a set of people who are hardly sixteen. Another important thing contemplated at the time of framing the rules of the Municipal Act, that posts carrying salaries above Rs. 500 should be filled by the Corporation and the posts carrying salaries below Rs. 500 should be filled by the Commissioner, has been departed from in this Bill. And in the present Bill there has been a derogation from the said Act with a view that the auditors should be independent of the executive, and I do admit it is a laudable idea. Therefore, I think it will be in the interest of the people that, instead of 16 people making these appointments, power should be given to the Corporation which represents Labour, Capital and all sorts of people. In order that democratic principles may not be spoiled, I have brought forward this amendment, which I hope will be accepted by the Honourable Minister.

Dr. J. A. COLLACO (Bombay City) : Sir, the honourable member who has moved the amendment does not know the functions of the Municipal Corporation. The City of Bombay Municipal Act of 1888 is very complicated and its functions have been divided into three parts—those which are entirely in charge of the Commissioner, those that are entirely in charge of the Corporation and others which are entirely in charge of the Standing Committee. In financial matters, not even the Corporation can go against the wishes of the Standing Committee. The Corporation can recommend, but cannot force the Commissioner to do anything with posts carrying salaries below Rs. 500. The Standing Committee today creates posts of assistant auditors, menial servants, hamals and so on. Does the honourable member wish this power to be taken away from the Standing Committee ? This power of creation of posts is rightly within the jurisdiction of the Standing Committee and their appointment with the Commissioner. The posts carrying over Rs. 500 salary will be filled by the Corporation.

Mr. MIRZA AKHTAR HASAN : Power should be given to the Chief Auditor, rather than to the Standing Committee.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I would request my honourable friend Mr. Mirza not to press his amendment. My honourable friend Dr. Collaco has already pointed out that there are three concurrent authorities in the Corporation, namely, the Corporation, the Commissioner and the Standing Committee, concurrent in the sense that in some cases the Corporation has powers which the Standing Committee and the Commissioner cannot disturb, in some cases the Standing Committee has powers which the Corporation and the Commissioner cannot refuse, and in other cases the Commissioner has powers with which neither of the other two can interfere. The existing arrangement of investing the Standing Committee with the appointments of clerks is a happy one in view of the fact that the differences, if any, will be confined to 16 members instead of over a hundred. In regard to the appointments over Rs. 500 and over which are vested in the Corporation, there is any amount of unseemly squabble, canvassing and back-door influence. We have often wondered whether we could not entrust these higher appointments to the Public Service Commission. For posts below Rs. 500, the Commissioner has the power to appoint although he cannot create any of these posts. In the Act itself, there is a distinction drawn between creating a post and appointing to a post. The Standing Committee must create the appointment and the Municipal Commissioner can then fill it. The Municipal Commissioner cannot create new jobs even if they carry a salary of Rs. 5, but he makes appointments when the Standing Committee creates the posts. If this responsibility is thrown on the Corporation, it will simply break down. The Corporation is not the right body to exercise this power in view of its unwieldiness and it is risky to entrust this power to one man, i.e., the Commissioner. Therefore, I would request my honourable friend Mr. Mirza not to let loose canvassing for jobs as will happen if his amendment passes. The Standing Committee represents all interests and is elected by the Corporation in which ward members, Industrial and Commercial and labour members and also the Government nominees take part. The Standing Committee is the executive committee of the Corporation and it is the right body to create these appointments. The existing arrangement has worked well ; at times the Standing Committee throws overboard the suggestion of the Commissioner to create new posts. Further, if this power of appointment of clerks is entrusted to the Corporation, it will have very little time for civic affairs properly so called ; jobbery will rule the roost. I will therefore again request my honourable friend to withdraw his amendment.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers) : Sir, I quite appreciate the principle laid down and enunciated by the honourable member Mr. Jamnadas Mehta. I am prepared to accept as a *via media* that the power be handed over to the chief auditor. But I am not prepared to agree that the standing committee should be in charge of appointments of this kind. The power extends even to the

[Mr. Mirza Akhtar Hasan]

appointment of the assistant auditors, whose salary I am sure, is going to be more than Rs. 500. It is not in keeping with the prestige of democracy that you should keep the power, in that case, in the hands of a few people; it should be given to the general body. I wish again to appeal to the honourable member kindly to reconsider his attitude.

Mr. JAMNADAS M. MEHTA : Trust me about the affairs of the Bombay Municipal Corporation.

Mr. MIRZA AKHTAR HASAN : There is no guarantee of permanency for any one.

The Honourable the SPEAKER : As the amendment is not going to be withdrawn, I put it to the House.

The Honourable Mr. L. M. PATIL : Sir, I oppose the amendment. It is absurd and ridiculous that servants like auditors and clerks should be appointed by a big body like the Corporation. The honourable mover of the amendment says that it would be against democracy to leave the power of appointment with the standing committee, but immediately after that statement he suggests that the power should be given to the Chief Auditor. I do not understand him. At one time he says that he believes in democracy and therefore contends that the power should be given to the Corporation, but at the same time he is ready to hand over the power of appointment to one man, and that is the Chief Auditor. I agree with the cogent reasons put forward against the amendment by my honourable friends Dr. Collaco and Mr. Mehta, and I oppose the amendment.

Amendment put, and negatived.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4 (*Amendment of section 80 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 5 (*Amendment of section 83 of Bom. III of 1888*) ordered to stand part of the Bill.

The Honourable the SPEAKER : The next is clause 6. The honourable member Mr. Jhabvala has an amendment. Is it to clause 6, or to a clause at page 6? It is not clear.

Mr. S. H. JHABVALA : By " clause 6 " I mean item 6 of Schedule EE under clause 9. It is at page 7; there also the number is 6; I mean the item marked at the end of the Bill.

The Honourable the SPEAKER : Very well; I will then put clause 6.

Clause 6 (*Amendment of section 84 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 7 (*Amendment of sections 135, 136 and 137 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 8 (*Amendment of section 138 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 9 (*Insertion of new schedule EE in Bom. III of 1888*).

In the schedules to the said Act, after schedule DD, the following schedule EE shall be inserted, namely :—

“ SCHEDULE EE.

(See section 136.)

Duties and Powers of the Municipal Chief Auditor.

1. (1) The municipal chief auditor shall audit the accounts of the Corporation, as hereinafter provided, with the assistance of the assistant auditors, clerks and servants appointed under section 78B of this Act.

(2) In the discharge of his functions under this article the municipal chief auditor shall

(i) audit the accounts of all expenditure from the revenue of the Corporation, all expenditure on account of loan works and all expenditure incurred out of special funds and shall ascertain whether money shown therein as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it ;

(ii) audit the accounts of all debt, deposit, sinking funds, advances, suspense and remittance transactions of the Corporation and report upon those accounts and upon the results of verification of the balances relating thereto.

(3) The municipal chief auditor shall examine and audit the statements of accounts relating to the commercial services conducted in any department of the Corporation, including the trading, manufacturing and profit and loss accounts, and the balance sheets where such accounts are maintained under the orders of the Corporation or the standing committee ; and shall certify and report upon these accounts.

(4) The municipal chief auditor shall, in consultation with the standing committee, and subject to any directions given by the Corporation, determine the form and manner in which his reports on the accounts of the Corporation shall be prepared and shall have authority to call upon any officer of the Corporation to provide any information necessary for the preparation of these reports.

2. (1) The municipal chief auditor may make such queries and observations in relation to any of the accounts of the Corporation which he is required to audit and call for such vouchers, statements, returns and explanations in relation to such accounts as he may think fit.

(2) Every such query or observation as aforesaid shall be promptly taken into consideration by the officer or authority to whom it may be addressed and returned without delay with the necessary vouchers, documents or explanations to the chief auditor.

(3) The powers of the municipal chief auditor with regard to disapproval of, and the procedure with regard to settlement of objections to expenditure from the revenues of the Corporation shall be such as may be prescribed by rules or orders made by the standing committee in consultation with the chief auditor and sanctioned by the Corporation.

3. If the municipal chief auditor considers it desirable that the whole or any part of the audit applied to any accounts which he is required to audit shall be conducted in the offices in which these accounts originate, he may require that these accounts, together with all books and documents having relation thereto, shall at all convenient times be made available in the said offices for inspection.

4. The municipal chief auditor shall have power to require that any books or other documents relating to the accounts he is required to audit shall be sent for inspection by him :

Provided that if the documents are confidential he shall be responsible for preventing disclosure of their contents.

5. The municipal chief auditor shall have authority to frame rules and to give directions on all matters relating to audit, particularly in respect of the method and the extent of audit to be applied and the raising and pursuing of objections.

6. Sanctions to expenditure accorded by the municipal chief auditor shall be audited by an officer to be nominated by the Corporation after consultation with the chief auditor."

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move an amendment which runs as follows :

In paragraph 6 of Schedule EE in clause 9, delete the words "after consultation with the chief auditor".

That means, the paragraph ends with the word "Corporation," so that the whole paragraph shall read thus :

"Sanctions to expenditure accorded by the municipal chief auditor shall be audited by an officer to be nominated by the Corporation."

In this connection, I desire to submit to the House for consideration a few items. Firstly, the chief auditor has been given, as will be seen from the whole schedule, a good many powers—

The Honourable Mr. L. M. PATIL: Sir, I have not followed the amendment.

The Honourable the SPEAKER: In item 6 at page 7, the last words "after consultation with the chief auditor" shall be deleted, so that the officer proposed to be nominated by the Corporation may be nominated by the Corporation without consultation with the chief auditor.

Mr. S. H. JHABVALA: The chief auditor has been given sufficiently large powers, as will be seen from the whole schedule marked "Duties and Powers of the Municipal Chief Auditor". But at the time when certain sanctions are to be taken which pertain to the municipal chief auditor himself, I beg to submit that in that connection the Corporation alone should have a free will and a free power and should not be compelled to consult its own chief auditor. Moreover, the item in connection with which the consultation is desired is such as will necessarily require the Corporation to investigate certain questions pertaining to the chief auditor himself. Why should the Corporation be deprived of the power to judge the conduct or the doings of the chief auditor until—as laid down in the Bill—the auditor is again given a voice? That is not in consonance with the spirit of the whole Bill. Sanctions to expenditure accorded by the municipal chief auditor should be by an officer who is absolutely independent, and he should be appointed by the Corporation itself. Therefore, I beg to submit that the expression "after consultation with the chief auditor" should be deleted.

Question proposed.

Dr. J. A. COLLACO (Bombay City): Sir, I beg to oppose this amendment. This is a harmless clause. It does not enforce the nomination of the officer recommended by the chief auditor. The Corporation has only to consult the chief auditor; the right of nomination is left with

[Dr. J. A. Collaco]

the Corporation. They may consult anybody else. I do not see any harm in that. The chief auditor, as the clause stands, has nothing to do with nomination.

Mr. S. H. JHABVALA : Sir, may I explain? The point is—

The Honourable the SPEAKER : The honourable member will not be in order. Does the Honourable Minister want to say anything?

The Honourable Mr. L. M. PATIL : Sir, I have no objection to the amendment, and I accept it.

Amendment put, and agreed to.

The Honourable the SPEAKER : I now put the clause, as
4 p.m. amended—

Mr. S. H. JHABVALA : On a point of explanation, Sir. I had sought your permission in connection with an amendment. Notice of that amendment was given to you in writing prior to my honourable friend Mr. Patil having got up. Accordingly, I beg to submit that my notice should be reconsidered by you and that you should kindly give me permission to move even that amendment.

The Honourable the SPEAKER : It is unfortunately too late. What really happened was this. The honourable member Mr. Patil's amendment was already before me and was circulated to the House. The honourable member Mr. Jhabvala consulted the Chair as to whether he could table amendments at that time, but his specific amendment was not before me at that time. So I stated, when I disallowed the amendment, that though the intention was there, the amendment was not present before me. That is how I explain it.

Mr. S. H. JHABVALA : That is carrying mental stretches rather too far, Sir! [*Laughter.*]

Clause 9, as amended, ordered to stand part of the Bill.

(The House re-assembled after tea at 4-30 p.m.)

The Honourable the SPEAKER : I now take the preamble.

The preamble ordered to stand part of the Bill.

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888) be read a third time and passed.

Question put, and agreed to.

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

BILL NO. XXV OF 1937 (A BILL TO PROVIDE FOR IMMEDIATE EFFECT BEING GIVEN FOR A LIMITED PERIOD TO PROVISIONS IN BILLS RELATING TO THE IMPOSITION OR INCREASE OF TAXES).

The Honourable Mr. A. B. LATTHE : Sir, I beg to introduce Bill No. XXV of 1937 (A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes).*

The Honourable the SPEAKER : Bill No. XXV of 1937 is introduced.

The Honourable Mr. A. B. LATTHE : Sir, I beg to move that Bill No. XXV of 1937 (A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes) be now read a first time.

Question proposed.

The Honourable Mr. A. B. LATTHE : Sir, the necessity for introducing a legislation of this kind arose for the first time when the Government a few months ago were considering the question of sales taxes in the Bombay Presidency. As the House is aware, though a legislation of this kind does exist in the Central Government, the Provincial Governments, at any rate the Government of Bombay, had not thought it necessary to provide itself with the powers which an Act of this kind gives to the Provincial Government. As I said, the necessity arose because there was a possibility—and there is a possibility at any time—of the Provincial Government going in for a taxation of the type of a sales or a turnover tax. In the case of a tax of that kind some time naturally elapses between the publication of the Bill and the actual passing of that Bill, and, naturally, those who want to trade in that particular article which is to be taxed by the Bill introduced, try to take advantage of the proposal during the time that the proposal is before the public, but the tax proposals cannot be given effect to. In order that attempts may not be made by dealers in that particular article, which may be proposed to be taxed, to evade taxation before the legislature actually passes that taxation proposal, the power which is proposed to be given to Government under this Bill has become necessary. It does not mean necessarily that, because I am moving this Bill today, the Government have in view any particular taxation for the recovery of which this Bill is intended. Nothing of this kind is really intended, and I hope neither this House nor the public will be misled into conjectures about the immediate intentions of the Government. It is just a power which every Government ought to possess, and which even the Government of India possess, in this country. It often happens that a large amount of speculation is encouraged by anticipation of a tax which a Government might be contemplating. It is impossible to prevent that sort of speculation in so far as it is not based on any facts which the Government offers to the public. A large

*Appendix 3.

[Mr. A. B. Latthe]

amount of that speculation depends upon conjecture. Of course, nobody can prevent that; but, when a Government proposes, for instance, to tax at a certain percentage rate the sales of certain articles, and the Government is not in a position immediately to give effect to its taxation proposal, because that proposal must pass through various stages in the two Houses of the legislature, must receive the assent of the Governor, and so on, what is the result? The result is that during this interim period people indulge in all sorts of transactions which, if their expectations are not fulfilled, may lead them into great difficulties. For instance, I would suggest this case to be considered. Suppose the House ultimately throws out the Bill; but many people may have entered into transactions on the assumption that the Bill would be passed as proposed, and there would be very heavy losses incurred by some people. In order that all this sort of speculation should be stopped, it is intended that as soon as the proposal is put, Government should have power to begin collecting that tax. Assuming that the legislature does not sanction the proposal or amends the proposal, then a remedy has been provided for—there will be a refund of the taxation which the legislature does not sanction. With this safeguard, it is absolutely a very innocent Bill, and an innocent power which the Government seeks to possess. I hope that the House will very willingly entrust their Government with this power.

Mr. D. W. RAUT : Mr. Speaker, I want to know when I can move my amendment to this Bill.

The Honourable the SPEAKER : It can be taken up at the time of the second reading.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District) : Sir, though I am in general agreement with what has been stated by the Honourable Minister in charge of this Bill, yet I entertain some fears so far as the working of this Act is concerned. If this Bill passes into an Act, I do not think, as has been made out by the Honourable Minister, it would be an innocent Act. On the contrary, I feel and I want to urge this point upon the Honourable Minister that it will be a handle with the Government—whatever that Government might be—that can be used either for good or against the interests of the people. It is not that the Act can be used only in the best interests of the people. I quite agree that there are cases that have arisen in the past, and perhaps will arise in future, when taxes are evaded; but, I believe that if a Government is so constituted that it is not based on popular will, then this will give them power which can be abused. So far as the present Government is concerned, I quite agree that the Act would be an innocent Act, but the most important object of the Act depends on what is stated in the Statement of Objects and Reasons. It is stated, "The object of this Bill is to prevent such evasion in suitable cases". I am afraid that though the present Government may use the Act in suitable cases, the Act can be used in unsuitable cases by Governments which might be autocratic or bureaucratic. Unfortunately, the political equilibrium is

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not such as would create any confidence in the stay of this present Ministry for a long time. They may stay in their present position of power for a long time and they may not! Both things are possible. There may be a deadlock even tomorrow. Then the only alternative to the present Government would be some form of autocracy or bureaucracy as we had in the past—of course, unless something extraordinary like the Interim Ministry comes in. Therefore, this Act will give large arbitrary powers to the Government of imposing taxes even before they are sanctioned by the Assembly, which will mean that such taxes will affect the market at once. I will give you one instance. The Commissioner of Police in Bombay has ordered all the Taxi Drivers to put up new meters on their taxis on the 1st of February. They are forced to buy these meters on the 1st of February—of course, the poor people are clamouring against that order and they are having a demonstration near the Apollo Bunder which must be taken notice of by Government. But suppose today Government brings in a Bill, a measure, to impose a certain type of tax on these meters, and they begin to impose that tax under the provisions of this Act at once; the price of these meters will go up, and there will be speedy sales of these meters because if the taxi drivers know that they have got to set up these meters, they will run to the shops that are selling these meters—unfortunately, there is only one company which is selling these meters—to buy these meters before the price went up. But if the prices go up they will have to incur an extra expenditure. Suppose the prices go up to Rs. 325 or Rs. 350. Now, the Company will realise from the taxi drivers an extra sum, and suppose the Bill is rejected by the Assembly, then the only remedy that is provided for in the Bill is the safety clause, namely, that a refund will be made. Now, the refund will be made to the Company, but what about the hundreds of taxi drivers who have spent more than they ought to spend? Will the Company return the extra price charged to the taxi drivers? Thus a great complication will be created. The Honourable Minister has seen only one side of the picture. I submit that there is also another side of the picture. It is possible that Government may not use this Act properly, and I make it plain that it will not be used properly by Government which will come as an alternative to the present Government. Therefore, it will be a weapon in the armoury of the Government, which weapon can be used against the best interests of the people; and I am sorry that this weapon is being forged by the Congress Ministry because after they go away and some autocratic Government comes in—

Mr. JAMNADAS M. MEHTA : Say some other Government.

Mr. ALI BAHADUR BAHADUR KHAN : Call it a bureaucratic government or autocratic government, whatever you like. Of course, if any assurance is given to me by the Honourable the Prime Minister that he will remain in this position for a long time—at least, that he expects to be there or there are fair chances of his remaining there for a long time to come, then certainly I would say, as the Honourable Minister in charge of this Bill said, that this is an innocent Act, because

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there are other ways and means of bringing pressure on a popular Government if it makes a wrong choice. There are other ways and means open to the public by which they can change the mind of a popular Government and they can make them have proper exercise of the choice. But if the Government is not Congress Government and some other form of Government is established on account of the possible deadlock, then certainly this will be a weapon which will be used against the people. Therefore, on account of this fear, I think this Bill is premature. It should be brought only when the position of the present Government is secure, unless the Ministers have considered and have come to the conclusion that their position is quite safe and secure.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I am in agreement with the general principle adumbrated by the Honourable the Finance Minister in the Bill. I am sorry, my friend, Comrade Ali Bahadur Bahadur Khan has not understood the actual purport and the meaning and the implication of the proposed Bill. It is exactly for what he is wishing to prevent that the Honourable the Finance Minister has proposed a Bill like the present one. His case is rather different not bearing analogy and not applicable to the issue. The point is this that between the proposal of a particular Act by the Government and the actual passing of the Act by the Legislature there are certain speculators and gamblers who play disastrous financial turn-over at the expense of the general class. These people try to make a turn-over of lots of sales of their Capital stock or of their grain or of their oil and what not. I hope my friend Comrade Saklatvala will be able to enlighten us on this issue of speculative exhibition of these gamblers. Any way this thing is happening in the Bombay markets and if there is anything that the present Congress Ministry can do in the direction of putting a stop to this wild speculation and the miserable ways adopted by these vicious people who are following the game of speculation, their hands should be strengthened. It may be share-stock, it may be oil, gold or silver, anything. If there is anything introduced by the Government, be it Congress or otherwise, in this direction of capitalist gambling, I am in hearty agreement therewith. Therefore, I suppose that this Bill is in the fitness of things. I may quote a couple of instances. Some time ago, in England, if I mistake not, it was in the time of the Finance Minister Mr. Chamberlain that certain financial items pertaining to a certain thing were being proposed and the result was that there was some wild speculation and as a result of that some people were deprived of their well-earned gainings. The same thing happened some time ago in India. Some member from the commercial community got scent of a particular item of taxation that the Government was contemplating and the result was there was some wild speculation and certain crashes as a result of the leakage and therefore I think on the whole this Bill is certainly good and the Honourable Mr. Latthe deserves congratulations for bringing in such a proposal. His mentality is running parallel to mine this time at least. If there is anything that goes to help the interests of the masses, certainly it should be encouraged.

[Mr. S. H. Jhabvala]

My friend, Comrade Ali Bahadur Bahadur Khan, gave an instance of the manufacturers of new meters. I think it is not an apt quotation and I want to correct the House, lest the House should be swayed by his misgivings and misconceptions. The Honourable Mr. Latthe might have to be spared the loss of his Bill. For that reason I want to correct the impression. The point is that a certain resolution was passed by the Government of Bombay in the month of September 1936. Now if such a thing as the Honourable the Finance Minister's Bill was in force between the time of 25th September 1936 and now, namely, 10th January 1938, we could have, by the help of such a Bill stopped the manufacturers of the meters from flaring up their prices which they are now doing. But because there is absence of such a weapon in our hands these privileged manufacturers are doing it. Therefore, I am sorry that though my comrade is sitting just near me I have to hold an opposite view. If such a provision were in the hands of the Government and Government were fortified with a feeling that the turn-over should be stopped in the interest of the general people, then certainly such a step should be considered to be welcome.

It is with these words that I welcome the Honourable Mr. Latthe's Bill and support it.

Question, "That Bill No. XXV of 1937 be read a first time," put, and agreed to.

The Honourable Mr. A. B. LATTHE: Sir, I move that Bill No. XXV of 1937 (A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes) 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 (*Definitions*) ordered to stand part of the Bill.

Clause 3 (*Power to make declarations under this Act*):

Where a Bill to be introduced in the Bombay Legislative Assembly on behalf of the Provincial Government provides for the imposition or increase of a tax, the Provincial Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.

Mr. D. W. RAUT (Thana North): Sir, I beg to move:

In clause 3 of Bill No. XXV of 1937 the words and comma "other than a tax affecting agriculturists," should be inserted between the words "tax and comma" and the words "the Provincial Government" where they occur in line 4 of the clause.

Question proposed.

Mr. D. W. RAUT (*Addressed the House in Marathi*): Sir, I will explain the object of my amendment in the beginning.

If the tax is levied on the agriculturists and if they are not able to sell their produce soon enough and if the time of collection of the tax falls just when the prices of grain are low, the agriculturists will have to dispose of their produce at very low prices in order to pay the tax or they will have to borrow money in order to pay the tax. If this tax falls to be paid in February or say even in January, the position will be that the agriculturists will have to sell their produce even at lower prices in order to raise the money with which to pay the tax and they will also have to borrow from outside. I therefore suggest that the agriculturists should be exempted from this provision. I am told that the Congress Government do not wish to do anything which will be oppressive to the agriculturists by their taxation, but as this measure is going to be made permanent and we cannot say about next Government, I request that my amendment should be accepted.

Question proposed.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I am unable quite precisely to follow the amendment of my honourable friend Mr. Raut. The object he has in view is one with which I am sure the whole House is in complete accord, but if it is passed in the form in which he has put it, the whole object of the Bill is sure to be defeated; you cannot say that a particular tax will not affect the agriculturists. If he had categorically stated what particular tax he wants to be excluded, it would have been easy to accord support to the amendment. As it stands, I cannot see what particular tax is there which will not affect the agriculturists; there will be interminable litigation about the meaning of the amendment—not by the agriculturists but by the people who really want to evade the particular taxation. The objects of the Bill, Sir, have not been quite clearly appreciated in some of the speeches that have been made. The main object is not directly to touch any speculation. Between the publication of a Bill imposing any tax and its enactment as the law of the land, there is a possibility of people so operating in the market not necessarily as speculators but as actual buyers that they will be able to evade the taxation. If the Bill does not pass, there is nothing to be said. If it passes, the man will be able to cheat the State and enrich himself. The object of the Bill is to prevent such an evasion. If you take an article of clothing or of food or of fuel, every one of these articles, if taxed, will somewhere or other touch the agriculturist; the tax will be evaded by the merchant without benefiting the agriculturists. I therefore cannot support this amendment. At the same time, I want that the object of Mr. Raut's amendment should be kept in mind by the Government, namely, that they will not create a position in which any tax will directly hit the agriculturist and make things dearer for him. The Government Bill proposes to reach the operator in the market who wants to take advantage of the prices ruling before the tax is imposed and after the tax is imposed. In this the Government should

[Mr. Jamnadas M. Mehta]

have the complete support of everybody. So far as Mr. Raut's point is concerned, it can be met more by administrative arrangement than by any provision in the Bill itself. So, I would request him not to mutilate the Bill because it will not serve the object with which Government have brought in this piece of legislation. The Bill is entirely in the interests of the tax-payer and on it are based many of our hopes of financial reforms. Therefore, I request my honourable friend Mr. Raut not to press this amendment and at the same time I request the Government to see how to meet the object which Mr. Raut has in mind.

Mr. D. W. RAUT : If the Government agree to exempt the agriculturist who has got his income from agriculture alone, I am prepared to withdraw my amendment.

The Honourable Mr. A. B. LATTHE : Sir, since I came to know of this amendment of my honourable friend Mr. Raut, I have been wondering what really he has in mind. With the imagination at my command, I cannot conceive of any tax which any mischievous Government could levy and could collect during the course of a fortnight or a month and which would hit the agriculturist. So far as I am concerned, I have not been able to imagine a tax of the kind and therefore I think any assurance from me to my honourable friend is really unnecessary. If an assurance were really needed, of course it could be given by a Government which in the view of another honourable friend has the security of tenure for ever. Well, I do not claim to have that security for myself or the Party to which I belong, but I place this proposal before the House in the full conviction that whatever the Government may be, so long as that Government is going to work through a legislature, there is absolutely no fear of that Government being able to abuse the powers which this Bill may give to that Government. By a resolution, the legislature can prevent the operation of this Bill even the next day after the Taxation Bill is introduced and a Declaration under this law is made.

Mr. ALI BAHADUR BAHADUR KHAN : What about the ballot ?

The Honourable Mr. A. B. LATTHE : There is no question of ballot. I do not think it is a question of ballot and therefore the House can make the operation of this Bill impossible by a resolution which the Government will naturally accept. After all, whether a resolution is passed or not, it will be only a question of a few days and no Government will be so foolish as to go on making arrangements for the collection of a tax when there is any danger that the legislature itself will throw out the Bill. If the legislature is likely to accept a mischievous proposal, then, instead of blaming the Government, the legislature must blame itself. In any case, my point is that there is nothing in this section which need frighten anybody. I am as anxious about the interests of the agriculturists as my honourable friend Mr. Raut. I assure him and the House that there is not the slightest chance of any Government being able to use the powers in such a way as to hit the agriculturists. Of course, in an indirect way,

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as my honourable friend Mr. Jamnadas Mehta said, anything could be said to affect anybody else in the world. We are all living such an inter-connected and such an inter-dependent life that anything done in any part of the world may affect any other part of the world. In that way a tax on cotton piecegoods, or a tax on wheat, or a tax on tobacco might affect the agriculturists in an indirect manner, and it is going to affect them if the Bill is passed, but that is not anything of which I think anybody need be nervous. Therefore, my honourable friend who has moved this amendment need have no hesitation in withdrawing the amendment which he has moved.

Mr. D. W. RAUT : In view of what has been said by the Honourable the Finance Minister, I ask for leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4 (*Effect of declarations under this Act and duration thereof*) ordered to stand part of the Bill.

Clause 5 (*Certain refunds to be made when declarations cease to have effect*) 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. XXV of 1937 (a Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes) be now read a third time and passed.

Question put, and agreed to.

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

MOTION RE : FEDERATION.

The Honourable Mr. B. G. KHER : Sir, the motion which stands in my name reads as under :

"This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the Province and is, therefore, unacceptable. This Assembly therefore requests Government to intimate to the British Government not to impose it on the Province."

Question proposed.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I would like to ask the Honourable the Prime Minister whether he does not think that the last three words are ambiguous and whether they fit in.

An Honourable MEMBER : Will the honourable member speak louder ? We cannot hear what he says.

Sir ALI MAHOMED KHAN DEHLAVI : The point I wanted to ask the Honourable the Prime Minister about for my information particularly is this. The motion "requests Government to intimate to the British Government not to impose it on the Province," meaning the Bombay Province. That does not convey to me as to what that really means. If Federation is introduced in the Centre, it would apply to all the Provinces. What the motion says is practically this, "You may do what you like with regard to other Provinces, but, as far as Bombay is concerned, do not impose it on this Presidency." Has that a meaning at all? To me it carries not much of a meaning. I was therefore suggesting whether he would like to substitute the words by some other words to this effect, that such a Federation as adumbrated under the Government of India Act, 1935, is unsuited, or is not in accordance with the declared will of the people and therefore it should not be introduced or should not be imposed on India. That would have some meaning. There was, it seems, some nervousness on the part of the Honourable the Prime Minister when he wrote those words; he probably felt that he would be dictating on behalf of the Provinces, that each Province was in favour of a resolution of this kind. I think as it stands it does not convey much to me, but I should like to be enlightened on that part of it.

The Honourable Mr. B. G. KHER : Sir, the point of the honourable member Sir Ali Mahomed Khan Dehlavi is that the last three words "on the Province" are in his opinion not necessary for this motion, and he would suggest that the motion should end with the words "the Federation may not be imposed." Now, Sir, I may draw his attention to rule 22 of the Bombay Legislative Assembly Rules. Sub-rule (2) of that rule says :

"The Speaker may disallow any resolution or part of a resolution on the ground that it relates to a matter which is not primarily the concern of the Provincial Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business."

[*Interruption.*] The honourable member will allow me to say what I have in mind. The result of what he has suggested and the result of what we have proposed are absolutely identical. On that I do not think there is any misgiving. He and those whom he represents are in the same measure opposed to the Federation as we on this side are and the object of the motion is that that Federation should not be introduced in this country. He thinks that the last three words of the motion "on the Province" are not quite essential. But, Sir, it might be urged and, if I know aright, it had been urged, that any motion of this character which does not primarily concern this Provincial Government may not be the business of this Government, and a motion like that might be ruled out of order. But Federation is going to affect our Province as well, and it is perhaps as well to mention that so far as we are concerned we hold this view, and that is the only object with which these words are introduced. Otherwise, it is a mere matter of form, and as the honourable member observed, it does not make any difference to the motion at all. Therefore, Sir, I shall now proceed with the merits of the motion.

[Mr. B. G. Kher]

If there is any topic of political importance on which there is a consensus of opinion in this country, I believe it is about this part of the new constitution which is imposed upon this country by the Government of India Act of 1935. During the last session of the Assembly, I had moved a resolution concerning the Government of India Act being wholly unsatisfactory and that it should be replaced by a constitution framed by a constituent Assembly. While there was some difference of opinion about the other parts of that resolution, on whatever references were made to the Federation, there was almost a unanimity of opinion on all sides of the House. Even now, take all the principal political institutions—the political parties of the country. Take the Liberals. In their recent conference held at Calcutta this Federation has been condemned, and it has been condemned all along by that group of political thinkers. Take the Muslim League. Mr. Jinnah and other members of the Muslim League have expressed themselves unequivocally against this Federation. As we are aware, the Indian National Congress has more than once passed resolutions condemning the type of Federation that is being sought to be imposed upon this country. In one of their resolutions passed some time ago, they have made specific recommendations to Provincial Governments, in view of the apparent determination of the British Government to proceed with the idea of Federation, to reiterate their opposition to the kind of Federation that is sought to be imposed by passing a resolution and by conveying it to the British Government, as is sought to be done by this motion. Sir, if arguments had to be repeated or were really required to be put in support of my motion, we could give them by the dozen. But the subject has been argued and discussed threadbare during the last three years. Time and again, all political parties and political thinkers have pointed out the defects of the Federation that is contained in the Government of India Act. The motion restricts itself only to mentioning one of those grounds—whatever may be its other drawbacks and they are numerous—that it is opposed to the declared will of the people of this Province, and it is therefore unacceptable. On the last occasion while discussing the motion relating to a Constituent Assembly which was placed before the House, I had taken the opportunity to deal incidentally with the question of Federation, and I remember that member after member had supported that part of the motion. Not that we are opposed to the idea of Federation itself, not that we do not wish that the several provinces should be co-ordinated; but the kind of Federation that is contemplated by the Act is certainly unacceptable to us.

In the first place, it is an entirely undemocratic arrangement. I shall briefly point out a few arguments which could be mentioned against this unique Federation—unique in this sense that Federation in other parts of the world is usually the result of an urge towards co-ordination by the federating units who cease to exercise some of their powers—and concede them to the Federation in order to form a central government. Here, it is just the reverse. We were first divided into several provinces, and now we are being bound up in a sort of Federation, the federating parts being so dissimilar in political status as the provinces in the British part of

[Mr. B. G. Kher]

India and the Native States in the other part of India. So, we are sure that this Federation is not one of the genuine types of Federation which are the result of the urge of the people towards unity. It is imposed upon the country. We also know that the constituent parts are entirely unequal in status and in character. The rulers of Native States will send their nominees to the Federation and the provinces will be represented by their elected members. In the Provinces, we have got a certain kind of responsible government as we all know, while there is personal rule in the Native States and, in place of election, there will be nominations by these personal rulers—there is even no semblance of democracy. The nominees of the Native States will have powers which our representatives will not possess. As we know, the States' nominees will be in a position to legislate on matters which will affect the subjects of British India only but which will not affect the subjects of Native States. Still, the representatives of British India are not given power to legislate on matters which only affect the subjects of Native States. One-third of the seats will go to the Native States. Further, the power of amending the constitution is not at all in the Federation. We see, therefore, that all the necessary requisites of a free and genuine federation are not there, not to mention the other arguments referred to on the last occasion, namely, limitations on the transfer of powers that has been effected by Parliament. What will be the powers even of this Federation? As was pointed out on the occasion of the discussion on the motion relating to Constituent Assembly, the part which has been withheld from the Federation is about 80 per cent. and the part that is conceded will be about 20 per cent. The army, questions of finance, important questions of commerce and the question of external relations, all these will not be within the purview of this Federal Government. All these are, therefore, very strong grounds for condemning the type of Federation that is sought to be imposed on this country. But indeed I do not propose to argue the point. It is enough for me that we, the people of India, do not want this Federation. That is my sole reason. Therefore, Sir, we have come to the conclusion that it is necessary that we should reiterate our opposition to the type of Federation that is being imposed upon us.

I do not propose at this stage to make any lengthy remarks on the other defects of the Federation—the other drawbacks of the Federation—nor do I propose to refer to the great communal question—the effect which Federation will have on communal relations. So far as the Federation is concerned, I do not think that either of the two principal communities of this country are at all in favour of the type of Federation that is contained in this Act. Here is, therefore, a Federation which I can safely say has no friends in this country. The object of the present motion is not to discuss the merits of the Federation which has been discussed for such a long time but to place on record our desire and our united will and convey it to the British Government as the motion in the latter part proposes: “This Assembly *therefore* requests Government to intimate to the British Government not to impose it on the Province.”

[Mr. B. G. Kher]

It is for this purpose that we are now placing this motion before the House, and I trust that it will be accepted unanimously by the House.

If at all it becomes necessary for me to deal with the other objectionable features of the Federation, I shall deal with them in my concluding speech. I believe it is sufficient for me now, after having very briefly indicated the more objectionable features, to emphasize the one consideration that ought to appeal to everybody in this country, namely, that it is opposed to the declared will of the people. People of all communities, people of all schools of thought, people all over the country, have time and again condemned the type of federation that we are going to get. Is that not enough? The rulers themselves of Indian States are in an unfortunate position; one does not know exactly what is happening behind the curtain. They will have direct relations with the Crown, each of his own and the kind of federation that will result from the provisions contained in this Act will certainly not make for that homogeneity, for that unity, for that great political, social and economic advance, which federations are contemplated to produce whenever they are brought into existence by freely federating units. For these reasons, Sir, I place my motion for the acceptance of the House.

Sir ALI MAHOMED KHAN DEHLAVI : One word, Sir. May I once again point out to the Honourable the Prime Minister that the reply he gave to the point I raised has not satisfied me? I still think, and think strongly, that the words ending the resolution are not happily put. Would he be in a mood to accept a change in the end to this effect : "This Assembly therefore requests Government to intimate to the British Government that the Federation contemplated under the Act is unacceptable to this Province"?

The Honourable Mr. B. G. KHER : That is the first part of the motion, if I may point out. We have already used the word "unacceptable", and to say in the latter part "it is therefore unacceptable" is not very desirable.

Sir ALI MAHOMED KHAN DEHLAVI : Any other word?

The Honourable Mr. B. G. KHER : If the Honourable the Leader of the Opposition so desires, he may move an amendment. We have bestowed some thought and attention on this. May I humbly point out to the honourable member that it does really convey what he himself intends to convey?

Sir ALI MAHOMED KHAN DEHLAVI : I am afraid not.

Mr. C. P. BRAMBLE (Bombay City *cum* Bombay Suburban District) : Mr. Speaker, Sir, it was the complaint of many of us on this side of the House that, during the course of the last session in Poona, Government did not take the opposition seriously. But on this occasion, I suspect that the Government are not taking themselves seriously. The notice of the motion now before the House was in the hands of members this

[Mr. C. P. Bramble]

morning for the first time. From the shortness of the time allowed to the House for preparation of this subject, it would appear that the motion does not find much importance in the eyes of the Government themselves. Perhaps it has found a place in the agenda in deference to the wishes of some extraneous body. Sir, if I am wrong in my conclusions or unjust in my insinuations, and Government really desire a full dress debate on this subject, then I feel sure that consideration of it would have been deferred at least until the end of this week.

Now, Sir, I, like the Honourable the Leader of the House, remember that the subject of Federation in all its aspects was discussed *ad nauseam*, if I may say so, in Poona last year. It will be easy to cite large extracts from the Report of the Simon Commission or from the Report of the Joint Parliamentary Committee, but, in the circumstances—and I would remind the House how we have been handicapped in preparing the subject—I would content myself with asking “What is the practical alternative to Federation?” If you are genuinely desirous of reaching the goal of a completely united India, how else can you achieve it? The Honourable Mr. Rajagopalachariar—[*Interruption.*]

The Honourable the SPEAKER : Order, order.

Mr. C. P. BRAMBLE : Does the honourable member wish to raise a point of order? [*An Honourable Member : No.*] The Honourable Mr. Rajagopalachariar, speaking before the Madras Assembly, said that the success of the Federation scheme was as inconceivable as was the success of a parliament—I think he said a parliament sitting in London—to which the heads of Germany and Italy might send their representatives to sit with members of the British Parliament to run a common civil government for England, Germany and Italy. He said that the one scheme was as inconceivable as the other. Well, Sir, if Congress consider that there is no more unity amongst the people and amongst the Provinces of British India and the Indian States than there is among England, Germany and Italy, then, Sir, they are quite right in anticipating that the Federation will not succeed. But, in that case, what is the justification for their oft repeated demand for complete independence? We, Sir, in this party, I am glad to say, are not so pessimistic : we believe, for our part, that there does exist a potential unity amongst all peoples of this country, and we believe further that federation will strengthen and vivify that unity.

Sir, in the circumstances, there is not much more to be said, and on behalf of the Progress Party I oppose this motion.

KHAN SAHEB FAIZ MOHAMED KHAN (Kaira District) : Mr. Speaker, Sir, we have already declared ourselves with regard to the policy to be pursued in regard to the Federation. We have already stated on another occasion that we join in the declared will of the country as it was expressed by the Honourable the Prime Minister. In giving reasons why the Federation is not acceptable to India, the Honourable the

[Khan Saheb Faiz Mohamed Khan]

Prime Minister, if I understood him right, said that, under the Federation contemplated, we of British India will not be able to legislate for the subjects of the Indian States. As I see it, this scheme of Federation has been divided into three parts so far as the several subjects are concerned: subjects which are called Federal, subjects which are common only to British India, and subjects which are common only to Indian India,—these are the three possible divisions in which all the subjects will be taken up. I see no reason why, if Indian States were to be treated on a par with British India, we should not work as we wished. My honourable friend here has just pointed out that he believes that every community in India is preparing itself in such a manner that all of them want to work in agreement. Undoubtedly, Sir. But the scheme of Federation has been framed in such a manner that it is not possible, in view of the weightage given to the other side, that is to say, to Indian India, for us as forming a component part of Federation and as being the bigger part of Federation to get what we want. I am afraid that owing to that indirect way in which the Federation scheme is prepared, our object will not be gained by Federation. That is our fear. It is, therefore, that we oppose the Federation scheme as contemplated in the 1935 Act, and I join hands with the Honourable the Prime Minister in this particular motion that he has placed before the House.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Sir, I feel great pleasure in accepting the motion that has been moved by the Honourable the Prime Minister. It was only during the last session at Poona that my honourable friend Mr. Parulekar had proposed a similar motion. At that time our complaint on this side was that that resolution was opposed by the Government benches. Fortunately for us, within the course of the last three months wisdom has come to stay with the Government benches, and they have now accepted the position that they were invited to accept only three months back. And as they have grown wiser during the last three months, we on this side wholeheartedly accept the motion that has been proposed.

Coming now to the details of the reasons that have been given in support of the motion, I must express my own doubts as to the correctness of some of them that have been explained here. So far as the general scheme of Federation embodied in the Government of India Act, 1935, is concerned, we have criticised and attacked that scheme on all sides of this House during the last session. That unanimity continues even to-day. But when we go a bit deeper and try to analyse the several reasons that have been put forward in support of this resolution, I have my own doubts to express. Just now the Honourable the Prime Minister very proudly stated that all the important parties in this country were unanimous in condemning the Federal scheme. So far as wordy condemnation goes, so far as the superficiality of it goes, it is all right. But when we dissect and analyse that opposition, there are serious doubts entertained not only by members here but by responsible leaders of thought outside. For instance, the Honourable the Prime Minister

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referred to the opposition of the Muslim League to the scheme of Federation. Now, that opposition is there no doubt; but on what is it based? I believe it was the great journalist Ramanand Chatterji, editor of the "Modern Review", who, in the December 1937 number of the journal, gave two convincing reasons for which the Muslim League has been crying against the Federation scheme as embodied in the Government of India Act of 1935. One reason as explained by Ramanand Chatterji is that the Muslims have not secured that percentage of representation in the Federal Assembly which they want. So far as the British Indian part is concerned, they have got, if I remember aright, 82 out of 250 seats; but so far as Indian India is concerned, they do not feel quite sure that they will get so much representation. Therefore, they are trying, by creating a show of opposition, to wrest as much as possible even there. That is one reason given by Ramanand Chatterji.

Mr. MIRZA AKHTAR HASAN: On a point of order. Is this relevant to the discussion?

The Honourable the SPEAKER: I cannot say that it is irrelevant; but how far it is proper or discreet is another matter.

Mr. MIRZA AKHTAR HASAN: That is why I drew your attention to it.

Mr. S. L. KARANDIKAR: Another reason that has been explained by Ramanand Chatterji is as regards the residuary powers. He has clearly shown that so far as the residuary powers are concerned, those powers are not to rest with the provinces; they are to rest with the Federation. And, as the Mahomedans are afraid that the Federal Assembly will be dominated by Hindus, they are opposed to that scheme.

KHAN SAHEB FAIZ MAHOMED KHAN: Wonderful!

Mr. S. L. KARANDIKAR: I am stating here, not my own view, but the views of an eminent public man from Bengal. If they are not correct, the leaders of the Muslim League are free to correct them. I am stating them here simply to show what the reasons for Muslim opposition to the Federal scheme might be.

Now, Sir, coming to the Congress opposition to the Federal scheme, although theoretically the scheme is being opposed, we are told that behind the curtain certain other things are going on. (*Interruption*). Only the other day, Lord Lothian visited Allahabad, and, if newspaper reports are correct, as I believe they are—(*Interruption*)—because they have not been contradicted all these days—if, as I said, newspaper reports are correct, Pandit Jawaharlal Nehru very seriously discussed the Federation scheme with Lord Lothian. From the discussion what has emerged is this, that with Panditji, Federation is no longer a matter of rejection; it is a matter of negotiation. That is to be taken into account. So far as the Honourable Mr. Rajagopalachari is concerned,

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we know how Mysore Congressmen are falling foul of him for his tendency to be very lenient towards State Rulers in South India. He has been enjoying, we are told, hospitality at Mysore. He has been developing—

The Honourable the SPEAKER : I am afraid that would not be relevant. That reference to personalities is not relevant at all.

Mr. S. L. KARANDIKAR : He has been developing friendly relations with the Southern Indian States and that shows that there is a tendency prevalent even among the Congress circles to look at Federation not with absolute abhorrence which was being expressed and indicated some months back. Federation has now passed on to another stage. It is no longer a matter of abhorrence, no longer a matter of rejection, but it is a matter of working it out, of giving it a trial or experimenting it. That seems to be the Congress view towards Federation from the facts that have come out. That is as regards the unanimous opposition of political parties towards this Federation scheme. Now, my question is, does the Honourable the Premier believe in requesting the Imperialist Government and getting anything as a result of that request? If he believes in this request, all right. There is nothing to quarrel about it. But if there is nothing that is likely to come out of this request which we are going to make to the Imperialist Government, then I say that all this discussion is sheer waste of time and money of which we shall be held guilty.

The Honourable Mr. B. G. KHER : Sir, may I just interrupt the honourable member (Mr. Karandikar) and point out to him that the resolution says that the request is to this Government? It says: "This Assembly therefore requests Government to intimate to the British Government not to impose it on the Province". He will see that there is no request to the Imperialist Government.

Mr. S. L. KARANDIKAR : Sir, I would have been very glad if the Honourable the Prime Minister would have stated some specific act by which this contemplated scheme of Federation was going to be rejected by all the parties in the country. It would have been much better if he had suggested a concrete plan by which all parties in the country would have come on a common platform whereby it would have been possible for them to reject this scheme. I believe, from the way in which this resolution has been worded—

Mr. K. S. FIRODEA : On a point of order, Sir. May I know whether the honourable member is supporting or opposing the resolution. He began by saying that he wants to support, but he is winding up by opposing.

The Honourable the SPEAKER : We might be able to know that at the end of his speech.

Mr. S. L. KARANDIKAR : Sir, I am supporting the resolution, but support does not necessarily mean blind support; it also means critical support. I would have been very glad if the resolution had contained

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concrete suggestions whereby it would have been possible for all the parties to come together and find out a formula whereby this rejection would have been possible. In the absence of such a scheme, I honestly fear that this resolution will simply mean delay, and perhaps the Congress Party will wake up to the realities of the situation when it is too late, and will then repent as they did repent at the time of the working of the Provincial Scheme. If they are not going to commit that mistake once again, I give my full and wholehearted support to the resolution that is before us.

With these words, I resume my seat.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers) : Sir, I stand to support the motion which has been moved by the Honourable the Prime Minister, and at the same time, I take the liberty to make the statement that my honourable friend, Mr. Karandikar, may not be led away by mere impressions and opinions of journalists. We make this statement on the floor of the House that we are all opposed to the proposed scheme of Federation and there is no reason why Mr. Karandikar should express any doubts about it. We are not only opposed to it from the point of view that we want representation or residuary powers as has been alleged, but I dare say that no one else is opposed to the Imperialist interest as the Muslim League is. My honourable friend, Mr. Karandikar, made a passing reference to the leaders outside, but what he meant was nothing but that the Mahasabhaites are accepting it. I can understand that there are certain fears expressed outside, but I again assure my honourable friend that we, the masses, and the Congress are all one in this matter, whatever our little differences may be. So far as this Scheme is concerned, the Congress and Muslim League have got very little difference.

Then, again, I may tell my honourable friend, Mr. Karandikar, that by making such statements as he did, he does not want to support the motion, but he wanted to tell the opinion that is held by some forces in the country, i.e., the Mahasabha. But I may assure him that, though there are some people who are in favour of it, so far as we people are concerned, we sincerely believe that it is against the wishes of the people, and that it will be detrimental to the interests of the Indian people. Sir, this Federation Scheme is indeed a novel idea, which no constitutional law has ever contemplated. It is novel because, as a matter of fact, by this Scheme the States people will come in and sit and vote with us, but they will be mere nominees. There will be a part which States will have to pay into the Federal Exchequer. That means the people in states will be taxed on that account, but they will have no say in electing the state nominees. This is really something foreign to democratic principles and I can say that never such a thing was ever conceived by the principles of "self-determination" government.

These being the inherent demerits of the scheme, we are opposed to it, and we sincerely believe that it is against the interests of the people.

[Mr. Mirza Akhtar Hasan]

I am sorry that my honourable friend, Mr. Karandikar, should have made references to journalists, and I hope, in future, with a view to raise the dignity and decorum of the House such things will be spared.

Mr. S. H. JHABVALA : On a point of order. I have given notice of an amendment, and I hope I will be called upon—

The Honourable the SPEAKER : This is no point of order. The honourable member, Mr. Jhabvala, wants to draw my attention to his amendment, and was waiting to catch my eye. I have got his amendment, but it will require some verbal alteration. Does he want to move it at this stage ?

Mr. S. H. JHABVALA : I have got a copy of my amendment in my hand. The amendment is : " As it is intended to perpetuate the dominance of foreign imperialism upon the Indian yoke and should therefore be rejected ". These words are to be embodied after the word " Province " in the third line. Then the second amendment is, after the last word " Province " add the words " against its will."

The Honourable the SPEAKER : It will require a further alteration by deletion of the words " and is therefore unacceptable."

Mr. S. H. JHABVALA : Yes. These words will have to be deleted. Then my third amendment is a third paragraph to the motion. It is : " It is further of opinion that should the British Government act in contravention of the above opinion, even the Provincial Autonomy will be jeopardised."

The Honourable the SPEAKER : I will read the honourable member's amendment and then read the whole proposition as sought to be amended. That will clarify the matter.

6 p.m.

The amendment is—

After the word " Province " occurring for the first time, add the following :

" as it is intended to perpetuate the dominance of foreign imperialism upon the Indian yoke—

Mr. S. H. PRATER : Folk or yoke ? [Laughter.]

The Honourable the SPEAKER : I think I am reading it correctly.

Mr. S. H. JHABVALA : Let it be " neck " and not " yoke ".

The Honourable the SPEAKER : I have not been able to follow. Is it to be, " upon the Indian—

Mr. S. H. JHABVALA : Neck.

The Honourable the SPEAKER : Do I understand that the honourable member wants that in his amendment instead of the word " yoke ", the word " neck " should be put in ?

Mr. S. H. JHABVALA : I want to make my position clear, because only to-day in the morning at about 2 o'clock—

An Honourable MEMBER : 2 o'clock is not morning. [Laughter.]

The Honourable the SPEAKER : I shall read the amendment, as it stands, substituting the word "neck" for the word "yoke", which seems to be a slip.

"upon the Indian neck and should, therefore, be rejected."

and

the words "and is, therefore, unacceptable" should be deleted.

Further

After the word "Province" occurring for the second time, that is, at the end of the Motion, add the words :

"against its will".

And

Add as a third paragraph :

"It is further of opinion that should British Government act in contravention of the above opinion the Provincial Autonomy itself will be jeopardised."

So, the whole motion, as sought to be amended, will read as under :—

"This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the Province as it is intended to perpetuate the dominance of foreign imperialism upon the Indian neck and should, therefore, be rejected.

This Assembly, therefore, requests Government to intimate to the British Government not to impose it on the Province against its will.

It is further of opinion that should British Government act in contravention of the above opinion the Provincial Autonomy itself will be jeopardised."

Sir ALI MAHOMED KHAN DEHLAVI : Is it within the scope of the motion ?

The Honourable the SPEAKER : It is within the scope of the motion. Of course, it is somewhat argumentative.

Sir ALI MAHOMED KHAN DEHLAVI : It certainly enlarges the scope of the motion.

The Honourable the SPEAKER : I should like to know how it enlarges the scope of the motion. I understand that the scope of the motion is to request Government to intimate to the British Government not to impose it on the Province, and for that purpose some reasons are given.

Mr. MIRZA AKHTAR HASAN : It lays out a threat for a deadlock in the Provincial Autonomy.

The Honourable the SPEAKER : It contains no threat.

The Honourable Mr. B. G. KHER : It is a prophecy and not a threat.

Mr. S. H. JHABVALA : My complaint against presenting this resolution so late is just the same as the one that was given by an honourable member of the Progress Party. The motion came into our hands very late, but our sentiments are so very strong on the question of Federation that on the spur of the moment no member of the House could make a resolution better in its form than I have done in the amended form as presented before the House now. My protest against the Federation is not the same as the one that was raised by a Hindu Mahasabhaite here or a Muslim Leaguer there, because we here do not exist as Hindus and Muslims. We are all here as a legislative body divested of all sentiments of creeds, castes and communities, indulgence in which has unfortunately smashed the whole social fabric of our miserable country. We stand here as one man—as Indian—and as such I look upon the whole question and beg to suggest that it has not been put in in very appropriately expressive words by the Honourable the Prime Minister. Who does not know the Prime Minister ? He is a very pious-minded meek gentleman. He requires to be told that beyond the Congress there is something else also which he has got to look to, and side by side with the tri-colour flag there is the Red Flag also to which his mind has not been sufficiently attracted. Unfortunately, he has not looked at the Red Flag. He did not see the 30,000 peasants and workers gathered together to-day on the Azad Maidan though he was invited to do so. It is this miserable attitude that the Congress Ministry has been adopting that has kept the peasants and the workers aloof from the Congress. It is not in keeping with a militant Congress to be so very pious in its expressions and so very genteel in its acts. The Prime Minister says that the British Government should be requested not to kindly do this and should be intimated not to kindly do that. Now, I do not think British imperialism is guided by any sentiment of piety, worship, religion, truth and non-violence. It is guided by one principle, namely, the principle of the fist. When I rise and speak this way, people may be led to believe that I am preaching the cause of violence in the midst of this gathering of non-violent people. I am equally non-violent. Now, Sir, leave aside the material side of the question of Federation. We are all agreed,—there is not one single soul here that holds a discordant view perhaps with the exception of the Progress Party here. We always know them to be progressing in the opposite direction. These friends of ours will certainly hold a view opposite to what the Prime Minister has suggested, but my protest is against these our Khaddar-clad friends. Why are they not completely well declared and open on the whole issue ? I do agree with Comrade Karandikar that whereas on the one hand they have been saying that the Federation should be opposed tooth and nail, on the other hand there is a secret conspiracy going on. A secret conspiracy is going on ! Lord Lothian's visit is a pointer to it. My friend here forgot to say what I read the other day in Pandit Jawaharlal's speech. He said that Federation as an idea is a nice thing. Federation as an idea is a nice thing—that means our Congress friends here are gradually yielding the ground to reactionaries. My constant protest is this : Our Congress friends have gathered together here to the extent of 85 or 87 in number

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simply on revolutionary grounds, because they promised in their election manifesto that they would revolutionise and overhaul the whole administrative machinery and would not accept any offer from the British Government, but having once got in here, having captured power and having removed the White man, now they are talking in the same terms as the White man was talking of yore. My protest, therefore, is this, that instead of a British imperialism governing us now, a kind of political ideology is coming in our midst which is going to prove equally disastrous. Therefore, I desire that when the Honourable the Prime Minister wants to commit this House to a particular expression, to a particular declaration of the will, that expression or that declaration of the will, should not be wholly and materially guided by the Working Committee of the Congress, but it should be materially guided by a kind of opinion, which is the consensus of opinion of the whole House here. Their resolution is based upon what they have concluded in their Working Committee, but then, the Working Committee resolution ought not to be a binding resolution. It may be a Congress resolution, whereas we here, as a legislative body, have got a different expression of view and a legitimately advanced view to be embodied and therefore I have proposed that the expressions laid out in my amendment must be embodied, namely, that this Federation is intended to perpetuate the dominance of foreign imperialism upon the Indian neck and for that reason it requires to be rejected as soon as possible. To say that it is unacceptable is a bit of soft Gandhian politics, to say that it is unacceptable is mere platitudinous politics of spiritualism, but to say that it should be rejected is because of the determined will and the courage of the united masses of the country. Therefore, I desire that the words must be changed and it should not be so humble and so pious as expressed by our friend the Honourable the Prime Minister facing as we do the mighty fist of British Imperialism.

Secondly, as it is imposed upon us, it should be against our will ; therefore these words also should be incorporated. The Prime Minister has worthily said something about the will of the country and therefore we should say that the country has its will and the Federation is against our will. And lastly—that is the very important thing—I mean my last paragraph—and I am glad that this time you have permitted me, Sir, to take a determined stand, whereas last time you had rejected the determined stand which I had taken by your ruling. However, as we are growing older together we are getting more mercy from you. My point is this, that the House is further of opinion that if British Government should act in contravention of the will, of the declared will, of the above opinion, which we have declared in the resolution, what are we going to do ? A clear reply to that also should be incorporated in the resolution and we want to inform the British Parliament that the provincial autonomy will be jeopardised. (An Honourable Member : How ?) My friend here from the left side says “ How ? ”. I am going to tell him how. By the very means by which you displaced the British Government by Congress Government. At the time when at Poona we entered

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the House, if there was anybody who raised the first voice stating that the Congress friends had bungled the issue and that instead of wrecking the Reforms, they had entered the Legislature with a view to work them, then some of my friends did not relish it. I protested against the reactionary principle of the Reformism of Congress, even when our friends were declaring themselves to the contrary. Unless a revolutionary principle based upon the will of the masses is accepted, it is impossible that even under the provincial autonomy which the Congress has accepted we are going to get anything good out of the Congress Ministries. The Congress Ministries have so far found that they are not able to do any tangible good to the people whose good they say they have very much at heart. Why is that so? For the simple reason that they have now taken upon themselves the task of running the provincial autonomy and they find that they are not able to live up to the declarations that they made in the election manifesto. The same thing is going to happen with regard to the Federation. Gradually the same Congress friends will shift into that compartment and the result will be that the Indian masses will be still suffering more than they are at present. The Congress friends will be delighted among themselves to have taken upon themselves the whole responsibility of the whole country of India. They might find themselves temporarily elated at that issue. They will be landing themselves in the same troubled waters as they are landed today, as regards provincial autonomy. As regards the working of the provincial autonomy, my friend here who said 'how' will agree that so far the Congress Ministers have not been able to do that amount of tangible good which was expected of them as per their manifesto and therefore I stand by that and I want to say that the Congress Ministry that has now brought forward this resolution, unless it declares that provincial autonomy will then be in a position of jeopardy, will fail to create a threatening sanction behind its declaration. How that jeopardy will evolve will certainly depend upon the enlightened talent of the A.I.C.C. and the Working Committee and I am quite sure as they are there in a quiet corner under the influence of true political influences, they can deliberate on the issues of the jeopardy on a much better line than other people can do. They will certainly evolve a certain scheme by which provincial autonomy itself will be jeopardised. Therefore, I desire that this kind of notice should be given to the British Government. The whole purport of the amendment is this : that the Prime Minister has merely put forward before the House a pious resolution, whereas in my amendment there is the embodiment of the declared will and an openly challenging opinion of the House. With these words, I beg to submit the amendment for the consideration of the House.

Mr. NAGINDAS T. MASTER (Bombay City) : Sir, I rise to support the resolution moved by the Honourable the Prime Minister. If there was one point on which the whole of India can be said to be united, it is the opposition to Federation. Though, in the resolution, only one aspect of it has been referred to, it has been said times without number on platforms where different thoughts have been urged that the Federation is

[Mr. Nagindas T. Master]

unwelcome to this country. Every Indian, every shade of thought, has opposed it and though there have been arguments to detract from the importance of the resolution, it is very gratifying to note that all, except one honourable member, have supported the resolution and I am quite confident that the House with a very overwhelming majority will carry the resolution.

My friend, the honourable member Mr. Jhabvala evidently does not like piety. He says that the resolution ought to be much stronger and merely need not stress the pious attitude therein communicated. He then referred to some stray words of the Congress President and drew an inference that the Congress was slightly drifting towards Federation. But he has evidently forgotten that the Working Committee which met so recently last week has reiterated its opinion and indicated the strength of opposition which lies against this Federation scheme.

Sir, an analogy was sought to be drawn as regards the Federation between England, Germany and Italy. But that cannot stand at all, because here there is one country, India as a whole, and the different provinces have all common questions which affect the whole country. That is not the case with different nations and different Governments. I say, Sir, that the resolution as framed ought to be accepted without any of the amendments which have been suggested. I commend this resolution to the House.

TIME OF MEETING OF THE ASSEMBLY.

The Honourable the SPEAKER : Before we proceed further with the debate, I should like to know the wish of the members as to whether, in view of the early setting of the sun, they would like to sit up to 7 or whether they would like to close at 6-30. I am entirely in the hands of the House.

Honourable MEMBERS : 6-30 p.m.

An Honourable MEMBER : On all occasions ?

The Honourable the SPEAKER : I would like to know whether they wish to have this time for every day. In fact, in anticipation of that, I adjourned today at 4 instead of at 4-30 as usual ; but, if it is the desire of honourable members that we should sit up to 7 p.m., then we shall adjourn for tea at 4-30 p.m., instead of at 4 p.m. as we did today.

Honourable MEMBERS : 6-30 p.m. every day.

The Honourable the SPEAKER : Does the Honourable the Leader of the House wish to say anything ?

The Honourable Mr. B. G. KHER : Sir, I am entirely amenable to the desire of the majority of the members. As a matter of fact, for transacting the official business, it may perhaps be more convenient to adjourn

[Mr. B. G. Kher]

at 6-30 so that we get more time after 6-30. I have no particular suggestion to make, but I would like to consult the wishes of my honourable friends in opposition.

The Honourable the SPEAKER : May I take it that it is the wish of the House that we should meet at 2, carry on till 4, adjourn for tea at 4, reassemble at 4-30 and then carry on till 6-30 ?

Honourable MEMBERS : Yes.

Dr. J. A. COLLACO : I hope this will not be pressed in the Budget session when we want every minute that we can get.

The Honourable the SPEAKER : I do not wish to curtail the time. I am only saying this for the reason only, namely, the shortness of the day owing to the early setting of the sun.

BUSINESS OF THE HOUSE.

Sir ALI MAHOMED KHAN DEHLAVI : Do we carry on this debate today or adjourn it till tomorrow ?

The Honourable the SPEAKER : We may carry on this debate for a few minutes more today and then resume it tomorrow.

I have to make one announcement to the members, namely, that so far as the allotment of non-official business is concerned, an intimation has already been sent that non-official business will be taken up on the 12th and 13th instant and then at the end, after the Government business is over, two days will be further allotted. With reference to that, I would like the non-official members to take a note that these two days, 12th and 13th, are allotted for non-official Bills. That means they are allotted for a particular kind of business and on those two days no other non-official business excepting non-official Bills can be taken up, and on the last two days, non-official resolutions or motions, whatever they may be, will be taken up and not the Bills. That point may clearly be remembered by the non-official members.

Sir ALI MAHOMED KHAN DEHLAVI : If this debate is not likely to be taken up by any honourable member during the few minutes that we have, I will make another request to you, Sir. If it were possible for the Honourable the Prime Minister to let us know at this stage before we disperse as to what would be the Government business tomorrow, I should welcome any such indication. I say this because today some of the items came up which we least expected—as for myself, I never thought that the Bills would be passed so easily. If he could let us know as to what items of business he is going to take up tomorrow, we would be in a position to come prepared. One thing is certain that this debate continues to-morrow, because I have to make a few remarks.

The Honourable the SPEAKER: This debate does continue to-morrow.

The Honourable Mr. B. G. KHER: To-morrow, Sir, the Order of the day will be, Questions and Answers first. Then the debate on the motion that is before the House will continue. It is difficult to say how long it might take. After that there is another motion, and that might occupy some time. [*Question and interruption.*] The second Government motion will not be dropped. I notice that there are some amendments tabled for it. That ought to take us at least up to the recess time. After the motion, it is likely that a couple of hours or even more may be available. One does not know. May I say that the present idea is to allot two days for non-official Bills, as you, Sir, now announced, and at the end of the session to allot the last two days for non-official resolutions? It is possible that members might like, if we have time to-morrow, to take up some of the non-official resolutions and finish them, or make a start with them. I would leave it to the honourable members. On the last day everybody is in a hurry to go, and some of the resolutions—

Mr. JAMNADAS M. MEHTA: Which is the last day?

The Honourable Mr. B. G. KHER: It is impossible to say to-day which will be the last day. But the last day is not the day of judgment, but the last day of the sessions. I was therefore suggesting, if it suits the Speaker, that some of the non-official resolutions might be taken up to-morrow if there is any time left. Personally, it is very difficult for me to say how much time will be left. At the most it may be a couple of hours.

Mr. ALI BAHADUR BAHADUR KHAN: Under our rules, non-official Bills must have precedence over non-official resolutions, and under the rules we cannot take resolutions first.

The Honourable the SPEAKER: That is true so far as the days allotted for the particular kind of work are concerned. If it has merely been mentioned that the days are for "non-official business," then what the honourable member says is correct, but if particular days are allotted for a particular type of non-official business, then no other business can be taken up on that day.

Mr. I. I. CHUNDRIGAR: May I take it that it will not be counted as a day allotted for non-official business, because the whole day is not being allotted for the purpose?

The Honourable the SPEAKER: I did not understand the Honourable the Prime Minister to say that if any non-official work is taken up to-morrow, it will be counted as a day allotted for non-official business. To-morrow will be in addition to the other two days.

The Honourable Mr. B. G. KHER : That will be additional time given only in the interest of non-official business. This session had to be convened so early because it was necessary to pass the Bill to extend the time of the Bombay municipal elections. Otherwise, ordinarily it would have been convened a little later, and we would have sat on. That was the original idea, but because this Bill had to be passed very early in order to extend the date for the elections to the Bombay Municipal Corporation, we had to meet so early. This session, therefore, would not be a very long one, and we thought that four days in this short session for non-official business would be ample provision for the purpose. Two days have been allotted for Bills and two days, after the official business is over and before we disperse, have been allotted for non-official resolutions. If there is time left after finishing the official business to-morrow, we thought we might give it to the non-official resolutions.

Mr. JAMNADAS M. MEHTA : There are no Government Bills to-morrow ?

The Honourable Mr. B. G. KHER : There are no Government Bills to-morrow.

Mr. S. L. KARANDIKAR : Are there more Government Bills coming up ?

The Honourable Mr. B. G. KHER : Yes, there are. They are published, but a certain time has to elapse before they can be moved in the House, and therefore they cannot be taken up to-morrow. Unless the period of notice is waived, they will not be ready for to-morrow.

Mr. JAMNADAS M. MEHTA : I thought there was one Government Bill for to-morrow.

Sir ALI MAHOMED KHAN DEHLAVI : As the Honourable the Leader of the House has suggested, we can go on with the present motion and the next unfortunate motion ; and, if time is left over, a gift of it will be made to the House for discussing non-official resolutions in addition to the four days that have already been allotted.

The Honourable the SPEAKER : I want to inform the House as to what has been agreed upon, so that there may be no room for any misunderstanding. The motion under discussion will be continued to-morrow and, after it is finished, the other Government motion will be discussed. We sit from 2 to 4 o'clock and have a break for half an hour for tea. If there is time left over after finishing these two motions, it will be allotted for non-official resolutions and not to Bills. This is in addition to the 4 days already allotted. I think it is now quite clear.

The House then adjourned till 2 p.m. on Tuesday, the 11th January 1938.

Tuesday, the 11th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Tuesday, the 11th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
AIDALE, Mr. J. S.

ALI BAHADUR BAHADUR KHAN, Mr.

AMBEDKAR, Dr. B. R.

ANTROLIKAR, Dr. K. B.

ARADHYE, Mr. D. T.

BHARTIYA, Mr. S. R.

BHATANKAR, Mr. R. G.

BHOLE, Mr. R. R.

BRAMBLE, Mr. C. P.

CHITALE, Rao Bahadur G. K.

CHITRE, Mr. A. V.

CHAWDHARI, Mr. D. N.

CHAWHAN, Mr. P. L.

CHUNDRIGAR, Mr. ISMAIL I.

COLLACO, Dr. J. A.

COOPER, Sir DHANJISHAH B.

CURRION, Mr. FRED J.

DABHI, Mr. FULSINHJI B.

DANDEKAR, Mr. V. V.

DEHLAVI, Sir ALI MAHOMED KHAN

DESAI, Mr. DINKERRAO N.

DESAI, Mr. GURASHIDDAPPA K.

DESAI, the Honourable Mr. MORARJI R.

DESAI, Mr. RANDHIR P.

DESAI, Mr. S. B.

DESHMUKH, Mr. K. B.

DESHPANDE, Mr. G. H.

DODMETI, Mr. A. D.

FAIZ MAHOMED KHAN, Khan Saheb

FERREIRA, Mr. D. J.

FIRODEA, Mr. K. S.

FRENCH, Mr. F. H.

GAIKWAD, Mr. B. K.

GANDHI, Mr. M. M.

GAVANKER, Mr. S. K.

GAVIT, Mr. D. P.

GHATGE, Mr. G. R.

GHIA, Dr. C. J.

GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HALLIKERI, Mr. N. F.
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSH, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MOHAMEDALLY ALLABUX, Mr.
 NORARBHAI KASANJI, Mr.

MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NAVLE, Rao Bahadur N. E.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PATIL, Mr. SHANKARGOUDA T.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 TALKAR, Mr. K. R.

THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

STARRED QUESTIONS AND ANSWERS.

NUMBER OF GRADUATES BELONGING TO SCHEDULED CASTES AND OF MUHAMMADAN AND INDIAN CHRISTIAN COMMUNITIES IN PUBLIC SERVICE.

*Mr. R. R. BHOLE (Poona District): Will the Honourable the Prime Minister be pleased to state the number of graduates belonging to the Scheduled Castes and to the Mohamedan and Indian Christian communities respectively who are employed in the Upper and Lower subordinate services in the several Departments of Government?

The Honourable Mr. A. B. LATTHE: The number of graduates belonging to the Scheduled classes and to the Muhammadan and Indian Christian communities employed in the Upper and Lower Divisions of the subordinate service in the several Departments of the Secretariat is as under:—

	Upper Division.	Lower Division.
Scheduled castes	1	<i>Nil.</i>
Muhammadans	9	<i>Nil.</i>
Indian Christians	13	<i>Nil.</i>

Graduates are not ordinarily recruited for the Lower Division.

Mr. S. L. KARANDIKAR: In the last line of the answer it is stated that graduates are not ordinarily recruited for the Lower Division. Are non-graduates recruited to the Lower Division?

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

Mr. S. L. KARANDIKAR: How many of the 9 Mahomedans and how many of the 13 Christians are non-graduates?

The Honourable Mr. A. B. LATTHE: I cannot say without notice.

REDUCTION IN STIPENDS TO BOYS IN GOVERNMENT HOSTEL FOR
DEPRESSED CLASSES IN POONA.

*Mr. R. R. BHOLE (Poona District): Will the Honourable the Prime Minister be pleased to state—

(a) the amount of stipends which each boy in the Government Hostel for Depressed Classes in Poona was given before the establishment of the Backward Class office ;

(b) what was the amount of stipends given to each boy in the year 1935-36 ;

(c) what is the amount of stipends given this year ;

(d) whether it is a fact that the amount of stipends has been reduced this year ;

(e) if so, what are the reasons for the reduction ;

(f) whether any complaints were received in the Backward Class office as regards the supply of books, etc., to the boys in the Hostel ;

(g) if so, what action was taken by the office in the matter ;

(h) whether Government are aware that there are boys who are really too poor to pay any charges whatsoever ;

(i) if so, what action Government propose to take in the matter ;

(j) what is the proportion of pay of the Backward Class Officer to the total expenditure of the office ;

(k) what is the proportion of pay and allowances of other officers in that office to the total expenditure of the office ?

The Honourable Mr. A. B. LATTHE : (a) The Backward Class Department was established in August 1931. The rate of stipend before this date was Rs. 12-8-0 per mensem.

(b) Rs. 10 per mensem.

(c), (d) and (e) The stipendiary system was discontinued from 1st April 1936. Before that the practice was to divide up the food charges sanctioned for the hostel as stipends at Rs. 10 per mensem each among the pupils. Each pupil was debited with his share of the cost of feeding and the balance left at his credit was utilised in meeting the other expenses, including fees. This system operated unfairly in favour of boys having free-studentships and against those not having them. The latter had actually to pay from their own pocket such part of their fees as exceeded the balance from their stipends while the former got an extra share of money for books, clothing, stationery, etc. Besides working unfairly, this system was considered as conducive to waste. Hence a new procedure on the basis of actual requirements of each inmate has been

introduced since 1st April 1936 and standard allotments have been assigned in the hostel budget for each item of expenditure as follows:—

	Rs.
(1) Food charges	3,200
(2) School fees	700
(3) School books and stationery	400
(4) Clothing and hair-cutting charges	900
(5) Other contingencies	200
	5,400

The school fees of boys not receiving free-studentships are paid out of (2) above. Payments from (3), (4) and (5) are made only to boys whose parents are genuinely unable to find the necessary money, and such cases are sanctioned only by the Backward Class Officer himself.

There is no reduction in the allotment of Rs. 5,400 but owing to the introduction of the new procedure there was a saving of Rs. 1,330 in the allotment during 1936-37. This saving has been utilised for the renting of another big bungalow for the hostel and for charges in respect of ten more pupils admitted during the current year.

(f), (g), (h) and (i) No complaints were received. All poor students are being supplied with books, clothes, stationery and school fees, etc. The Superintendent, Depressed Class Hostel, Poona, has been asked to supply books, etc., to deserving students up to the limit of the budget provision.

(j) and (k) The full pay of the Backward Class Officer and his assistants and establishment is provided under "28-Jails and Convict Settlements" and a portion of the divisible expenditure is transferred to the head "47-Miscellaneous Departments—Miscellaneous—Backward Class Officer". The amounts thus transferred are as follows (*vide* page 281 of the Civil Budget Estimates for 1937-38):—

	Rs.
On account of Backward Class Officer	10,000
On account of Assistant Backward Class Officers and establishment	23,500

The proportion of the pay of the Backward Class Officer to the total expenditure of the Backward Class Department is $\frac{1}{6}$.

The proportion of the pay and allowances of the Assistant Backward Class Officers and establishments to the total expenditure of the Department is $\frac{5}{12}$.

TALATIS IN POONA DISTRICT.

*Mr. R. R. BHOLE (Poona District): Will the Honourable Minister for Revenue be pleased to state—

(a) how many talatis belonging to the scheduled castes are there in the Province of Bombay;

(b) how many talatis belonging to the Mahar community and the other scheduled castes are there in the Poona District ;

(c) how many of the talatis mentioned in (b) are permanent and how many are temporary ;

(d) what are the periods of services of the temporary talatis referred to in (c) ;

(e) how many of the temporary talatis referred to in (c) are given increments and what are the reasons for the same ;

(f) how many talatis belonging to the scheduled castes were dismissed in the Poona District during the course of the last two years and what are the reasons for their dismissal ;

(g) how many talatis are there in the Poona District belonging to the Hindu community apart from those belonging to the scheduled castes ;

(h) how many of the talatis mentioned in (g) are permanent and how many are temporary ;

(i) how many of the talatis mentioned in (g) were dismissed during the last two years and what are the reasons for their dismissal ;

(j) what are the periods of services of the temporary talatis referred to in (h) ;

(k) how many scheduled caste candidates for talatis' posts are there in the Poona District ;

(l) how many permanent talatis belonging to the scheduled castes have independent charges in the Poona District ;

(m) how many of the permanent talatis in the Poona District are only assistants ;

(n) what are the reasons for not giving them independent charges ?

The Honourable Mr. MORARJI R. DESAI : (a) 185.

(b) and (c) 25 Mahars, of whom 17 are permanent and 8 temporary, and 12 members of other scheduled castes, of whom 10 are permanent and 2 temporary.

(d)	No. of talatis.	Service.	
		Years.	Months.
	1	4	2
	1	2	3
	2	0	9
	3	0	6
	1	0	5
	1	0	4
	1	0	1
	—		
	10		

(e) The first two talatis in the above statement have received increments in view of their continuous officiating service for over a year.

(f) Two. One was dismissed as his work was very unsatisfactory notwithstanding the opportunities given to him to improve, and the other, a temporary talati, was dismissed as his work was consistently unsatisfactory and he was found to have embezzled Government money.

(g) and (h) 230 of whom 216 are permanent and 14 temporary.

(i) Two. One was dismissed for having embezzled Government money and the other for absenting himself, without permission, while an inquiry against him concerning a certain inamdar's account was in progress.

(j)	No. of talatis.	Service.	
		Years.	Months.
	1	7	7
	1	3	0
	1	2	0
	1	1	10
	1	0	11
	5	0	10
	2	0	5
	1	0	3
	1	0	1
	—		
	14		

(k) 20.

(l) 24.

(m) There are 4 junior talatis in the Poona District. All talatis (senior and junior) are now to be on the same revised scale of pay, viz., Rs. 20—1—35 (E. B.)—1/2—40. Posts of assistant talatis in the old grade of Rs. 20 are being abolished as vacancies occur.

(n) There are some sazas which are too heavy for a single talati and which are incapable of being split up into two sazas. There must be two men in such sazas, and one of them must be a junior or assistant talati.

Mr. R. R. Bhole : I want to know whether the talatis are assistant only to a particular talati, without regard to the seniority and juniority of grade.

The Honourable Mr. MORARJI R. DESAI : The last man who is taken is appointed as assistant talati, because as stated in the reply, there are some sazas which must have two talatis and there cannot be two senior talatis in a saza. So there is one senior and one assistant talati. There are one or two posts like that. The assistant talatis are the juniormost people. When they are first taken up they are appointed as assistant talatis.

Mr. R. R. Bhole : Are there any from the other classes who are permanent as well as assistant ?

The Honourable Mr. MORARJI R. DESAI : There would certainly be some from the other classes. These are not set apart for particular castes or communities.

RECRUITMENT OF MEMBERS OF SCHEDULED CASTES TO
PUBLIC SERVICES.

✓ Mr. B. K. GAIKWAD (Nasik West): Will the Honourable Minister for Revenue be pleased to state —

(a) the number of clerks belonging to the advanced classes, the intermediate classes, the backward classes, the scheduled castes, the Mohammadan, Christian and other communities respectively in the Revenue Department of each district in the province of Bombay ;)

(b) the number of candidates belonging to the advanced classes, the intermediate classes, the backward classes, the scheduled castes, the Mohammadan, Christian and other communities, respectively, selected for the posts of clerks in the Revenue Department in the Nasik district in the year 1936 ;

(c) the number of candidates belonging to the advanced classes, the intermediate classes, the backward classes, the scheduled castes, the Mohammadan, Christian and other communities, respectively, appointed to the posts of clerks in the Revenue Department in the Nasik district during the current year up to 31st July 1937 ;

(d) the number of candidates belonging to the scheduled castes who had applied for the posts of clerks in the Revenue Department in the Nasik district in 1936 ;

(e) how many of them were appointed to the posts ;

(f) whether it is the declared policy of Government to give preference to the candidates of the scheduled castes in the recruitment to public services ;)

(g) if the answer to (f) is in the affirmative, whether Government are aware that this policy is not strictly followed by the Revenue Authorities in the Nasik district ;

(h) whether Government have considered the desirability of issuing instructions to the Revenue Authorities in the Nasik district to follow that policy more strictly in future ?

(The Honourable Mr. MORARJI R. DESAI : (a) A statement containing the desired information is placed on the Table.)

(b) Advanced 9 ; Intermediate 12 ; Scheduled 2.

(c) No permanent appointment was made during the current year up to 31st July 1937. Officiating appointments were made as follows :—

Advanced	8.
Intermediate	7.
Mahomedans	3.
Christian	1.

(d) 17.

(e) None of them have been appointed to posts, but two of them were selected as candidates for appointments as vacancies occur.

(f) The orders of Government are 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.

(g) The orders of Government are observed in the Nasik district.

(h) Does not arise.

Statement showing the number of clerks of the several communities on the district establishments of the Revenue Department up to 31st July 1937.

District.	Advanced.	Inter-mediate.	Muslim.	Christians.	Scheduled.	Backward.	Total.
Ahmedabad ..	90	24	9	4	..	..	127
Kaira ..	78	15	15	3	1	..	112
Broach and Panch Mahals.	73	27	21	6	..	5	137†
Surat ..	66	17	10	2	..	5	100
Thana ..	65	33	4	5	2	2	111
Bombay Suburban District.	30	7	3	3	1	2	46
Poona ..	108	45	7	5	7	3	175
Ahmednagar ..	82	54	18	11	2	3	170
East Khandesh ..	79	71	20	2	3	1	176
West Khandesh ..	62	33	23	..	2	5	127‡
Satara ..	85	54	22	4	2	2	169
Sholapur ..	66	29	12	2	..	3	112
Nasik ..	94	30	33	2	4	2	165
Belgaum ..	45	56	22	1	2	10	136
Bijapur ..	43	48	16	2	1	3	113
Dharwar ..	75	55	19	4	1	4	158
Ratnagiri ..	49	50	10	1	..	2	112
Kanara ..	68	32	13	4	1	6	124
Kolaba ..	41	26	6	..	1	..	74

†5 posts are vacant.

‡2 posts are vacant.

Mr. B. K. GAIKWAD: With regard to (c), out of 19 officiating appointments may I know why none from the scheduled castes was appointed?

(The Honourable Mr. MORARJI R. DESAI: In making officiating appointments these proportions are not so much observed. It is only when the permanent appointments are made that these proportions are strictly observed. In making officiating appointments generally they must be going by the persons available in the local offices.)

Mr. B. K. GAIKWAD : May I know whether in the local offices there were no depressed class or scheduled class candidates available ?

The Honourable Mr. MORARJI R. DESAI : I would like to ask for notice of the question.

Mr. B. K. GAIKWAD : What does "suitable candidates" mean ?

The Honourable Mr. MORARJI R. DESAI : "Suitable" means those who are proper.

Mr. B. K. GAIKWAD : When the matriculation examination is the qualification, what does "suitable" mean ? I do not know.

The Honourable Mr. MORARJI R. DESAI : Examination is not the only qualification for it. A person may be a graduate, and still he may be unfit for the post.

REVISED SCALES OF CHARGES FOR STAMPING OF WEIGHTS AND MEASURES.

*Mr. M. C. GHIA (Indian Merchants' Chamber) : Will the Honourable Minister for Local Self-Government [Industries] be pleased to state—

(a) whether it is a fact that Government have recently published in the *Bombay Government Gazette* revised scales of charges for stamping of weights and measures ;

(b) if so, whether they have received any objections from leading commercial bodies to the same ;

(c) whether it is a fact that the charges for stamping weights and measures are in several cases hundred per cent. the same as the cost of the weights and measures ;

(d) whether any objections were raised against the charges when they were first introduced in 1933 ;

(e) whether it is a fact that Government at that time gave an undertaking that they would take into consideration all the objections at the time of revising the rates and charges ;

(f) whether there are any reasons on account of which Government have adopted the same scale of charges in spite of the undertaking given by them ;

(g) whether Government now intend to revise the scales of charges in view of the opposition from the commercial community ;

(h) whether the Bombay Weights and Measures Act now extends to the whole of the province of Bombay ;

(i) if not, to how many districts it does not still apply ;

(j) the amount of revenue derived from the stamping of weights and measures and other operations under the Weights and Measures Act during the last two years, and the expenditure for the same ?

The Honourable Mr. L. M. PATIL : (a) Government recently recognized some new weights and measures for which it was necessary to

prescribe the fees. The fees for the newly recognized weights and measures were incorporated in the previous table of fees and the complete table was published in the *Bombay Government Gazette*.

(b) Yes.

(c) Yes, but only in very few cases.

(d) Yes.

(e) In reply to various representations received by Government in August 1935 on the eve of the introduction of the Act, Government issued a Note for circulation amongst various commercial associations embodying orders of Government on the various suggestions made by Associations and the members of the trading public. In paragraph 12 of this Note it was stated that if actual experience of the working of the Act showed that the receipts from the fees resulted in a substantial surplus after meeting recurring and non-recurring expenditure under the Act Government proposed to reconsider the question of the scale of fees.

(f) Objections from some associations have been received by Government on the notification in question and the same are under consideration.

(g) Government are of the opinion that sufficient experience of the working of the Act has not been gained to enable the question of reduction of fees being considered. They expect that it will be possible for them to go into this question in a year's time from now.

(h) Yes.

(i) Does not arise.

(j) The total recurring and non-recurring expenditure incurred by Government up to the end of last financial year amounts approximately to Rs. 4,78,675 against receipts of Rs. 8,69,618. Besides Government having incurred recurring and non-recurring expenditure under the Act, Local Bodies have incurred recurring and non-recurring expenditure on weights and measures equipment and entertainment of staff for which exact figures are not yet available. As most trading establishments have purchased new weights rather than repair old weights, etc., and as the work of stamping new weights presented by manufacturers of and dealers in Weights and Measures is reserved to Government Inspectors, the various local bodies' expenditure is greater than their receipts. Conversely Government receipts are unduly high. When re-verification starts, however, the division of receipts will be different; Government receipts are expected to be much lower than the above mentioned figure.

DEPRESSED CLASS CLERKS, ETC., IN REVENUE DEPARTMENT IN EAST AND WEST KHANDESH DISTRICTS.

*Mr. D. G. JADHAV (East Khandesh East): Will the Honourable Minister for Revenue be pleased to state the present number of clerks, talatis, peons and pattawalas respectively belonging to the depressed

classes in the Revenue Department of the East and West Khandesh Districts ?

The Honourable Mr. MORARJI R. DESAI : A statement containing the necessary information is placed on the Table.

Statement.

	Clerks.		Talatis.		Menials.	
	Permanent.	Officiating in long vacancies.	Permanent.	Officiating in long vacancies.	Permanent.	Officiating in long vacancies.
East Khandesh	3	1	9	4	17	..
West Khandesh	2	1	5†	3	5	5

†1 is on probation.

Mr. D. G. JADHAV : Is the proportion of 10 per cent. observed in the recruitment of menials and talatis from the scheduled castes ?

The Honourable Mr. MORARJI R. DESAI : Yes.

Mr. D. G. JADHAV : If the proportion is observed, why is the number so very less among the menials in West Khandesh district ?

The Honourable Mr. MORARJI R. DESAI : I did enquire and found that it was in proportion to the population.

Mr. R. R. BHOLE : Is it in proportion to the population ?

The Honourable Mr. MORARJI R. DESAI : Yes.

GRANT OF FOREST LAND IN EAST KHANDESH DISTRICT
FOR CULTIVATION.

*Mr. D. G. JADHAV (East Khandesh District) : Will the Honourable Minister for Revenue be pleased to state—

- (a) the total area of forest land in the East Khandesh District ;
- (b) whether Government are aware that the forest land in the East Khandesh District is insufficient for the grazing of the cattle in that District ;
- (c) whether Government are aware that their income will be more than what it is at present if a portion of the forest land is given for cultivation to the depressed class labourers, having no land ;
- (d) whether it is a fact that the agricultural labourers have been repeatedly requesting Government for the grant of forest land for cultivation ;

(e) if so, what are the reasons for refusing their request ?

The Honourable Mr. MORARJI R. DESAI : (a) The total forest land in charge of the Forest Department in the East Khandesh Division is 487,137 acres.

(b) The forest land is insufficient for the grazing of cattle particularly in Jalgaon, Jamner, Parola, Edalabad and Chalisgaon ranges as the bulk of cattle occur in these ranges. There is sufficient grazing land in the three Satpuda ranges, viz., Chopda, Raver and Yawal, but as these hill ranges are remote, they are less in demand for cattle grazing.

(c) Government may get more income if some of this forest area is deforested and given out for cultivation, but that course will render it yet more difficult to meet the increasing demand for grazing.

(d) and (e) Yes, but they want land where they are now residing and particularly kuran areas which are required for the supply of grass and grazing and therefore cannot be given out for cultivation.

Settlements have been opened in Satpuda ranges. The applicants were asked to apply for some of the vacant plots in the settlements of Yawal and Raver ranges, but no applications for them have yet been received.

Mr. D. G. JADHAV : It is stated in the answer that forest land is insufficient for the grazing of cattle particularly in Jalgaon, Jamner, Parola, Edalabad and Chalisgaon ranges. May I know what arrangement has been made by Government for the grazing of cattle ?

The Honourable Mr. MORARJI R. DESAI : If there is no land available, I cannot produce it.

Mr. R. R. BHOLE : Is it a fact that Government have received applications for the award of disforested lands from Poona District ?

The Honourable Mr. MORARJI R. DESAI : I must have notice of that question.

Mr. D. G. JADHAV : Is it a fact that people have applied for forest lands in East Khandesh district and that, owing to the misbehaviour of Government servants, people have not been granted their request ?

The Honourable Mr. MORARJI R. DESAI : I do not think so.

Mr. D. G. JADHAV : Is it a fact that people have applied for forest lands and the applications have been forwarded to the Honourable Minister ?

The Honourable Mr. MORARJI R. DESAI : Unless a specific instance is mentioned, I cannot say.

DEFALCATION BY CLERK IN COLLECTOR, BOMBAY SUBURBAN
DISTRICT'S OFFICE.

*Mr. S. H. JHABVALA (Railway Unions): Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that about two years back an assistant in the office of the Collector, Bombay Suburban District, committed defalcation to the extent of some thousands;

(b) if so, whether any investigations were made into the defalcation by the superior authorities in charge;

(c) what was the nature of the investigations made;

(d) whether Government are aware that after the defalcation was discovered, the suburban residents were again asked by the Mamlatdar of Bandra to pay ground rent in respect of their properties to make up for the loss caused by the defalcation;

(e) whether Government are aware that a year after the above defalcation was discovered, the Mamlatdar went from house to house and on threat of attachment of property and with the help of Police recovered the ground rent for each house;

(f) if so, what action have Government taken or propose to take against the Mamlatdar?

The Honourable Mr. MORARJI R. DESAI: (a) Yes. The defalcations, which amounted to about Rs. 15,000, were committed by the karkun surveyor in the office of the Mamlatdar, South Salsette, and were detected in 1934.

(b) Yes.

(c) The investigation which is still in progress consists in finding out the total amount of arrears of revenue due to Government as appearing in the books, collecting evidence of payment by khatedars who are able to produce it, ascertaining what payments were embezzled by the karkun surveyor and the way in which he did it, and ascertaining whether the defalcations were facilitated by the negligence of any Government servants.

(d) No. As the culprit had destroyed all records of collections, fresh records were prepared from the material available and the khatedars who appeared from the new records to be in arrears were asked to produce evidence of payment. Only in cases in which no proof whatever was forthcoming was payment demanded.

(e) No.

(f) Does not arise.

Mr. S. H. JHABVALA: No. 1 (a)—

The Honourable the SPEAKER: The honourable member need not read the question. [*Laughter.*]

Mr. S. H. JHABVALA: I am not reading the question. I want to ask a supplementary question in regard to part (a). The answer is: "The defalcations, which amounted to about Rs. 15,000 were

committed by the karkun surveyor in the office of the Mamlatdar, South Salsette, and were detected in 1934". May I know whether there is any system by which responsible officers like Mamlatdars and revenue collectors are not given room for making defalcations, just as we have in the banks or—

The Honourable the SPEAKER : There has to be only a question.

Mr. S. H. JHABVALA : I hope, Sir, the Honourable Minister has understood my point.

The Honourable Mr. MORARJI R. DESAI : I have not.

Mr. S. H. JHABVALA : I want to know whether there is a system by which important officials like the collector of revenue are made to furnish security ?

The Honourable Mr. MORARJI R. DESAI : Securities are taken.

Mr. S. H. JHABVALA : In the case of this man, was anything done regarding his security ?

The Honourable Mr. MORARJI R. DESAI : I require notice of that.

Mr. S. H. JHABVALA : It is stated in the answer to (d) : " Only in cases in which no proof whatever was forthcoming was payment demanded ". May I know what sort of proof was demanded from the khatedars by the officers ?

The Honourable Mr. MORARJI R. DESAI : It is a matter of detail which will vary in each case. I cannot say.

Mr. D. J. FERREIRA : I wish to know from the Honourable Minister whether in any case Government accepted the oral statement of any of the khatedars as proof of their statement that they had paid or whether they insisted upon the khatedars producing documentary evidence to show that they had paid their dues.

The Honourable Mr. MORARJI R. DESAI : About details I must have notice.

Mr. S. H. JHABVALA : May I know whether there is any system in the Collector's office by which the Mamlatdar reports to the Collector day to day so that the Mamlatdar cannot plead ignorance of happenings in regard to an important question like this ? In reply to part (e), you say " no ".

The Honourable Mr. MORARJI R. DESAI : If the honourable member suggests some way, certainly I will consider.

Mr. K. F. NARIMAN : In the course of investigation, was it discovered that any of the high officers were involved in this defalcation ?

The Honourable Mr. MORARJI R. DESAI : No higher officials were involved in this.

Mr. K. F. NARIMAN : Is it possible that a defalcation to the extent of Rs. 15,000 could have taken place without the knowledge of higher officials ?

The Honourable Mr. MORARJI R. DESAI : It is possible at times.

PROPOSED ABOLITION OF POST OF DEPUTY SHERIFF OF BOMBAY.

*Mr. S. H. JHABVALA (Railway Unions) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

- (a) what is the principle followed in making the appointment of the Deputy Sheriff of Bombay ;
- (b) what is his monthly pay or allowance ;
- (c) what are his duties ;
- (d) whether Government are aware that the post is a sinecure one ;
- (e) if so, whether Government have considered the feasibility of abolishing the post ;
- (f) whether it is a fact that the Sheriff of Bombay delegates some of his work to the Deputy Sheriff ;
- (g) if so, what are the reasons for not asking the Sheriff to do the work himself ?

The Honourable Mr. K. M. MUNSHI : (a) Legal qualifications and ability to control and supervise the working of the office are necessary for the post of Deputy Sheriff.

(b) The present scale of pay is Rs. 600—25—750.

(c) The Deputy Sheriff has to supervise the working of the Sheriff's office. This office deals with the execution of writs of the High Court, e.g., notices, warrants of attachment of moveable and immoveable properties, warrants for arrest, warrants of sale, service of summonses on jurors and witnesses in sessions cases, and requisitions for convening public meeting of citizens, etc.

(d) No.

(e) Does not arise.

(f) As stated in reply to clause (c), the supervision over the working of the whole office is entrusted to the Deputy Sheriff, though the Sheriff is responsible for this as Head of the Office.

(g) The Sheriff is not a whole time officer and is not paid by Government. He is honorary and cannot spare the time for supervising the working of the office, nor is he expected to do so.

Mr. S. H. JHABVALA : In reply to part (d) of the question Government think that the post of Deputy Sheriff is a necessary one. What are their grounds for saying so ?

The Honourable Mr. K. M. MUNSHI : They are mentioned in reply to (c).

Mr. S. H. JHABVALA : May I know whether all the duties enumerated in part (c) of the answer are done personally by the Deputy Sheriff or are done by individuals who discharge these various duties ?

The Honourable Mr. K. M. MUNSHI : All these duties are not performed by him. He is the head of the department which carries out these duties.

Mr. S. H. JHABVALA : May I come to the conclusion that the Deputy Sheriff has got to supervise the work done by his staff ?

The Honourable Mr. K. M. MUNSHI : He supervises the work of his office in the same way as a head of a department does.

Mr. S. H. JHABVALA : It is stated in answer to (g) that the Sheriff is not a whole time officer and is not paid by Government. May I know whether the work of supervising is so hard that the Sheriff cannot manage it ?

The Honourable Mr. K. M. MUNSHI : Supervising is a hard work and it is a full time job.

REMOVAL OF ELEMENT OF NOMINATION ON LOCAL BODIES.

*Mr. S. H. JHABVALA (Railway Unions) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that various local bodies have expressed in their conferences the opinion that the element of nomination to local bodies should be done away with ;

(b) if so, whether Government propose to do away with that element ?

The Honourable Mr. L. M. PATIL : (a) Yes.

(b) Government have decided that pending legislation regarding changes in the existing constitution of local bodies, nominations to all local bodies in the mofussil should hereafter be made only for the purpose of giving representation to unrepresented or inadequately represented minorities or scheduled castes, backward classes, and such other classes as have been given separate representation in the legislatures under the Government of India Act, 1935. Government have also directed that the balance of parties resulting from elections to a local body should in no case be disturbed as a result of nominations.

ASSAULT ON A BHAJAN PARTY AT BARSHI.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether Government are aware that a Bhajan Party of Hindus was assaulted by Mahomedans at Barshi, district Sholapur, on 19th July 1937 ;

(b) if so, what are the names of the persons who were injured as a result of this assault ;

(c) whether Government are aware that responsible leaders of the Mahomedan community at Barshi subsequently apologized for the incident ;

(d) whether any persons were arrested as a result of this incident ;

(e) if so, what are their names ;

(f) whether it is a fact that one of the suspects has absconded and has not yet been traced ;

(g) if so what steps, if any, have Government taken or propose to take to arrest the absconder ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) (1) Naga Krishna Darphalkar, (2) Krishna Kondiba Dhere, (3) Maruti Narayan Pingle, (4) Malbari Kalu, (5) Mahadu Bali and (6) Sakharam Bapu.

(c) Yes.

(d) No ; the offences involved were of a non-cognizable nature and no complaint was lodged in any Court due to the compromise arrived at between the two communities.

(e), (f) and (g). Do not arise.

Mr. S. L. KARANDIKAR : Is the Honourable Minister sure that the list as printed is correct ?

The Honourable Mr. K. M. MUNSHI : So far as the material available at my disposal is concerned, it is correct.

Mr. S. L. KARANDIKAR : Will the Honourable Minister accept a correction, if I suggest one ?

The Honourable Mr. K. M. MUNSHI : I will undertake to verify. That is all I can say.

Mr. S. L. KARANDIKAR : I have to suggest that the name of No. 4 is not Malbari Kalu but Malhari Kalu. [*Laughter.*]

Mr. JAMNADAS M. MEHTA : Do you want any verification ?

The Honourable Mr. K. M. MUNSHI : If the honourable member is prepared to verify, I will accept his correction.

Mr. S. L. KARANDIKAR : Are Government aware that Malhari Kalu is since dead ?

The Honourable Mr. K. M. MUNSHI : I have no know'edge of it.

Mr. S. L. KARANDIKAR : Will Government enquire whether he is dead ?

The Honourable Mr. K. M. MUNSHI : Certainly.

Mr. S. L. KARANDIKAR : As regards (b), is assault resulting in death a non-cognisable offence ?

The Honourable Mr. K. M. MUNSHI : The Criminal Procedure Code may be referred to in this connection.

Mr. S. L. KARANDIKAR : Supposing it is shown that that offence is not non-cognisable, will steps be taken by Government in the right way ?

The Honourable Mr. K. M. MUNSHI : Certainly.

Mr. MIRZA AKHTAR HASAN : May I know how many days after the assault this man died ?

The Honourable Mr. K. M. MUNSHI : I do not know.

THOMAS COMMITTEE'S RECOMMENDATIONS.

*Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dock-workers) : Will the Honourable the Finance Minister be pleased to state—

(a) whether all the recommendations of the "Thomas Committee" have been considered by Government ;

(b) if so, whether he will be pleased to place on the Assembly table a statement showing to what extent the recommendations have been considered and carried out and how many of them have been left untouched ;

(c) whether the scales of pay recommended by the Thomas Committee have been given effect to and, if not, why not ?

The Honourable Mr. A. B. LATTHE : In September 1933, Government placed on the table a statement showing the action taken on the recommendations of the Thomas Committee. Government are now reviewing those recommendations which were previously rejected or partly accepted and the action taken after this review will be communicated to the House in due course.

Mr. MIRZA AKHTAR HASAN : The reply to (b) is not clear. I had asked to what extent the recommendations had been carried out.

The Honourable Mr. A. B. LATTHE : The answer, I think, is clear enough. The previous Government considered the whole report and gave effect to certain of the proposals, and a statement was placed on the table of the House by the Government in 1933. Thereafter, nothing was done. Since we came into office, we have been reviewing the whole thing. Nothing has yet been settled on any of the questions which were left open and which were not accepted by the then Government. Unless something is decided by Government, I cannot give any information. All I can say is that certain proposals of the Thomas Committee which were rejected are at present under review and are being considered.

Mr. MIRZA AKHTAR HASAN : Will it take one year ?

The Honourable Mr. A. B. LATHE : May be even a shorter or longer time.

AWARD OF SCHOLARSHIPS BY DIRECTOR OF INDUSTRIES.

*Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dock-workers) : Will the Honourable Minister for Local Self-Government [Industries] be pleased to state—

(a) how many scholarships were awarded by the Director of Industries during the last three years ;

(b) how many of them were awarded to members of the Backward Classes and the Mahomedan community ?

The Honourable Mr. L. M. PATIL : (a) and (b) A statement giving the information required by the Honourable Member is placed on the Assembly table.

Statement showing scholarships available for award and actually awarded by the Director of Industries, Bombay, during the years 1934-35 to 1936-37.

Institutes or Works.	Number available for award.	Number actually awarded.		
		1934-35.	1935-36.	1936-37.
Victoria Jubilee Technical Institute, Bombay ..	10	8	10	7
R. C. Technical Institute, Ahmedabad ..	6	6	6	6
Government Hand-Weaving Institute, Poona ..	12	12	12	11
F. S. Parekh Technical Institute, Surat ..	2	2	2	2
Royal Institute of Science, Bombay, or Indian Institute of Science, Bangalore, for Research in Technical Chemistry.	2	2	2	2
In approved works for practical training in Electrical Engineering ..	1	1	1	1
Total ..	33	31	33	29
Number of Scholarships awarded to the Backward Classes.	....	1	3	1
Number of Scholarships awarded to Muhammadans.	....	3	3	4

Note.—Scholarships in Technical Chemistry, Electrical Engineering and the Government Hand Weaving Institute, Poona, are given on merit at the time of selection, due regard being had to age, character, ability, physical fitness, etc. Of the ten scholarships for the Victoria Jubilee Technical Institute, 3 are reserved for Muhammadans and 2 are reserved for the backward classes. The response from these classes—especially the Backward Classes, is generally poor. Scholarships in the R. C. Technical Institute, Ahmedabad, and the F. S. Parekh Technical Institute, Surat, are awarded on the results of examinations.

Mr. MIRZA AKHTAR HASAN : Supplementary to the printed note. Barring the number of scholarships reserved for Mussalmans, were any other scholarships given to Mussalmans ?

The Honourable Mr. L. M. PATIL: Yes. Two scholarships were given to Muslims last year in the Government Hand Weaving Institute, Poona.

Mr. MIRZA AKHTAR HASAN: Is selection made by means of examination or at the discretion of the person who selects?

The Honourable Mr. L. M. PATIL: All scholarships, except those given in the Victoria Jubilee Technical Institute, Bombay, are given on the merits and the qualification of the candidates at the time of selection, due regard being had to age, character and ability.

Mr. MIRZA AKHTAR HASAN: I am afraid I am not properly understood. With reference to scholarships in the Victoria Jubilee Technical Institute, three are reserved for Mussalmans. I am thinking of the technical scholarships given in other institutes. Is there a system of examination for admission in those institutes?

The Honourable Mr. L. M. PATIL: In the other institutes the scholarships are given on the results of the entrance examination. It is only in the Victoria Jubilee Technical Institute that scholarships are reserved on considerations of castes and communities.

Mr. MIRZA AKHTAR HASAN: The question that arises supplementary to that is, if the selection is based on merits, are the merits assessed by the man who makes the selection without any examination, or is there any examination for that?

The Honourable Mr. L. M. PATIL: The award of scholarships, except in the case of V. J. T. Institute, is not arbitrary, but it is based on the results of examinations, due regard being had to age, character, ability etc.

TANNERIES AT DHARAVI: APPLICATION OF FACTORIES AND PAYMENT OF WAGES ACTS.

*Mr. S. V. PARULEKAR (Ratnagiri South): Will the Honourable the Prime Minister be pleased to state—

- (a) the number of tanneries at Dharavi;
- (b) the total number of workers employed by them;
- (c) whether child labour is employed in these tanneries;
- (d) whether Government have considered the advisability of bringing the tanneries within the scope of the Factories Act, 1934;
- (e) if so, with what result;
- (f) whether Government intend to apply the Payment of Wages Act to the tanneries at Dharavi;
- (g) if not, what are their reasons for the same?

The Honourable Mr. B. G. KHER: (a) About 25.

(b) About 2,500.

(c) Very few children are employed in these tanneries.

(d) and (e) Yes. A notification has been ordered to be issued bringing tanneries and other industrial concerns under the Act.

(f) Yes.

(g) Does not arise.

Mr. S. V. PARULEKAR : Were any enquiries made by Government to find out how many tanneries there are at Dharavi ?

The Honourable Mr. B. G. KHER : Yes.

Mr. S. V. PARULEKAR : What is the exact number of the tanneries ?

The Honourable Mr. B. G. KHER : About 25 ; that is the answer.

Mr. S. V. PARULEKAR : Was it very difficult, after an enquiry was made, to give the exact number of tanneries at Dharavi ?

The Honourable Mr. B. G. KHER : It is not difficult. The answer is "About 25". Perhaps some tannery was being put up or some one was being taken away, and the officer who went to make the enquiry reported that the number is this.

Mr. S. V. PARULEKAR : Is the Factories Act going to be extended to cover all the tanneries at Dharavi ?

The Honourable Mr. B. G. KHER : Yes ; that is the intention.

APPOINTMENTS TO BOMBAY MEDICAL SERVICE.

*Mr. MUSAJI E. PATEL (Broach Sub-Division) : Will the Honourable Minister for Public Health be pleased to state —

(a) how many new appointments were made during the last year in the Bombay Medical Service ;

(b) how many of them were given to Mahomedans ;

(c) if no Mahomedan was appointed, what were the reasons for the same ;

(d) whether Government are aware that their action in not giving any appointment to the Mahomedans was contrary to the assurances given by them to the Mahomedan Community from time to time regarding recruitment to public services ?

The Honourable Dr. M. D. D. GILDER : (a) Six.

(b) None.

(c) Three of the appointments were in the Bombay Medical Service—Class I—Division I, where a post-graduate degree or diploma in general medicine or surgery is required in addition to the ordinary primarily registrable qualification (M.B.B.S.). There were two Muhammadan candidates for two of these appointments. Both of them were overage and one belonged to another Province. The candidate from this Province was, however, interviewed by the Selection Board, in spite of his being

verage, but was not found by the Board suitable for appointment. The appointments were made on the recommendation of a Selection Board.

For the fourth post, which was a specialist post at a mental hospital, the Selection Board found no candidate suitable. Applications were subsequently asked for from Bombay Medical Service—Class II Officers and no Muhammadan applied.

For the fifth post also there were no Muhammadan applicants.

The sixth post—Assistant Chemical Analyser—required a special knowledge of Chemistry. Out of the applicants only four possessed that knowledge. None of these was a Muhammadan. The Selection Board's choice was accepted by Government.

(d) The general policy of Government is to encourage the recruitment of Backward Class and Muhammadan candidates, when suitable candidates from these communities are available. There were no suitable Muhammadan candidates for any of the six appointments.

Mr. MUSAJI E. PATEL: Supplementary to part (b). Does the reply mean that if no suitable Mussalman candidate comes forward, no Mussalman will be appointed?

The Honourable Dr. M. D. D. GILDER: If a suitable candidate is available, certainly he will be appointed. But if a candidate is unsuitable, the honourable member does not expect Government to appoint that unsuitable candidate?

Mr. MUSAJI E. PATEL: He may not answer all the requirements.

The Honourable Dr. M. D. D. GILDER: Then he is unsuitable. "Suitable" means one who answers all the requirements.

Mr. W. S. MUKADAM: Will the Honourable Minister be pleased to name the representative of the Government who made these appointments and who was really responsible for these selections?

The Honourable Dr. M. D. D. GILDER: The appointments were made by Government on the recommendation of the Selection Board.

Mr. W. S. MUKADAM: I want to know the name of the representative of the Government who made these appointments.

The Honourable Dr. M. D. D. GILDER: The Minister in charge at the time.

Mr. W. S. MUKADAM: Who was the Minister in charge at the time?

The Honourable Dr. M. D. D. GILDER: The question refers to the year 1936. In 1936 the Ministers in charge were Sir Shah Nawaz Bhutto and Sir Ali Mahomed Khan Dehlavi. [Laughter.]

Mr. ALI BAHADUR BAHADUR KHAN: May I know if these posts were advertised in the papers?

The Honourable Dr. M. D. D. GILDER : As far as I know, they were.

Mr. ALI BAHADUR BAHADUR KHAN : Do Government know that there is a Muslim society which is informed if these posts are vacant and Mahomedan candidates are required ? If so, was that society informed ?

The Honourable Dr. M. D. D. GILDER : I do not know whether in this particular case, that society was informed.

MUSLIM DHARAMSALA IN BARDOLI : POSSESSION BY GOVERNMENT FOR LOCATING DISTRICT LOCAL BOARD OFFICE.

*Mr. MUSAJI E. PATEL (Broach Sub-Division) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that Government have recently taken over the possession of the ancient Muslim Dharamsala in the town of Bardoli in District Surat for the purpose of locating a District Local Board Office ;

(b) If so, what are the reasons for the same ;

(c) whether Government are aware that the said Dharamsala was very useful to the poor Muslim villagers visiting the town of Bardoli ?

The Honourable Mr. L. M. PATIL : (a) No. There is only one Dharamshala at Bardoli in charge of the District Local Board, Surat. Government are informed that this Dharamshala which was constructed by the Local Fund Committee in 1867 was never used exclusively for Muhammadans. A part of the Dharamshala has been used as a Local Board office since 1925 and its side-rooms are kept for the use of travellers of all communities.

(b) and (c) Do not arise.

Mr. MUSAJI E. PATEL : With reference to reply to part (a), may I know when the local fund cess was introduced in the Bombay Presidency ?

The Honourable Mr. L. M. PATIL : I require notice.

CLAIMS OF ADVANCED, INTERMEDIATE AND BACKWARD COMMUNITIES FOR APPOINTMENTS OF HONORARY MAGISTRATES IN THANA DISTRICT.

*Mr. KANJI GOVIND KERSON (Thana South) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) how many benches of Honorary Magistrates are there in the Thana District ;

(b) the number of members of each of these benches belonging to Advanced, Intermediate and Backward communities respectively ;

(c) whether Government are aware that the number of members of these communities is not proportionate to the population of these communities in the places where the benches are appointed ;

(e) whether Government intend to take into consideration the claims of these communities while making appointments of Honorary Magistrates in future ?

The Honourable Mr. K. M. MUNSHI : (a) Six Benches.

(b)

—				Advanced community.	Intermediate community.	Backward community.
<i>Thana.</i>						
A Panel	..	..	..	1	3	....
B Panel	..	..	..	3	1	....
<i>Kalyan.</i>						
A Panel	..	..	..	3	1	....
B Panel	..	..	..	2	2	....
Chinchai Bench	..	..	..	3	2	....
Paighar Bench	..	..	..	2	3	1

(c) The figures of population of the Advanced, Intermediate and Backward communities at the places where the Benches have been constituted are not readily available. It is therefore not possible to say what relation the number of members of each community on the various benches bears to its population at each of those places.

(d) The policy of Government in regard to Benches is under consideration.

CONSTRUCTION OF A METALLED ROAD BETWEEN KASARKOD AND VENKATAPUR.

*Mr. I. H. SIDDIQUI (Kanara District): Will the Honourable the Minister for Public Works be pleased to state—

(a) whether Government are aware of the existence of a road between Kasarkod and Venkatapur villages in Honavar Taluka ;

(b) whether Government are aware that the daily traffic of the villagers is gradually increasing on account of the plying of Motor Vehicles ;

(c) whether Government are aware that the said road is unfit for the requirements of the increasing traffic ;

(d) if so, whether Government propose to make it a permanent and sound metalled road ?

The Honourable Mr. M. Y. NURIE : (a) Yes.

(b) Yes.

(c) This fact has been recognised.

(d) Yes. The work of improvements to the road will be taken in hand as soon as other urgent works above it in the priority list of works in the Southern Division are taken in hand and completed.

Mr. I. H. SIDDIQUI : Are Government aware that there are portions of the said road which have not been resurfaced or metalled for the last six or seven years ?

The Honourable Mr. M. Y. NURIE : I want notice of that question.

Mr. I. H. SIDDIQUI : May I supply the information required for the benefit of the Honourable Minister in charge ?

The Honourable the SPEAKER : The Honourable Minister in charge has already replied that he wishes to have notice. Unless notice is given, he is not in a position to reply.

Mr. I. H. SIDDIQUI : Why is notice required in respect of the supplementary question ?

The Honourable the SPEAKER : No notice is required for putting any supplementary question, but there may be questions which the Honourable Ministers may not be able to reply on the spot, and they are entitled to claim notice in respect of those questions. That is what the Honourable Minister is claiming now.

Khan Saheb FAIZ MAHOMED KHAN : With reference to the reply
 2-30 p.m. to (c), namely, that the fact that the road is unfit for the requirements of the increasing traffic has been recognised, has the Honourable Minister taken any steps to remedy that state of affairs ?

The Honourable Mr. M. Y. NURIE : Unfit for the requirements of the increased traffic ; not unfit for use. The road is unfit for the requirements of increased traffic, and steps have been taken to make it fit.

Khan Saheb FAIZ MAHOMED KHAN : It boils down to this, that it is unfit for that traffic.

The Honourable Mr. M. Y. NURIE : But not unfit generally.

LEAVE OF ABSENCE.

Leave of absence : Sardar Mahaboobali Khan Akbarkhan Savanur.

The Honourable the SPEAKER : Before we proceed with the discussion of the motion moved yesterday, I have to read to the House, under the provisions of Rule 12C of the Bombay Legislative Assembly Rules, an application from one of the members of this House for leave of absence. The honourable member Sardar Mahaboobali Khan Akbarkhan Savanur wants to have the permission of the House, as he is not able to attend the session. I shall read his letter :

" I regret to inform you that it will not be possible for me to be present for the session of the Assembly to be held on 10th instant.

" The Karnatak Agricultural Show at Belgaum will be opened by His Excellency on the 17th instant. As I am one of the members of the Committee of this show, I will have to be present on the occasion. His Excellency will be paying a visit to Hubli about 19th and our Municipal Borough propose to present an address of welcome to His Excellency at the time. As I am the President of this Borough, I will have to be present here to see to the arrangements for same.

" Kindly arrange for the sanctioning of leave of absence to me. Thanking you, I remain, Your most obedient servant."

[The Speaker]

Under Rule 12C (2), I have to read out the application to the Assembly as soon as I receive it—it reached me last evening—and I have accordingly read it out to the House today. The decision of the House has to be taken now. Do I take it that the House is pleased to grant the permission asked for ?

Sir ALI MAHOMED KHAN DEHLAVI : On a point of information. Rule 12C applies to a case where a member is unable to attend the meetings of the Assembly for a period of sixty consecutive days. Is this session likely to last for sixty days ?

The Honourable the SPEAKER : It is difficult to say how long this session will last. There is legislative business before the House, and, theoretically, the session may last for any number of days. However, it is not presumed that it will last for as many as sixty days. But this absence, in addition to any further likely absence, may raise an apprehension in the mind of the honourable member that he may not be able to be present for sixty consecutive days. It is more or less as a matter of safeguard that the honourable member is making this application.

Sir ALI MAHOMED KHAN DEHLAVI : Is such an application necessary in a case where the session is not likely to last for sixty days ? This should not become a precedent in other cases. If we interpret the rule in the way in which the honourable member interprets it, it might be held that every member who absents himself during a session, however short it may be, should apply for leave. The rule does not contemplate that.

The Honourable Mr. K. M. MUNSHI : May I point out that this case is governed really by sub-section (4) of section 68 of the Government of India Act, where the word "consecutive" does not find a place ? Sub-section (4) of section 68 lays down :

"If for sixty days a member of a Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant."

It is a matter of construction whether it is consecutive or otherwise. (*An Honourable Member* : Proviso ?) The proviso does not say that the sixty days shall be consecutive. It only says :

"Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days."

I am only submitting that whatever decision is given may be given after considering the full effect of the section.

Sir ALI MAHOMED KHAN DEHLAVI : Even if the section is read with the word "consecutive", it only refers to a session ; and the length of that session has to be kept in view. If it is a short session—

The Honourable Mr. K. M. MUNSHI : It does not refer to a session ; it merely says "sixty days".

The Honourable the SPEAKER : It is really not a question of the interpretation of the rule or section at all. If a member apprehends that he may have to remain absent for sixty consecutive days, not knowing whether the House will sit for 2 or 10 or 100 days, he is entitled to make a submission to the House, and it will be for the House to say whether, considering all the circumstances, permission may or may not be granted. What is the wish of the House in this case ?

Sir ALI MAHOMED KHAN DEHLAVI : The wish of the House is that permission is not necessary.

The Honourable the SPEAKER : All that the honourable member wishes to guard against is this, that so long as he is unable to be present, his absence should not be construed to be absence without the permission of the House. Do I take it that permission is not necessary ? That is an expression of opinion. But that does not decide the point. Do I take it that the permission asked for is granted ? [*Honourable Members* : Yes.] The permission asked for is granted.

MOTION REGARDING FEDERATION.

Question again proposed :

"This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the Province and is, therefore, unacceptable. This Assembly therefore requests Government to intimate to the British Government not to impose it on the Province."

The Honourable the SPEAKER : I have received one more amendment to the proposition under discussion since yesterday. In order that the House may be in full possession of all the amendments, I would desire the honourable member Khan Saheb Faiz Mohamed Khan to move his amendment. Then the discussion may continue.

Khan Saheb FAIZ MOHAMED KHAN (Kaira District) : Sir, I beg to move :

"Delete the words 'intimate to the British Government not to impose it on the Province' from the Motion, and substitute the words 'urge upon the British Government to refrain from its enforcement'."

Question proposed.

Khan Saheb FAIZ MOHAMED KHAN : Mr. Speaker, Sir, we were discussing a very important aspect of the imposition on the country—

Mr. JAMNADAS M. MEHTA : May I rise to a point of order ? I submit that the motion of the Honourable the Prime Minister is not in order. Standing Order X, 12 (1), lays down :

"When a resolution has been moved in the Assembly, no resolution or amendment of a resolution raising substantially the same question shall be moved within one year from the date of such motion."

[Mr. Jamnadas M. Mehta]

What I wish to point out is that if a resolution or an amendment to it has been moved and another resolution is attempted to be moved within one year which substantially raises the same issue, then it is barred under this Standing Order. Sir, in the last September session, I think it was on the 21st September, the Honourable the Prime Minister moved his well known resolution on the Constituent Assembly.

An Honourable MEMBER: The calendar year is changed.

Mr. JAMNADAS M. MEHTA: But, Sir, the calendar being the same both in Poona and Bombay, and as one year has not elapsed since substantially the same question was adjudicated by the House, I submit that it would not be open to the House to discuss this motion. Sir, if you will kindly turn your attention to page 1278, Part 26, of the last Assembly Debates, you will find there that on the 21st September Mr. Parulekar moved an amendment to the Honourable the Prime Minister's resolution in which the following words occur:

"This Assembly expresses its emphatic opinion that the federal part of the Act is worse than the provincial part and therefore so long as the Government of India Act is not repealed, this Assembly requests the Bombay Government to convey to His Majesty's Government the desire of the people of the province of Bombay that Government should not proceed with Federation."

This amendment, as I already said, was moved on the 21st September; the House had a debate on that and it was decided on the 23rd September if I forget not. So, until 22nd September 1938, I submit, it is not open for the same question to be raised, and it will be clear that the language of the Honourable the Prime Minister's proposed resolution and the language which I have read out do substantially raise the same issue as is required under Standing Order X, 12 (1). Therefore, it is not open to the Honourable the Prime Minister to move his motion now. I know that he is trying to rectify the mistake which the Government then made in opposing Mr. Parulekar's amendment. I would have very much wished that they had not opposed, but having done so, the public should have the opportunity of knowing for 12 months that the Government of Bombay on the 23rd September were not opposed to Federation.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers): Sir, I beg to point out that the point raised by Mr. Jamnadas Mehta is not a point of order. The wording of Standing Order X, 12 (1) is that "When a resolution has been moved....." and with reference to the Constituent Assembly resolution, it was only an amendment which was lost. The actual wording of the Standing Order refers to a resolution. It may be anything pertaining to that, a minor issue may be raised, but it may be a side issue. The main issue which is contemplated by this Standing Order is about a resolution and not in connection with any amendment. That may be merely a side issue and we are not to be

[Mr. Mirza Akhtar Hasan]

guided by the side issue. The main issue that was discussed then was nothing but Constituent Assembly which referred only to the Provincial Subjects.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, in this connection I should like to draw the attention of the House to the definition of "Resolution" which is given on page 1. It reads :

"Resolution" means a motion for the purpose of discussing a matter of general public interest ;

Then, Sir, the definition of "motion" is as follows :

"Motion" is the statement of a matter brought forward by a member for the decision of the Assembly and includes an amendment of a motion ;"

So, under these circumstances, the House is not entitled to discuss the resolution which has been moved by the Honourable the Prime Minister.

The Honourable the SPEAKER : The honourable member referred to the definition of "Resolution" on page 1. To what other thing did he refer ?

Mr. S. V. PARULEKAR : Sir, I referred to the definition of "Motion" on page 18.

Mr. K. F. NARIMAN (Bombay City) : Sir, I rise to oppose the point of order. The point involved is about the finality in the decision arrived at by the House and the House should not consider any resolution which is inconsistent with the resolution which has been already passed within the period specified, that is, one year. The Standing Order, under which the honourable member (Mr. Jamnadas Mehta) has raised this point of order will have to be read with another rule on page 22. I refer to Rule 3 in Standing Order V which says :

"A motion shall not be moved which is inconsistent with any decision at which the Assembly has arrived at the same stage of the business, or in the same Session unless such decision has been arrived at at a different stage."

This is clear enough and it shows that supposing we had passed a resolution rejecting the Federation, then another motion accepting it would have been inconsistent and could not be moved within the same year. In this case, Sir, we are not moving anything inconsistent with the motion that was moved in the last Session, and I think that it is open to the House to discuss it. I submit that it can be moved.

Mr. JAMNADAS M. MEHTA : You are going back upon your own vote.

The Honourable Mr. B. G. KHER : Sir, Rule 12 on which the honourable member, Mr. Jamnadas Mehta, relies lays down that a resolution or

[Mr. B. G. Kher]

amendment of a resolution raising substantially the same question shall not be moved within one year. Now, what was the question, in substance, in the motion which was referred to by the honourable member? I will read the motion itself which will make the position clear. It is as under :

“ This Assembly is of opinion that the Government of India Act, 1935, in no way represents the will of the Nation and is wholly unsatisfactory as it has been designed to perpetuate the subjection of the people of India. Therefore, the Assembly is further of opinion that the said Act should be repealed and replaced by a Constitution framed by a Constituent Assembly elected on the basis of adult franchise, which allows the Indian people full scope for development according to their needs and desires.”

The question substantially at issue in that motion therefore was the manner and the method by which a Constitution which will allow full scope for the people of India to develop according to their needs and desires was to be framed. Great emphasis was laid, attacks were directed principally to the method that was contemplated, namely, the Constituent Assembly. If I remember aright, while being agreed on the motion in substance the honourable member (Mr. Jamnadas), who is now raising this point of order, himself laid great emphasis on the nature of the Constituent Assembly. Who is going to convene it? When is it to be convened? He asked a string of questions on this point and I think even his own speech on that occasion might make it clear that the issue then before the House was substantially, what is the method of getting us a constitution which is more after our heart? What is the issue in the motion that is now brought before the House? The issue is that the Federation is not in consonance with the declared will of the people and that, therefore, it may be intimated to the British Government that this Federation should not be imposed on us. We are not asking anything about the nature of a Constituent Assembly; we are not mentioning any method by which this may be done, and I do submit, therefore, that although, as was pointed out, it is possible that in considering the Constituent Assembly question, Federation and a number of other Constitutional points might have been incidentally taken into account and debated, those were not the substantial and principal questions at issue. I submit this rule is founded on the famous principle of *res judicata*. Applying the test of *res judicata*, where also the issue in substance, the matter in substance, has to be looked to, unless it is a matter which could be said to be substantially in issue in the former case, one cannot debar the later proceedings and I submit that, considering that the main object of that resolution was the convening of a Constituent Assembly for getting us a constitution and the main object of the resolution which is now before the House is entirely different, viz. the undesirability of imposing the Federation, the point of order that has been raised by the honourable member (Mr. Jamnadas) should not be allowed.

Rao Bahadur G. K. CHITALE (Ahmednagar South) : May I know, Sir, whether the Advocate General is likely to be in the House, because

[Rao Bahadur G. K. Chitale]

I understand that his appointment was made with a view to help the House ? There are two parties in the House which are likely to come to loggerheads—at least not likely to agree with each other, just as two lawyers and two sides will never agree. I think this is a proposal in which the advice of the Advocate General would be of great help. I discussed this point with some friends in the morning. I think it is a difficult point and cannot be brushed aside in the way in which the Leader of the House wants to do it. The Advocate General's appointment has been made precisely with a view to help the House in such contingency. He is a member of the House—

Mr. JAMNADAS M. MEHTA : He is not a member of the House.

Rao Bahadur G. K. CHITALE : He is the 176th member, but has no vote.

Mr. JAMNADAS M. MEHTA : A member is a person who has a vote.

Rao Bahadur G. K. CHITALE : I think let us have him here, and, in the meantime, we can proceed with some other business. The point is not so simple. It is, therefore, necessary that the view of the Advocate General should be obtained. It would help us in coming to a decision. This is a matter of vital importance so far as the privileges of the House are concerned. It is a matter of privilege. A specific limitation has been imposed by the Rules, namely, that the same thing shall not be discussed for a year. If that is so, this small distinction—what was said then and what is being said now—ought not to be the criterion by which the privileges of the House should be curtailed or the restrictions that have been imposed on the House should be brushed aside. I would, therefore, pray that the matter may be considered when the Advocate General comes in the House, and I hope the Honourable the Leader of the House will be able to call him to help us.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Mr. Speaker, the Honourable the Prime Minister has tried to explain that the present motion is in order by explaining away the fact of the amendment moved by my honourable friend Mr. Parulekar. The point raised was, that the issue of the Federation during the last discussion was incidental, and a kind of differentiation is sought to be made between the two words "substantial" and "incidental", but in that connection, I would bring to your notice Rule 8 on page 23. If the amendment moved by my honourable friend Mr. Parulekar had referred only to an incidental matter, that question would not have come by way of an amendment at all, because Rule 8 explains to us what kind of amendments can be moved to certain motions. It says, "An amendment must be relevant to and within the scope of the motion to which it is proposed." So, if it were merely an incidental matter, it would not have been at all a relevant matter within the scope of the original motion, and, therefore, if you had really thought that the matter raised by the honourable member Mr. Parulekar was only an incidental matter, you would have certainly

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ruled out of order the amendment that he then proposed. As the amendment was accepted, as a full-dress debate was allowed on that amendment in the House, that amendment, moved during the last session, cannot now be called an incidental matter, and in that way, the motion now before the House cannot be attempted to be described as a motion in order. Therefore, my point is this that the distinction that is sought to be made between incidental matters and substantial matters is not likely to be of any avail at this stage. The matter was discussed during the last session and a decision was given. A decision having been already given, it is no longer possible to re-agitate the matter and take the time of this Assembly.

Mr. JAMNADAS M. MEHTA : Just one point, Sir. The Honourable the Prime Minister talked about substantial and subsidiary and secondary matters, but the Standing Order does not make any such distinction. It simply says whether the question was substantially the same or not ; it does not say whether the question is substantial or not. The question itself may be of secondary importance, but the point is whether the question is substantially the same as was raised on the previous occasion. The Standing Order refers to the identity of the question itself and not to its importance. Standing Order 12 (1) says, "raising substantially the same question", that is, whether the question is, in essence, the same and not whether the question intrinsically is substantial. All that is necessary for you to see is whether the amendment moved by my honourable friend Mr. Parulekar and the motion that is now moved by the Honourable the Prime Minister are substantially the same. If the Prime Minister thinks that Federation is not a substantial question, it is his look-out. But, here, we are not concerned with that. All that we are concerned with is whether the amendment of my honourable friend Mr. Parulekar and the motion which the Prime Minister now moves raise the same issue or not. If he thinks that the question of Federation is not a substantial one, I do not mind.

The Honourable Mr. B. G. KHER : I am afraid this is a deliberate misrepresentation, Sir. There was no question of characterising the question of Federation as a substantial one or otherwise. Surely, my honourable friend (Mr. Jamnadas) has not forgotten his law to this extent. The question is not whether Federation is substantial or not—[Mr. Jamnadas M. Mehta : "Yes, you are saying it."]—but whether it was substantially in issue last time.

The Honourable Mr. K. M. MUNSHI : If I may refer to the words of the Standing Order 12 upon which the honourable member (Mr. Jamnadas) relies, what you have to find, Sir, is whether the resolution which is now moved in the House raises substantially the same question as was raised by the amendment of the honourable member Mr. Parulekar in the last sessions. Now, Sir, the question must be raised substantially. If you look at the present resolution, the question that it raises is, first, whether

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the Federation has been accepted by the Indian people. Secondly, as it is not accepted by the Indian people, is the Federation acceptable or not? The answer which this resolution gives is, I submit, that the Federation is unacceptable because it has not been accepted by the will of the people. That is the only question raised and the only answer given in this resolution. On the other hand, the question which was raised by Mr. Parulekar's amendment is quite different. In the first instance, it says nothing about the fact that this Federation is unacceptable by reason of not having been accepted by the people. The only question was whether the federal part was much worse than the provincial part. That was a different point altogether. All that it says is that the Government till both parts are made similar should not proceed with the Federation. Here the question is of entire unacceptability. The issue is about the will of the people, while there the issue was of the comparative merits of the provincial and the federal structure. A request that an Act should not be proceeded with is entirely a different point from that the Federation is not acceptable. I submit that this is substantially not the same question and, further, is not the same question at all. That is my submission.

Mr. D. J. FERREIRA (Thana *cum* Bombay Suburban District): The point I wish to make, Sir, is this. The Federation is a part of the Constitution. In the September session in Poona we were dealing with the constitution which comprises the Federation. If the honourable member Mr. Parulekar's amendment was to the effect that we should not have anything to do with the Constitution, that we should not discuss the Constitution but only the Federation, the position would be different. But what did the honourable member Mr. Parulekar do? He had before him the resolution before the House. He added something to the resolution and it was rightly said that we do not wish to embarrass the position by bringing in a part of the Constitution, that is, the Federation, into the discussion of the whole constitution, and that makes the case different.

Supposing, the resolution before the House was that we should have no titles in the Bombay Presidency—I am very much concerned with such a resolution because I was hoping for a title myself; assuming, however, the resolution was “No titles in the Bombay Presidency”—and if somebody raised an amendment adding the words that there should be no titles in Bombay proper, and assuming that amendment was lost, as it would necessarily be, could it be said that we have done something which could prevent us from discussing a resolution—no titles in Bombay proper—on the ground of its being *inconsistent* with what had been done in the past? Certainly not on the ground of *inconsistency*. My submission is that we are entitled to consider the resolution moved by the Honourable the Prime Minister now, for the simple reason that that resolution was never intended to be negatived. While my submission is that we are fully entitled to consider the resolution, I am not to be

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taken as supporting the resolution. All I say is I am in favour of the proposition being considered.

Rao Bahadur G. K. CHITALE (Ahmednagar South): Sir, I would only wish you to read the two motions side by side. It will be found that the wording is the same and, so far, therefore, as I can make out, there is no difference absolutely, and they are almost one. Omit a word here, add a word there. Then, the next point I find is that here it is opposed to the declared will of the people of the Province and is, therefore, unacceptable. "This Assembly, therefore, requests Government to intimate to the British Government not to impose it on the Province." That is to say, a request is conveyed in order to avoid certain technicalities that this Federation, which is the third part which comes into force after the Order-in-Council, should not be imposed. This is the substantial part of the amendment. The Assembly is further of opinion that the Act should be repealed and replaced by another.

For my part, I cannot see the least difference between the two. Here, in this resolution, a request is made that the British Government should not impose it on the Province. The same thing is consolidated in the previous amendment by saying, "Therefore, the Assembly is further of opinion that the said Act should be repealed." What does "it should not be imposed" mean? Repeal it, do whatever you like and, therefore, it will not do harm. I am not so much enamoured either by the resolution or the amendment referred to. These are all pious wishes. That is another matter. But, so far as the privileges of the House are concerned, I think otherwise; else I would not have intervened at all. You make a rule in order to avoid certain repetitions. Then in that case, if we get the same matter within a certain period, that is naturally not to be taken up. Just as we find in our local bodies, it is a wholesome rule. It is the acme of local bodies.

Now, therefore, in this matter let the two sides assume an attitude of "playing the game" and judicial temperament, and let the Advocate General tell us what the interpretation of the same is. We are likely to be swayed by recent prejudices by which we are governed. The opinion of the Advocate General should be sought.

The Honourable the SPEAKER: Does the honourable member propose that the House should wait until the Advocate General is sent for?

Rao Bahadur G. K. CHITALE: Yes, Sir.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Mr. Speaker, Sir, the resolution is not one and the same thing as the amendment, and the decision on this point of order, I submit, should be based on whether they are the same or not, because if the resolution and an amendment are the same, then certainly this resolution moved by the Honourable the Prime Minister is out of order, because substantially the question of Federation was raised by an

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amendment moved by the honourable member Mr. Parulekar. But if a resolution and an amendment are not the same, then certainly the question raised in the present resolution is quite different, as the Honourable the Prime Minister has pointed out, from the question that was raised in the resolution that he moved in the last session, because in that resolution the ways and methods of establishing a Constituent Assembly were discussed, while in this resolution we are discussing an absolutely different matter, namely, Federation. If a resolution and an amendment had been the same, then in the Standing Order X, 12 (1), the words "or amendment of a resolution" should not have been inserted. They would have been absolutely redundant because it reads "when a resolution has been moved in the Assembly, no resolution or amendment of a resolution raising substantially the same question shall be moved....". Therefore, I submit that an amendment is not the same as a resolution under the rules and it cannot be the same because the resolutions are governed by different rules in all matters, in the matter of notice, in the matter of moving them in the House and the amendments are governed by different rules altogether. But, if it is held that an amendment and a resolution are the same, then I would say that the present resolution is out of order.

Mr. ISMAIL I. CHUNDRIGAR (Ahmedabad District): Sir, the first part of the motion before the House is more or less in the nature of a preamble giving reasons for the latter part of the motion which, really speaking, is the substantial motion before the House. The real idea underlying the present motion is that "this Assembly requests the Government to intimate to the British Government not to impose a Federation on the province" and as a ground for the present Government sending that intimation to the British Government, the motion states that "This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the province and is therefore unacceptable". Similarly, if we turn to the resolution moved and passed at the last session at Poona, we find that the substantial motion before the House then was about the Constituent Assembly which was intended to be convened for the purpose of drawing up the constitution, though the preamble to that resolution was almost similar in terms to that of the present resolution. Therefore, though the reasons for commending the acceptance of the main resolutions may be the same in both cases, the substantial motions are entirely different. The substantial motion before the House at present is that we want a request to be conveyed to the British Government not to impose a Federation on either the province or on the country, but the substantial motion before the House at the time of the Poona session was that a Constituent Assembly should be called for the purposes of drawing up a constitution, and my submission is that the two things are entirely different. Though the grounds for making both the recommendations—the one which we propose to make now and the one made at the Poona sessions of the Assembly—may be the same, the substantial

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parts of the motions are entirely different and, therefore, I submit that this motion can be moved at this time.

The Honourable the SPEAKER: I am thankful to the honourable members for all the very intricate and learned arguments on the construction of the Rules and Standing orders. To my mind, it is not necessary at all to decide just at present whether an amendment is included in the word "resolution" or not and as to what is the proper interpretation of this or that rule. The amendment of Mr. Parulekar to the last resolution has to be read in the light of and taking into consideration the context and the main objective of the principle of the resolution and a few words here and there taken out of the context and unrelated to the principle of the resolution will not do. The Rule No. 12 seems to have been put in for the purposes of having some finality at least for some time—the rule has laid down one year—and the best principles applying in all such cases would be the principles which guide the courts in deciding what matters come within the principle of *res judicata*. Reading the original motion, the amendment of the honourable member Mr. Parulekar and the present motion, and putting myself the question as to whether the matters agitated upon the two occasions are directly and substantially the same, I am clearly of the view that though arguments here and there might be the same in support of the conclusions arrived at, this aspect of the matter which is now being taken up was not and cannot be said to be so directly and substantially in issue at that time as to bar a discussion of the present resolution. The objective, as I see from the resolution about the Constituent Assembly, was to assert as to who had the right to frame the constitution. That was the principal object and various reasons were given. In the present resolution that is not the principal object, but something else. To my mind, therefore, the motion is in order.

Mr. JAMNADAS M. MEHTA: Will you, Sir, allow us to make a submission further as to the point you have raised, or have you closed? You have ruled on the point whether the question in issue is directly or substantially the same or not.

The Honourable the SPEAKER: Does the honourable member further propose to discuss the Chair's ruling which has been given just now?

Mr. JAMNADAS M. MEHTA: No, no; far from it. My point was not that. I did not say that the original resolution and this are substantially the same.

The Honourable the SPEAKER: There can be no explanation after the Chair's ruling.

Khan Saheb FAIZ MOHAMED KHAN (Kaira District): Sir, I propose this amendment to the resolution which is being discussed on the floor

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of this House and the reason for introducing this amendment is that the words, as they are, are the following :

“to intimate to the British Government not to impose it on the province.”

Mr. ALI BAHADUR BAHADUR KHAN : Is there any amendment ? We have not heard that.

Khan Saheb FAIZ MOHAMED KHAN : Where was the honourable member ?

The Honourable the SPEAKER : I will read the amendment :

Delete the words “intimate to the British Government not to impose it on the province” from the motion and substitute the words “urge upon the British Government to refrain from its enforcement”.

Khan Saheb FAIZ MOHAMED KHAN : Now that the honourable member has heard it, I suppose I can continue.

Sir, why I want to substitute the wording “urge upon the British Government to refrain from its enforcement” is that the intimation part of it, as the motion is at present worded, means that we only convey that the declared will of the nation or the country is that the Federation is not acceptable to us. We want to go a step further and say that not only do we make a request or intimate, but we urge upon the British Government not to enforce this beautiful part of Government of India Act, viz., Federation. In doing so, I must reply to my honourable friend Mr. Karandikar, who says that the Muslim League wanted a sham show—

The Honourable the SPEAKER : Will the honourable member confine himself to his amendment ?

Khan Saheb FAIZ MOHAMED KHAN : I will confine myself to the amendment, Sir. He said that we were only making a show when we said that we did not want Federation. By this amendment we want to make it clear that we are not making a show. We want and we urge that this wretched thing should not be enforced upon us.

The honourable member Mr. Bramble, whom I do not see here at present, said “If not federation, what else?” Well, my answer to him is, that we want something which they are not going to give us, and during the course of the debate you will have something uttered from my own party which will show that we are prepared to join hands with you to see that this part of the Government of India Act is not enforced upon us.

Mr. ISMAIL I. CHUNDRIGAR (Ahmedabad District) : Sir, I support the motion of the Honourable the Prime Minister subject to the amendment moved by my honourable friend Khan Shree Faiz Mohamedkhan. I need hardly recapitulate any reasons to commend it for acceptance. The Federation proposed under the Government of India Act is condemned by almost every section of the House. It has also been condemned by practically all the political parties in the country as being a step in the

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retrograde direction. It does not take us further towards responsible Government from where we were under the old Government of India Act of 1919, but really as a matter of fact its effect is to deprive us of the little privileges we enjoyed at the centre under the Act of 1919. With the introduction of Federation, several Native States will be joining the Federation, and unless they join the Federation, it is not going to come into force. With the joining of the Native States, the strength of the retrograde elements at the centre will be such that it will not be possible to carry any measures of public good even to the extent to which it is possible under the present constitution. It is therefore that we are all agreed as to the motion relating to the Federation. I need not say that under the new Act the Governor General is given innumerable powers of discretion. Then there are several other matters in which he has got to exercise his individual judgment; that even though the Council of Ministers is to be there, it is more or less a sham; that in certain important matters he is not bound even to consult his Council of Ministers; that in others, even if he consults the Council of Ministers he is not bound to follow their advice; and what is more, the most important Departments of Defence, Finance, Ecclesiastical matters, foreign affairs, economic policy and foreign policy, are taken entirely outside the purview of ministerial advice. Under these circumstances, no self-respecting Indian can be satisfied with this Federation.

I was surprised to find the honourable member Mr. Karandikar taking an opportunity in this debate to fling a few remarks at the Muslim League though it has consistently opposed Federation. I wish he had looked to the resolution which his own party, the Mahasabha, passed at Ahmedabad actually urging upon the British Government to bring Federation into effect immediately. Perhaps that is a solitary political party to do so. On the contrary, the Muslim League has been progressive in its attitude from the beginning to the end, and up to the present day its policy has been very clear and emphatic. We are absolutely opposed to Federation, we say that it is unacceptable, and we want the British Government to refrain from its enforcement. The words of the amendment which my honourable friend Khan Shree Faiz Mahomedkhan has just moved are taken from the words of the resolution of the Muslim League which are very emphatic. I can even go further and say that the resolution of the Muslim League regarding Federation is an advance upon any resolution passed by any political party in India on the subject. When Mr. M. N. Roy read that resolution and the new creed of the Muslim League, his remarks were that the Muslim League was ahead even of the Congress, as the Muslim League made it clear that every unit of the Federation must be a free and a democratic state, and therefore any Native State which was not free and which was not democratic would have no place in a Federation contemplated by the Muslim League. I submit therefore that it would have been much better if the honourable member Mr. Karandikar had refrained from making remarks of the nature he did.

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Only one word more about the amendment moved by my honourable friend Khan Shree Faiz Mahamadkhan, and I have done. As the motion stands at present, the second part is "This Assembly therefore requests Government to intimate to the British Government not to impose it on the Province". If the Federation is to be imposed, it will be imposed on the whole country, on all the Provinces of British India and such Native States as may choose to join it. Therefore to say that this Federation should not be imposed on this Province is an anomaly. This Federation cannot be imposed on other Provinces leaving out this Province. Therefore, it would have been much better if the words "on the Province" had been omitted. Again, the phraseology which is used in the amendment "to refrain from its enforcement" is much better and stronger than the phraseology "not to impose it on the Province". We do not want this Federation at all. It is not merely going to be imposed on us; I go a step further and say that it is going to be forced on us, and we want Government to refrain from forcing it on us. The amendment goes further than the motion, and I hope the Prime Minister will accept the amendment which has been moved.

Mr. S. D. SAKLATVALA (Bombay Millowners' Association): Sir, the position of the Progress Party was made clear by our leader yesterday, and I would like to make some observations in support of the attitude taken up by our party. Yesterday, Sir, the Honourable the Prime Minister stated that Federation was universally condemned, that it was condemned by the Liberals, by the Muslim League and by the Congress. Well, Sir, that is perfectly true. To most of us the shortcomings and the defects of Federation are obvious. But,

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Sir, it is one thing to point out the defects, even glaring defects, shortcomings and imperfections of Federation and quite a different thing to say that, because it is not perfect, therefore, it should not be allowed to be introduced or that a request should be made at this stage to the British Parliament not to impose it on this province. Certainly, Sir, the Liberals' point of view is that, in spite of the imperfections, in spite of the defects, it should certainly be given a trial, that it should be introduced and that the best should be extracted from it. My honourable friend who spoke last talked of the democratisation of the Indian States. If we have to wait till the States are democratised, in order to start with the federation, I am afraid we shall have to wait, if not indefinitely, certainly for a very long time. The honourable member, the last speaker, also pointed out that the Hindu Mahasabha view was that it should be introduced immediately and that they were urging upon Government to bring in federation at the earliest possible moment. So, Sir, while there is unanimity as to the imperfections of the federation, it certainly cannot be said that there is unanimity on the question whether it should be introduced at all or not. We certainly can agree as to the imperfections and as to the shortcomings, but I want to know how can in practical effect all these defects and imperfections be correctly gauged unless federation is brought into

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being and worked? We want to bring a federation after our own heart. That can only come about after the introduction of federation.

I may also point out that much in the same way they talked about the provincial autonomy part of the Government of India Act. We were certainly told about its shortcomings. In fact, we were told that this so-called autonomy gave no autonomy at all; and yet, what do we find today? This very part of the Government of India Act is being worked smoothly, worked satisfactorily, in all the provinces. Well, Sir, if this part of the Government of India Act, in spite of its defects, can be worked, and worked satisfactorily, I do not see why a trial could not be given even to this scheme of federation as it is. Certainly, it has defects and it should be improved. But my submission is that it should be given a trial. I go further and say that, if this part of the Government of India Act is worked in the same spirit as the provincial autonomy part of the Government of India Act is worked now, particularly by the Congress Ministries in so many provinces, I think some result can be achieved. As I said, we were told that under this autonomy part of the Government of India Act much could not be done. But we do find that there is certainly a scope, a very great scope, to work for the masses and to achieve the highest good for our province; and the Ministry itself is striving to work in that direction and I must say with success. After all, this federation is an integral part of the Act and is the natural corollary to the provincial autonomy part of the Act. Therefore, I do not think it would be practical politics to urge at this stage that federation should not see the light of day at all. I think it is an obvious fallacy to condemn the end for want of sufficient means.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I am surprised at the attitude taken by the Progress Group on this question. My honourable friend Mr. Bramble stated yesterday that the Government were not serious in bringing forward this resolution. I will take the liberty of telling him—he is not present in his seat—that Government are as serious on this question as on any other which has been proposed from this side of the House. To this Government, as to the people of this country, it is an impending calamity of the first magnitude, and every section of the people of India views this Federation with a determined anger, because they feel that this Federation will rivet on them more chains than what there are already. [Mr. S. V. Parulekar: "When did Government become conscious of it?"] Government is very much conscious of it and that is why they have brought this resolution.

Then, Sir, there is no substance in saying that this resolution was brought at short notice. The question has been agitating the public mind for a long time past, and it is scarcely a valid argument to say that members should be given at least three or four days to consider the question and express their views. I suppose that all politically-minded men, women and children have made up their mind on the question of this Federation. This motion is brought before the House with the object

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of recording the decision of this House and not with a view that honourable members should read Jefferson's view on Federation and enlighten us on the question. I submit, Sir, that the complaint made by my honourable friends is, therefore, not justified.

I was really surprised to find my honourable friend Mr. Saklatvala speaking against the resolution. He seems to be in a peculiar frame of mind. He is prepared to admit that the proposed Federation has shortcomings, but he is not prepared to concede that it is sufficient provocation for us to have nothing to do at all with it. He says that it is one thing to point out its shortcomings and another thing not to accept it. If it has shortcomings, according to him, I do not know why he or his party should accept it. When the time comes for introducing Federation, he may not support the public in the action which it may take, but I do not see why, if he thinks honestly and sincerely that it has many shortcomings, he should not vote for the resolution. He thinks that we will have to wait for a long time before we can get a Federation after our heart and, therefore, he says that we should make the best bargain as a matter of practical politics—I am using his words—and must accept it.

Now, Sir, I really fail to follow the logic of my honourable friend. Supposing we do not get the Federation, what is going to happen? Are the heavens going to fall? Is anything going to be worse than what it is now? Why should we be afraid that, if the Federation does not come, something extraordinary will happen? Suppose it does not come; well, we shall be just as we are; that is all. Therefore, there is no reason to say that practical politics requires that we should accept the Federation. If that is the attitude in which we look at political changes, we can never get anything. At some point of time, a nation which wants its rights has got to say: "I want this, and if I do not get it, I won't have anything else." That is the thing which every self-respecting nation must learn to say. What is the use of saying: "Oh yes; we know this constitution is useless; it has got shortcomings; but let us take it, lest something untoward may happen." I assure my honourable friends of the Progress Party that nothing worse is going to happen which would upset this country or harm any party or any section of the public. If this Federation does not come, the only result of it would be that the British Government would have to placate public opinion in India. Why do my honourable friends worry? They will have to find out better ways. That will be the only result and nothing else.

I really do not understand the reasons given by my honourable friends Mr. Bramble and Mr. Saklatvala. What is there in this Federation so tempting that my honourable friends should pause even for a moment before saying that it is unacceptable? We know very well, Sir, that this is the most extraordinary Federation which came out of the mind of any constitutional lawyer anywhere. We know Federations very well. We know that one of the first tests of a Federation is that the federal state must have direct legal relations with all its citizens, that there must be certain fundamental rights secured to its citizens, that all citizens

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of the Federation must have equality of status and equality of protection before the federal law. What do we find here? This Federation does not know of fundamental rights; it has no citizens having direct relations with it. The residents of the provinces do not elect representatives directly to the Federal Assembly and they have no common rights with reference to the Federation. As regards the residents of Indian States, they have no *locus standi*: they are nowhere in the picture at all. Do you want meekly to submit to it simply because the British statesmen have called it a Federation?

Take the next test. One of the requisites of a federal constitution all over the world is that the lower chamber must express the will of the nation. What is the lower chamber of this Federation? Two-thirds of it is to consist of representatives of the different provincial assemblies—not of the people of the provinces, but of the assemblies—and one-third of it is to represent medieval autocracies over which in all essential matters paramountcy is always to be paramount. And in the way in which it is tried to cut up and constituted, in no event and in no circumstances, will the lower house of this Federation reflect the popular opinion of this country or express the national will. Is that the federation of which my honourable friends of the Progress Party are so enamoured?

Then, take for instance this test. Is it a federal Government at all, except by way of courtesy or travesty? All the important departments of Government, the army, foreign affairs, and all the rest of it which form the indicia of sovereignty, are taken away and placed on the unapproachable heights of the Viceregal Lodge. Even essential things like the Reserve Bank and the Railway Board are fields over which the poor Federal Government dare not poach. And even within the restricted sphere which is assigned to the Federal Government, you find that the power of the Viceroy rests supreme, restricting and strangling every expression of the national will. Is that the Federal Government which my honourable friends are so much in love with?

If they want to know what a federal Government ought to be, I need only go back to what in the British Commonwealth an Australian statesman, Sir Henry Parkes, said when he proposed the Australian Federation. I shall take the opportunity of reading that famous passage. He said when he proposed a federation of the Australian States in 1890:

“But the federal Government must be a Government of power. It must be a Government especially armed with plenary power for the defence of the country. It must be a Government armed with plenary power for the performance of other functions pertaining to a national Government, such as the building of ships, the enlistment of soldiers, and the carrying out of many works in the industrial world which might be necessary for the advancement of a nation.”

This might help my honourable friend Mr. Saklatvala to come to a proper decision.

“It might be wise that some of these powers should come into force with the concurrence of the State or Provincial Legislatures. It might be wise to stipulate for some kind of gradation in approaching the full powers of the federal Government, or before consummating its full power; but that it should be in design, from the very first, a complete legislative and executive Government, suited to perform the grandest and the highest functions of a nation, could not be a matter of doubt.”

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Well, what was not a matter of doubt in Australia in 1890 seems to be a matter of great doubt to some in this House even in 1937. The Federation that is proposed by the Government of India Act is a negation of all that Sir Henry Parkes said that a federation should be. Are we to rest content with this kind of federation? Are my honourable friends of the Progress Party so much in love with federation that they are prepared to substitute the present Government by the sort of federation that is proposed? Would they, I ask, if this country were populated by Europeans only, accept a federal Government of this kind? Why are they so keen that it should be fastened upon this country against its will? Sir, as I said, the federal Government that is proposed is not a Government but a mockery of it; and the sooner we say so plainly, the better.

Sir, my honourable friend Mr. Bramble yesterday said with a certain amount of flourish "Where is the alternative? This is the only one which holds the field; you have not an alternative". Well, if he had a good memory, he could have remembered what happened in 1928. In 1928, the Indian National Congress and many other sections of the Indian public which are outside the Congress, asked for the bread of the Nehru Report; they were given the stone of the Simon Report.

Then, in 1932, when Mahatma Gandhi, as representing the nation, wanted to provide an alternative, all the kindness and courtesy that he received was that he was locked up in jail, and the most powerful organisation which wanted to provide an alternative was denied the right of having a say in the matter. But why the Congress alone? Even Sir Tej Bahadur Sapru's alternative, the mildest of mild alternatives that he suggested, even His Highness the Aga Khan's alternative—even those alternatives were spurned with contempt. What have we not been doing for the last three years in order to provide alternatives? Have we not asked for a constituent assembly? Has not this House passed a resolution that we want an alternative, an alternative of a definite character? But we have only been told, "Oh, take this Federation or leave it". It is not a question of our not providing an alternative; it is a question of the other side not wanting an alternative but trying to impose this Federation—or enforce it, if that phraseology satisfies the other side of the House—and it is that which is resented.

As the Honourable the Prime Minister has very rightly put it, the principle in this question is one of self-determination. Governments do not rest on their merits; they rest on their acceptance by the governed. In this case, whatever may be the merits or demerits of the Federation, it is not acceptable to any responsible section of the people of India; and that is sufficient condemnation of it.

Therefore, Sir, I ask those of my friends who have expressed their views against the motion to consider this question from all these points of view and remember that there has been no power on earth since the beginning of the world which could impose a government against the

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unanimous or the overwhelming wishes of the governed. It would be shortsighted statesmanship if the British Government thinks, in the plenitude of its might, that in this year or in the coming years it can enforce the proposed Federation with the beauties which my honourable friends alone can see, but the rest of the House cannot see. Therefore, I invite the House, with all the solemnity I can command, to express its overwhelming vote, its unanimous vote, on this question and to declare that this constitutional monstrosity is unacceptable to the people of this Province. [Applause.]

The Honourable the SPEAKER: There is one more amendment which I have received. It should be before the House before further discussion goes on. The honourable member Mr. Pataskar should now move his amendment.

Mr. H. V. PATASKAR (East Khandesh West): Sir, since we started discussion on this motion, our friends of the Muslim League Party, who have been entirely in sympathy with the object of the motion, have been pressing for some verbal change in the concluding part of it. I think the Honourable the Prime Minister, while replying to this very same question when it was first raised by my honourable friend Sir Ali Mahomed Khan Dehlavi, gave the reason why he had included the words "on the Province" in the motion. Another part of the amendment which is proposed by one of the honourable members from the Muslim League Party proposes that instead of the words "intimate to", the words "urge upon" should be substituted. Taking into consideration the change in phraseology which our friends desire, I propose to move the following amendment, which, I think, will be acceptable to all sections of the House:

"Delete the words 'intimate to' in line 4 and substitute the words 'urge upon'."

That part of my amendment is practically the same as the part of another amendment moved by one of the honourable members. Further, I propose:

"Delete the words 'on the Province' at the end of the motion."

The reasons for putting in these three words in the motion have already been explained. I think the motion in the amended form will be acceptable to all sections of this House.

Now, Sir, with respect to merits, although I wanted to offer a few remarks yesterday, I do not wish to take very long today. I think the whole question has been discussed fully. The motion itself has been put in a form to which really there ought to be no objection on any score. Every member who has spoken since the motion was introduced has spoken in its favour. Some honourable members only wanted to dissect the reasons which led the various groups to accept the motion. I think that in a case of this nature, practical politics demand that no such dissection should be made. The circumstances as they exist at present, including even world conditions, demand that at a time like this we should

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unanimously pass a motion of this character declaring the unanimous opinion of the people of this country that the whole scheme of federation is unacceptable. Even the honourable members of the Progress Party admit that there are several deficiencies in the scheme. What we are to do hereafter may not be a matter on which the members of the Progress Party would agree with the members on this side; but at any rate, when they once admit that there are several deficiencies, then certainly I see no reason why they should have any objection to admit that the scheme is unacceptable in the form in which it is put forward. I do not think there is any valid or reasonable objection to our saying that it is unacceptable, when they admit that there are several deficiencies in it.

We know, Sir, that there are several groups who find the scheme unacceptable for different reasons. But I appeal to them that this is not the time nor the place for them, as I said in the beginning, to dissect the reasons which prompt them to oppose the scheme. Doing so merely minimises the importance of the practical reasons which should prompt us to put forward a unanimous demand like this. It is from this point of view that this motion has been moved. If the different groups agree to the proposition that the scheme is unacceptable, the dissection of the various reasons will only strengthen the hands of those upon whom we want to urge not to impose the scheme on us and weaken our case. The discussion has already gone on for a long time. I therefore appeal to all sections that they should unanimously agree to my simple amendment and pass it.

Question proposed.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Sir, it is a matter of gratification that on this motion practically there is unanimity in this House in support of it. All the members from the various groups representing different communities and interests have joined in the voice of protest against the Federation being imposed upon India against the will of the Indian people. The only note of dissent that has been heard in this House has come from the members of the European group. I just now heard the Honourable the Home Member expressing surprise at that. I do not think we need be surprised, because there was nothing extraordinary in that; nothing was surprising there, and nothing was unexpected. There is a clash of interests between the Imperialism and the Indians, and that clash of interests certainly must find expression in this House through those who represent Imperialism. Barring the European group, I think all the other members are unanimous in the opinion that the Federation that is sought to be imposed upon India is not acceptable. I think this goes a long way towards giving a reply to the arguments that have been advanced by the honourable member representing the European Group.

The Honourable the SPEAKER: Is the honourable member likely to take some time? Is he likely to finish within five minutes?

Mr. ALI BAHADUR BAHADUR KHAN : I shall take some time.

The Honourable the SPEAKER : In that case the honourable member may resume after tea.

(The House re-assembled after tea at 4-30 p.m.)

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District) : Mr. Speaker, Sir, you should not be surprised at all at the attitude adopted by the European Group, because, as I was saying, there is a clash of interests between the exploiters and the exploited. Certainly, there have been people in India who have sympathised with the aspirations of India and who have given their support in our struggle for freedom, but we need have no disillusion about that. We must realise that we have to depend on our own stamina and on our own struggle in order to achieve the purpose that underlies the present resolution. And, we need not worry also about the opposition, about the voice of dissent, that has been expressed from the European Group because, I believe, it does not vitiate the purpose of the resolution at all. The resolution voices the sentiments and feelings of the Indian people, and if some European Groups do not fall in line with us and do not sympathise with us, then we have only to drop them out. It has been asked, "what is the alternative to the Federation?" that is sought to be imposed upon India? First of all, I shall say—and I think that, like the question, the answer has also been repeated on different platforms and through the press—that we want a genuine federation in the place of a bogus federation. The Federation that is being imposed upon India does not give substantial powers to India; it is like a toy; they think that we are children and can be cajoled into accepting that toy. I think this resolution is a complete refutation of that misunderstanding, if it exists at all in the minds of the European Group. Sir, it was a joy of my life to hear the speeches from the Muslim League benches [*Hear, Hear*] today, which unequivocally gave support to the resolution which was so ably moved by the Honourable the Prime Minister, and I think it was a great disillusionment to the European Group, because they were counting for support on those benches; they were counting on the support from these benches, but they must have been disillusioned now, and they must realise that every group in India—whether it is the Muslim League group or the Congress group or the Independents or the Democratic Swarajists—has begun to march with times and has raised a united voice in support of the demand that underlies this resolution. What I shall say to the Congressmen is this that the resolution, as it goes, is very good indeed and it does represent the sentiments and views of India at large, but why do you stop at that? I would ask them what is the sanction behind this demand? Unless there is a sanction behind this demand, such protests and such demands will be of no avail. They have never been of any avail in the past, and they will not cut much ice even in future. I shall ask the Muslim Leaguers also that today they have

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unequivocally condemned the Federation that is being imposed upon India ; now, what is the alternative if that Federation is imposed upon us in spite of these protests ? I think the best alternative for us would be to prepare ourselves for the fight for freedom.

Honourable MEMBERS (of the Muslim League group) : We are already prepared.

Mr. ALI BAHADUR BAHADUR KHAN : It is a great joy of my life to hear that remark from those benches that they are prepared for the fight. If you really act up to the principles that you have just now enunciated, I think the phase of India will change in no time and no voice of dissent will be heard in future even from the European Group. Sir, so many defects have been pointed out of the Federation that is sought to be imposed upon India, but I think it is not a matter of arguments at all. I have a soldier's viewpoint (*Hear, hear*), and it is this, that a federation or a constitution that is made and framed by any outside agency—by the British Parliament—without having on it the stamp of the free will of the Indian people, that constitution must be rejected without even looking at it. That is the viewpoint of a self-respecting Indian. The British Parliament, as it is constituted, is an imperialistic agency, and is not in a position at all to frame a constitution that will be either suitable to the Indian conditions or that will be in the interests of the Indian people. Whenever any examination is made of the constitution, it will always be found that it was framed in the interests of the British people. Therefore, our demand would be that we want a federation, or even it may be another type of Government, the constitution of which is made and framed by the Indian people themselves. I submit that it would be better if something had been added to the resolution in the shape of sanction, in the shape of a threat that would be acted upon. Without that threat, I believe the motion is halting ; it is incomplete. My honourable friend (Mr. Jhabvala) informs me that there is an amendment to that effect. All the amendments moved so far only aim at minor alterations ; they do not make any change in the substance of the resolution. Anyway, I think that if any amendment to this effect is moved, it is worthwhile to support that amendment, because this resolution without any threat, without any sanction behind it, will be useless. With these words, Sir, I submit that the resolution, so far as it condemns the Federation as unacceptable, is worthy of support.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I feel a little difficulty in understanding the occasion for the Government to bring this resolution before the House. I have been searching my mind as to what could have happened between the 23rd September last and the 11th January that has changed the whole attitude of Government towards the question of Federation.

An Honourable MEMBER : Our record shows that.

Mr. JAMNADAS M. MEHTA : I am trying to point out that the records of the House are against you. On the 23rd of September the

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honourable member Mr. Parulekar in his amendment wanted it to be declared, as I have tried to convince this morning, in practically identical words, that this Assembly requests the Bombay Government to convey to His Majesty's Government the desire of the people of this Province that Government should not proceed with the Federation as it does not express the will of the people. Why did the Government not vote for that amendment on that date? I want to understand that. On that day, Mr. Parulekar made out the same case which the Honourable the Prime Minister tried to make out yesterday, and yet we found the entire phalanx on the Government benches voting down the amendment of Mr. Parulekar. I want some explanation of this sudden change. On the 23rd September the Government were not prepared to condemn the Federation, while this morning we are asked to support the very amendment which the Government rejected. Some explanation, some apology, is due to Mr. Parulekar.

The Honourable Mr. MORARJI R. DESAI : Why ?

Mr. JAMNADAS M. MEHTA : Because you have borrowed the very phraseology of his amendment, you have made piracy of his phraseology and you have not even the courtesy to acknowledge that it was his amendment which you are now asking this House to adopt. Parliamentary etiquette requires that when you learn anything from an honourable member, you must acknowledge it. That kind of courtesy we have not yet learnt to associate with the Government of which the Honourable the Mover is the most distinguished leader. I, therefore, fail to understand the occasion or the provocation for this resolution. Barring this, there is nothing in the resolution itself to which any nationalist can refuse to give sanction. But I have this fear that the six of this Government are not its half a dozen. There must be something behind this ; some occasion must have arisen to make a gesture somewhere though we are not told what it is, and I want the Honourable the Prime Minister to take us into his confidence as to why the Government have changed during the course of the last four months. Subject to that, I accord my entire support to this resolution and, for such members of the House who have not given their support, I beg to point out that if they study the proposed Federation, they cannot but come to the very conclusion to which the Government want our assent. In a few brief sentences I would try to explain to my honourable friends of the Progress Group that they will lose nothing and they will be doing the right thing if they make it possible for the unanimous acceptance of this resolution by the House. I say so on a very careful study of the provisions of the Government of India Act. They will find that the Government of India Act of 1935, particularly this Federation portion of it, rests on four pillars. They are, first, the Princes. The second is the British Imperialism. Viceregal special responsibilities is the third and communalism is the fourth, or, I may call, "divide and rule" is the fourth. These are the four rotten pillars on which the proposed Federation rests, and I am quite certain in my mind that not one member of the Progress

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Group can stand by any one of these pillars which are rotten at the core. In the first instance, the Princes, who never care to acknowledge their subjects as citizens but wish to treat them as so many slaves, are given a position which is amazing both on account of their disproportionate representation in the Federal Legislature and also on account of the total failure to recognise the existence of the people of the States. If my honourable friends of the Progress Group will turn to the various sections relating to the Federation, they will find that out of the 375 Members of the Lower Federal Assembly, the Princes are going to collar 125 seats. That means that for a population which is not even 1/4th of the total population of India, the Princes will get the representation of 1/3rd of the whole House. And it is much worse in the Upper House where out of 260 seats, the Princes are going to get 104 seats. Very nearly they are going to get 40 per cent. when they are not even 25 per cent. in population. Why? Do you want that this kind of disproportionate representation for a number of medieval feudal lords who, if they know anything of modern time, it is only its vices and who have not shown that modern civilisation has created any impression on their better minds? Why should the fortunes of 8 crores of human beings be handed over to the tender mercies of these six hundred and odd despots? Why should they get such disproportionate representation in the future democratic constitution? But that is not the only thing. The Princes are free to accede to the Federation or not to accede to it. And even if they are acceding to the Federation, the Instrument of Accession is going to be in a form which beats any document of an autocracy, ancient or modern. I am particularly anxious to get the vote of the Progress Group on the side of Government, and therefore I wish them to understand that the Princes, if they are to federate hereafter, will do so not because of this Act but by virtue of the Instrument of Accession. We, you and I, and people outside, are bound by the Act, but the Princes are not bound by the Act. They are bound by the Instrument of Accession and are always subject to the terms of that instrument, not subject to the sections of this Act. The Princes will give consent to the Federation by virtue of the Instrument of Accession and that too for such matters as they like. They will claim control over all our affairs, but in their turn they will give you and me such control as they like and to such extent as they like, on such subjects as they like. They are not governed by the Act, but the Act is governed by the Instrument of Accession. The Princes are superior to and outside the Government of India Act, unless they choose to do otherwise and that is not the end of argument. They are also entitled under this Act to stand in the way of amending those of its sections against which you and I protest. My friend, Mr. Saklatvala, admitted that it was bad, but does he know that it cannot be made good? If the Princes are to enter the Federation, all the bad features of it will remain bad. (*An Honourable Member*: Why?) Because of schedule 2 and section 6. If you will kindly turn to schedule 2 and section 6, you will find that certain alterations in this Act can be made by Parliament without affecting the Instrument of Accession. But even

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Parliament cannot change other parts of this Act without the Princes' permission. Did you realise that? The whole of the second schedule is an indication of this fact, not in one or two matters, not in five or six matters, but in 60 matters. I have tried to number them and I find that 60 reactionary provisions of this Act today cannot be altered even by Parliament without affecting the Federation if the Princes do not agree. The changes in the Act under schedule 2 are permitted only in certain respects and not in all; and if you try to change, the Instrument of Accession will be affected and the Federation will collapse.

So I beg of you to read section 6 along with schedule 2 of the Government of India Act and then you will realise how helpless you and I are. Even if you convince Parliament that greater power should be given to the people of India, it will tell you that as the Princes do not want it, the Federation will collapse by doing it and that therefore it is impossible to change. I am reminded of a firm of solicitors in a Dickens' novel. There were two partners and as is usual with the fraternity, they robbed their clients right and left. (*The Honourable Mr. B. G. Kher*: With the assistance of counsel, I expect!) One of the clients went to one of the partners with a request for a reduction of the bill of costs. He said, yes, you see my partner. If he agrees, I have no objection. The poor fellow goes to the other partner. He says: You are quite right, but my partner is a bad fellow. Thus between the two, they never alter the bill of costs in the direction of reduction. Under the Federation, Parliament and the Princes are going to be the firm of solicitors, neither would wish to improve this Act and yet each will be able to blame the other. Parliament might say, Yes, what is the good in improving the Act, the Instrument of Accession will be affected, the Princes will retire and the Federation will collapse. The Princes will say, you are our countrymen, we are willing to do what you say, but how about Parliament? Thus like the firm of solicitors in Dickens, between the Princes and Parliament, if you now accept this Federation portion of the Government of India Act, 1935, not one of the reactionary provisions against which the whole nation has rightly protested can be altered. Therefore, I submit, Sir, that our Progress Group friends will realise that there it is not a question of our accepting the smallest modicum of reform. If it were that, the objection to the acceptance of Federation would largely disappear. It is the impossibility of ever changing this Constitution, so long as the Princes and Parliament say no or even either of them says no, that makes us indignant against the imposition of this wretched piece of legislation. I beg of my friends to study that and then they will realise that you are not entitled and you will never get the amendment of this Act. The railways of India, in which we have some 800 crores of rupees, of which you and I pay the interest and the sinking fund, the whole of that capital and sinking fund and the entire fund administration of the railways is going to be delivered to the control of a body which will not be created by us. If the railways make a profit, the Federal Railway authority can use it as they

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like. If the Railways make a loss, you and I are to pay. Have you ever heard of a commercial undertaking in which the profits are to go to one man and the losses are to go to another? And yet that is going to be the case after the inauguration of the Federal railway authority. My friends on my right will not be able to change that. If one Prince, mind, not two, if one Prince refuses to agree, the Railways will remain under the control of a body which is not representative.

I beg of everybody in this House to consider: Are you willing to be imposed upon by a document which for ever hands over the power in all essential matters to a group of people who, in their turn, are the creatures of a foreign authority? You cannot deny that. We are today under the control of the British Government. Do you also want for all time and for ever to be under the tender mercies of the 605 people in matters of the greatest and the most vital importance? You do not. Therefore, this particular provision of section 6, schedule 2, of the Government of India Act, 1935, can never claim the allegiance of the Indian people. So many things are taken out of your hands before the Federation matures to which the Honourable the Minister for Home Department gave expression. The Federal railway authority is not to be controlled by you; the Reserve Bank is already taken out of your control; you are not concerned with your own defence, external matters; others are free to create wars and we are to fight them! The British Government in its own interest will declare a War and your children and mine will have to fight, and you and I will have to pay. Do you want to be in that position? I am certain you cannot. Your entire financial, defence and foreign affairs machinery is going to be controlled by foreigners in the interest of a distant foreign communion and not in our own. The third—

The Honourable the SPEAKER: I may remind the honourable member that there is a time-limit and that he is very nearly coming to the end of it.

Mr. JAMNADAS M. MEHTA: I will briefly describe the two other pillars if you will give me five minutes, Sir. The
 5 p.m. two other pillars are the special responsibilities of the Governor-General. I was present when the Bill was under discussion in the House of Commons and even Mr. Churchill was surprised that the Governor-General should have so many responsibilities in his one person. You can read the debates. You will find that it is impossible for one single man duly to discharge the enormous responsibilities which are foisted upon him in this Government of India Act. Why? Because they are not to be given to me or to you. Everything that matters is taken away. I had on the last occasion submitted to the House why I think that the third pillar is equally rotten. None of the Federal Ministers, even though they represent the electorate, will really count in any matter if the Governor-General is inclined to

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oppose them. This kind of special responsibility runs throughout the Government of India Act. Therefore, this third pillar, on which the Federation rests, is equally rotten, and the fourth pillar is the worst, the pillar of Divide and Rule. Here are my countrymen on all my sides, we are children of the same soil, we have the same problems, we have the same disabilities. If you go to a foreign land, you are treated as people of an inferior race without respect, whether you follow one creed or another. Do we not realise that the special consideration which we are told the Parliament has for one community against another is so much selfishness? It is hard to believe that Sir Samuel Hoare thinks more of the welfare of one community. I want my countrymen to realise that these divisions are based on the immemorial practice of Divide and Rule, and if Machiavelli could come to life again, he would wonder whether he was not a pupil of British Imperialism! They have done it in a masterly manner. I want this Divide and Rule policy to go; and, unless you also agree, even the rejection of the three pillars will keep this structure unsafe for any one of us. Do not imagine that this communal canker is for the benefit of any one of us. These so-called rights, this so-called protection is a myth. I can give you more protection than Sir Samuel Hoare or anybody else can. We can give it to each other—I include my European friends also. I regard them as citizens of India, I regard Christians or Anglo-Indians, all of them, as citizens of India. Why should they not come here as brothers and fellow citizens and why should they, under an Act of Parliament, appear to be in a hostile camp? Therefore, all these pillars of the Federation are rotten. It is a rotten structure and no self-respecting Indian should have anything to do with it. It is a different matter if it is ultimately foisted on us. We would have to make the best of it just as we have done of Part III of the Act; this provincial autonomy is also foisted upon us, and we are making the best of it. That is quite a different matter. But, if a choice is given to us, my last word to the House is that Government should be supported unanimously in this resolution after they have made their object clear in coming to us this afternoon. Sir, I support. [*Applause*].

Mr. K. F. NARIMAN (Bombay City): Sir, I am glad that my friend—

The Honourable the SPEAKER: This subject has been under discussion since yesterday for a pretty long time. I do not want to come in the way of any honourable member further discussing the matter. It was anticipated yesterday that the House would be able not only to dispose of this resolution but the next, and that the benefit of the time saved would be given to private business. That was the anticipation yesterday. It is not possible to realise it today in view of the fact that it is already five minutes past five. Under the circumstances and in view of the fact that the matter is thoroughly threshed out, I would only request honourable members desirous of speaking to be very short, so that at least this resolution can see the end during the course of the day.

Mr. K. F. NARIMAN : I shall certainly, Sir, take up the suggestion from the Chair and not take one minute more than is absolutely necessary.

I was going to say that I am glad that my honourable friend Mr. Jamnadas Mehta, who started in a critical mood, before he sat down, commended the resolution and congratulated the Cabinet for having brought this resolution. I also admit, Sir, that when this resolution was moved yesterday, I was one of those doubting Thomases who felt the futility of this resolution just as I did in the case of the other resolution which only a few months ago this House had passed, but, today, after hearing the debate, I am one of those who will join in congratulating the Honourable the Prime Minister for having brought this resolution. One great advantage that this resolution has is that it has brought disillusion to the minds of our opponents and enemies and this is the only institution where we find two great political organisations, the Muslim League and the Congress and the rest of the political parties united together on a common platform in opposing and condemning the Federation. Unfortunately, in the present state of political affairs in the country, we find, either in the press controversy or in the platform controversy, an impression being created that just as it happened in the case of my honourable friend Mr. Jamnadas Mehta who feared that British Imperialism, British Diplomacy, might succeed in the long run in playing one community against another, my honourable friend the representative of the Hindu Mahasabha said that the Muslim League are only trying to negotiate. But here today, as a result of this resolution with this one advantage alone—I am glad that this resolution was brought forward—we have got an authentic, official and a final declaration of the Government of Bombay and the Muslim League that they both are opposed to this Federation tooth and nail, and their position is stronger and more emphatic than any other political party in this country. I hope they will only act up to this declaration.

An Honourable MEMBER : Certainly.

Mr. K. F. NARIMAN : I assure the House that I am very glad that my honourable friends opposite have spoken in a manner that we all appreciate and I do hope that their voice will be re-echoed by our other leaders in the country. One thing is certain today that all the parties have been brought together in this institution alone. Otherwise, we found them trying to pull in opposite directions. In this common hall, we have made a solemn pledge—the Congress and all the political parties like the Muslim League—that this Federation shall not enter this land. I tell you the necessity for this combination and unity. As my honourable friend Mr. Jhabvala appropriately put it, the Congress has never moved a resolution in the past ten or fifteen years since it entered on the policy of direct action without having added some ultimatum or having some sanction to that resolution. My friend Mr. Jhabvala has rightly asked, "What is the sanction to this resolution?" As we know, there is not the least doubt that there is no political topic in the country for the last 20 or 30 years that has created such unanimous opposition, such

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united protests, with a solitary exception here and there, as this question of Federation. Still, what is the attitude, what is the gesture of the opponent, what is the attitude of British Imperialism? Has it yielded a bit? Has it given a suitable reply to this united, combined opposition on the part of India? Not at all. Week after week, month after month, the people of the country are holding meetings and condemning this Federation. There is not a single political organisation that has not condemned this Federation from one part of this country to another—Indian States, British India, villages, cities, merchants, labour, workers, excepting perhaps the Progress Party and, I am afraid, the Hindu Mahasabha, but with these exceptions, the whole of the country has condemned this Federation. Still, what is the attitude of British Imperialism? Have they conceded a jot to this combined opposition and this public opinion? Not at all. They are going on merrily with the preparations for the Federation as if public opinion does not count at all. They are going on with the preparation for Federation and the Viceroy declared the other day that the stage for negotiation, the stage for amendment, the stage for alteration of the Federation is passed. He talks as if Federation was a settled fact, as the partition of Bengal was considered to be a settled fact. But he does not know that the combined will of the nation can unsettle many imperialistic settled facts, and they will soon discover that if they think that Federation is a settled fact, the Indian nation is determined to see that the settled fact becomes soon unsettled. Therefore, I want to know what is to happen. We know that in spite of this protest this Federation is coming. What next? I ask this question particularly with all the earnestness at my command. There is this golden opportunity of united action between these two great communities on this one important political issue. Why should they not unite in offering a united front if not on anything else at least to prevent this impending political disaster of Federation? Suppose these two great communities and all the political parties in the country unite on this issue, I ask in the words of the Honourable the Home Minister, is there any power on this earth, even British imperialism and Indian feudalism combined, which is capable of fighting against the united will of a united nation? I say, no. But the misfortune is, as the honourable member over there suggested, they think we are not serious. They are judging or misjudging from what has happened recently. They think that though we made the same warlike declaration about provincial autonomy about wrecking it, we are sitting here today and working it, as my honourable friend there did say, and he wants to know what is the alternative. The *Times of India* curiously enough has put the alternative in its issue of today in very prominent headlines. Whilst describing yesterday's proceedings it says "Progress Party Leader's Retort to Premier: What is the Alternative to Federation?" and the answer is given by the *Times of India*, viz., "Peasants' March in Bombay". That is the alternative; peasants' march is the alternative to Federation. This alternative would end in better results than mere declarations here. That alternative is getting sanction in the country and we must be aware

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Of that alternative which is coming, which cannot be prevented by any means. That is the alternative. Do you think that by merely altering a word here or there the object will be achieved? There has been a quarrel about words, that instead of the word "intimate" the word "urge" should be used, that instead of "urge" the word "request" should be used. As if the British Parliament is going to take this motion, scan it very carefully and see why the House used the word "intimate", why they did not use the word "urge", as if they are going to consider the resolution because the word "request" has been used. Nothing of the sort. It is a paper resolution, I know. The expression of opinion is there, but where is the sanction for it? That sanction is being made in the country outside this Hall, that sanction will be created very soon. As my honourable friend Mr. Jamnadas Mehta put it, it is futile to discuss about the merits. But one thing I want to say to those who cannot see the difference between Provincial Autonomy and Federation. My honourable friends the members of the Progress Party said "Just as you have come to work Provincial Autonomy, why not give Federation a trial"? But they do not see the fundamental difference between the two. Provincial Autonomy we have taken today on trial, and we can drop it off tomorrow if we do not want it, and we are not bound to continue. But the Federation when it comes, if it is once accepted, there is an end to all political and economic progress for the country. There is a dead stop. It will be remembered that it was pointed out that without the consent of every unit, of every Indian State joining the Federation, you cannot progress one inch in this direction or in the other direction. I would ask my honourable friend Mr. Saklatvala, with the experience of Indian States that we have got, does he think that we are going to get the consent of even a single Indian State in order that the control over the army may come to us, in order that the control over foreign matters may be transferred to us, in order that other powers may be transferred to us? Do you think it is possible, even conceivable? We have taken 150 years to force British imperialism to grant us even this defective and incomplete constitution, and we are not going to advance even one inch further with the consent of the Indian States. That is why it is correctly described as an attempt to perpetuate the bondage of this country. That is the right perspective. There is no chance of the Indian States supporting our demands, once there is Federation. It would be impossible to convince the Indian States about the justice of our claims. Let us see what is happening today with regard to this Federation, so far as the Indian States are concerned. Everywhere, in order to persuade the Indian States to come into this Federation and to accept it some sort of inducement is being offered to them. I have just come from Rajputana and I know what is happening there. The Indian continent is taken as the ancestral private property of British imperialism. Mysore is being given back the cantonment of Bangalore which was under British administration for the past so many years. The Nizam is to have the Berars. One hundred and eighteen villages are to be transferred, without so much as even an attempt to obtain the consent

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of the population of those villages, to Jodhpur State in order to persuade the State to join Federation. With persuasion of this sort, the Indian States are agreeing to join the Federation. What are you going to offer to the Indian States to give up their opposition to our progress? It is an impossible position. Therefore, I would ask my honourable friends not to make a mistake of thinking that because we have accepted Provincial Autonomy for the time being as an experiment, therefore the same attitude will be shown by us towards Federation. There they are greatly mistaken. As I said, Sir, Lord Lothian did come here: on what mission, we all know. It is very necessary that we ought to make clear our opposition to this Federation, make it clear to British imperialism that there cannot be a compromise on this important issue of Federation, because there has been a lot of loose talk. My honourable friend referred to the talk between our President and Lord Lothian: as if the President was trying to negotiate with Lord Lothian for the acceptance of Federation. Could it not be that the President would have told Lord Lothian what is the mind of the Indian nation, that Federation is not going to be accepted by this nation, and the consequences of thrusting it upon the country? The little opposition from the European group that there is to the motion, I can understand. As my honourable friend put it, there is a conflict of interest. If it does any good to anybody at all, it does some good to British imperialism and to the British residents of this country, and we cannot entertain much hope of support from this group in our attitude towards Federation. But with the exception of this group, I cannot conceive of any Indian, who has got the least political instinct, who has got the future of this land at heart, I cannot conceive of anyone sitting here or of anyone outside in the country lessening his opposition to the Federation, and I therefore do hope that there will be unanimous support to this motion moved by the Honourable the Prime Minister. [*Applause*].

The Honourable Mr. B. G. KHER: Sir, I am very glad that the proposition which I moved has received such wide support from all the parties in the House. When I moved the proposition I said that if any arguments were needed to reply to any points that may be urged against what had been more or less the unanimous opinion of the country, I would mention those in my reply. I do not think it is necessary to state anything further by way of arguments in support of the motion. I shall therefore restrict my reply only to clearing up two or three misrepresentations which I found were made during the course of the speeches that were made in this debate,—misrepresentations, perhaps unconscious, perhaps unintended, on the part of those who opposed this motion, as also on the part of those who supported it.

Turning first to the leader of the Progress Group, who I observe made a very brief speech on this resolution, it seems that he was under one misunderstanding. There were only two points which he made in his speech. The first was this: he said "whatever may be your views about this Federation, what is the alternative?" The second was his

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reference to the remarks of the Honourable Sjt. Rajagopalachari, the Prime Minister of Madras, which he thinks support his case. His question about the alternative has been dealt with by several speakers in the House. The other point, as I understood it, is the reference to the Prime Minister of Madras which was somewhat to this effect. He said that even the Prime Minister of Madras stated that he objected to the federation on the ground that it would mean an attempt at unification of such diverse elements as Native States and British India which was equivalent to having representatives of Italy, Germany and France sitting in some Parliament in London along with the representatives of the British people; and the inference was that, as this was an absurdity and therefore not agreed to, even so the Prime Minister was referring to the Federation as being unacceptable on the ground of lack of unity amongst the people of India. I think, if the speech of the Prime Minister of Madras is carefully read, it will be seen that such an inference is wrong. What he said was that there were two antagonistic conceptions of Government mixed up in the idea of the federation which is being imposed by the Act. One was democracy as in England and the other was Dictatorship as in Italy and Germany. He said it is impossible to conceive of a Parliament at London to which the Dictators of Italy and Germany could send representatives to sit together with members elected to the British Parliament and run a Government for all the three countries. He pointed out that the two elements of democracy and autocracy would not combine and, therefore, he condemned the federation that was contemplated by the Government of India Act. It was a misunderstanding on the part of the honourable member as I find from his speech in what he understood the Prime Minister of Madras to say. The fact remains that this federation is condemned both in Madras and in other parts of the country. Sir, I do not think that, with the exception of this, the honourable member urged any argument, anything beyond, perhaps, stating that he wished he had a little more time. That, Sir, I explained by stating that the issue has been before the country for many years. Much has been said by all political thinkers and workers about Federation and it really ought not to have inconvenienced him as much as he said it did, to have to reply on the motion at short notice.

Turning to the other speeches that were made on this resolution, I find that all the other speakers supported the resolution with the exception, perhaps, of a slight objection to the wording here or there which would be covered by the amendment moved. I was, however, rather surprised at the remarks that fell from the honourable member Mr. Jamnadas Mehta. While he supported wholeheartedly the proposition that was put before the House and undertook to persuade the members of the Progress Party to vote with the rest of the members of the House—and in this I sincerely wish him success—as is usual with him, perhaps consciously or unconsciously, he now suspects some sinister designs and crooked ways on the part of Government in bringing this resolution today before this House. What has happened between September and now that, while in September this Government did not oppose this federation

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and opposed the amendment that was moved by his honourable friend and colleague Mr. Parulekar, Government come forward in January and bring a resolution of its own again? Sir, there is no sinister motive behind any of the actions of this Government. Since the passing away of the glorious times when we could claim the privilege of the company of the honourable member Mr. Jamnadas Mehta amongst us within the fold of the Indian National Congress, I do not know what has affected his judgment in many, many matters. He suspects sinister designs and ulterior motives where none exist. I can tell him very frankly, without making any reservation, what has moved us to bring a resolution in the form in which we have brought it now. If he had followed the proceedings of the Congress, if he had followed the statement made by the Viceroy on behalf of the British Government, with the care and scrutiny which he used to evince when he adorned the benches of the Central Assembly and when he was a member of the Indian National Congress, he would have understood the motive. He would not have misrepresented us as cruelly as he has done. We did oppose the idea of federation in September. I will refer the honourable member to page 1266 of the Debates of the Assembly. What we have said there was that we were opposed to this kind of federation.

Mr. JAMNADAS M. MEHTA : I simply asked why he opposed the amendment of my honourable friend Mr. Parulekar. He did not give the reasons why he did so. I do not want to hear him on any other point.

The Honourable Mr. B. G. KHER : I will concede that perhaps the misrepresentation on the part of the honourable member was unconscious. I will give him a very good reason why we opposed the honourable member Mr. Parulekar's amendment. While the honourable member compared federation with provincial autonomy, we condemned federation along with the whole of the constitution as wholeheartedly and as unequivocally as we are doing today by means of this resolution. The answer to the statement that federation was not opposed by us in September is contained in the Assembly Debates on page 1266. There is a deliberate and clear reference to federation. I said :

"Then, Sir, we come to the nature of the constitution of the Central Government. We find that one-third of the seats are being given to rulers of Indian States, their representatives. There is this Federation. This is again a matter on which there is a very strong feeling in this country. It is not that we do not want unity, not that we do not want that all the Provincial Governments should be co-ordinated; brought together. But, Sir, the Federation that is sought to be imposed upon this country is not a Federation which will be acceptable to this country at all. This was the view which we expressed when on the occasion of the discussion of the demand for the grant I found that there was such a strong feeling over the little amount that Government proposed to utilise for the Federal elections if they came on next year, and which the whole House practically unanimously insisted on our deleting from the demand that we were making for administrative expenses. What, Sir, is this Federation? To quote the Honourable the Prime Minister who made a speech on a resolution very similar to this in the sister legislature of Madras,....."

Then, the quotation follows. This is our condemnation of this Federation.

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Then, he made a great point of our having opposed the amendment of the honourable member Mr. Parulekar. As I told the House and, as has been practically ruled by the Chair, there was substantial difference between what the honourable member Mr. Parulekar wanted by his amendment to do and the motion which we then placed before the House. The question for discussion in that motion was that we wanted a constituent assembly. What the honourable member wanted to say was that the federal part of the Act was worse than the provincial autonomy part of the Act. I have got his amendment here. It will be patent to him from a glance at the amendment that it could not be added to the resolution. None is so blind as those who do not wish to see. If the honourable member (Mr. J. M. Mehta) does not wish to see, I cannot make him see.

Mr. JAMNADAS M. MEHTA : Even if I am blind, I can see through my blindness.

The Honourable Mr. B. G. KHER : The honourable member Mr. Parulekar's amendment was : " the Federal part of the Act is worse than the provincial part ". [*An Honourable Member* : " That is quite true ".] The question is not whether it is true or not. What was our resolution ? We wanted a constituent assembly. Any other thing we could not accept. We did not accept the amendment because it did not bring out the object of our motion.

Mr. JAMNADAS M. MEHTA : Will you read further on ?

The Honourable Mr. B. G. KHER : If the honourable member wishes to read it, it can be read to the end.

" This Assembly expresses its emphatic opinion that the federal part of the Act is worse than the provincial part and therefore so long as the Government of India Act is not repealed "—

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and our object was to get it repealed and to show the way in which it ought to be substituted.

" so long as the Government of India Act is not repealed, this Assembly requests the Bombay Government to convey to His Majesty's Government the desire of the people of the province of Bombay ".

and so on. And

" This Assembly declares that it does not recognise "—

Mr. JAMNADAS M. MEHTA : He is omitting the only portion that is material.

The Honourable Mr. B. G. KHER : My honourable friend argued that we were not opposed to federation in the month of September, and that we were opposed to it only now.

Dr. B. R. AMBEDKAR : Is this a firm attitude ?

The Honourable Mr. B. G. KHER : It is a very firm attitude.

Dr. B. R. AMBEDKAR : I am glad to hear that, because I know of people saying that it was not.

The Honourable Mr. B. G. KHER : The honourable member wanted to know why this motion was being brought on at this stage. It is being brought at this stage for a very good reason. In spite of the emphatic condemnation of the whole constitution and of the Act by the whole country, statements were made on behalf of the British Government by responsible British statesmen that they wanted to proceed with the inauguration of the federation. This was in the month of October. Therefore, Sir, after this resolution was passed in this House in the month of September, there was a resolution passed in the All India Congress Committee (which certainly is a body which, according to us, represents the will of the Indian nation) and I will take this opportunity to read it to the honourable member :

“ In view of the announcements made on behalf of the British Government that steps will be taken to inaugurate the proposed Federation, the All India Congress Committee reiterate their emphatic condemnation of and complete opposition to the scheme and their decision to combat it in every possible way open to them. An attempt to inaugurate this scheme, despite the clearly expressed will of the nation, will be a challenge to the people of India. The Committee therefore call upon the Provincial and local Congress Committees and the people generally, as well as the Provincial Governments and Ministries, to prevent the imposition of this Federation, which will do grave injury to India and tighten the bonds which hold her in subjection to imperialist domination and reaction.”

And then :

“ The Committee are of opinion that Provincial Governments should also move their legislatures to give formal expression to this opposition to the proposed Federation and to intimate to the British Government not to impose it on their provinces.”

This is what happened after the resolution was passed in this House ; not that there was love for the federation in September and that opposition has grown up after September. In view of what happened since September, it has been thought necessary to record the formal disapproval of this House.

Mr. JAMNADAS M. MEHTA : So, you are acting under instructions.

The Honourable Mr. B. G. KHER : So, there is no change in our views. After the motion was so ably supported by my honourable friend it would not have required any reply from me, but for the fact that he went out of his way to attribute motives and to ask for apologies—

Mr. JAMNADAS M. MEHTA : I said that an apology was due to the honourable mover of the amendment.

The Honourable Mr. B. G. KHER : In view of the honourable member's attributing sinister motives and crooked ways to us, I think an apology is due from him to this House. I do not expect that he will make it—

Mr. JAMNADAS M. MEHTA : I accept ; I now understand he is acting according to the orders of other people.

The Honourable Mr. B. G. KHER : For once, I am agreeably disappointed in my expectation that the honourable member Mr. Jamnadas Mehta would not make an expression of regret, when it is due. I am very glad indeed that he says that there is no sinister design behind the motion. I am very happy to find that there is almost unanimity in favour of the motion.

As regards what fell from the Progress Group, I have said what the alternative according to us is. I will also draw their attention to what was said by other members. In view of the very effective replies to the arguments advanced, I am not going to take more time of the House. I will commend this motion to the whole-hearted acceptance of the House, including—may I hope, as a result of the able advocacy of the honourable member Mr. Jamnadas Mehta—also the European Group.

The Honourable the SPEAKER : Now, there are four amendments. I just want to know whether in view of the last amendment, amendments Nos. 2 and 3 of Mr. Chundrigar and Khan Saheb Faiz Mahomed Khan will be withdrawn. But it will depend upon whether the Honourable the Prime Minister accepts the amendment moved by Mr. Pataskar.

The Honourable Mr. B. G. KHER : If the amendment is in order, and the honourable member Sir Ali Mahomed Khan Dehlavi will agree to it we will accept it.

The Honourable the SPEAKER : The amendment of the honourable member Mr. Pataskar is :

Delete the words 'intimate to' and substitute the words 'urge upon'.

Delete the words 'on the Province' in the last line.

Do I understand that if this amendment is accepted, it is the wish of the other two gentlemen to withdraw theirs ?

Sir ALI MAHOMED KHAN DEHLAVI : He accepts what ?

The Honourable the SPEAKER : I understand from the Honourable the Prime Minister that he is willing to accept Mr. Pataskar's amendment, provided the other two are withdrawn.

Khan Saheb FAIZ MOHAMED KHAN : Is he not willing to accept mine ?

The Honourable Mr. B. G. KHER : I understood that the amendment proposed by the honourable member Mr. Pataskar was agreeable to them. It is more or less just the same as theirs. That is why I am willing to accept it. Do they agree ?

Khan Saheb FAIZ MOHAMED KHAN : You make a distinction between the two ! Supposing you accept my amendment, what do you think would be the result ?

The Honourable the SPEAKER : I do not think further discussion on the motion can be allowed.

Sir ALI MAHOMED KHAN DEHLAVI: The point is this: the Honourable the Prime Minister has to state which of these amendments he accepts.

The Honourable Mr. B. G. KHER: I have said it. The last amendment of Mr. Pataskar represents the views that the members belonging to the Muslim League party have expressed. It is "delete the words 'on the province'." That being accepted, their amendments should be withdrawn. That is what I said. Are they agreeable?

Khan Saheb FAIZ MOHAMED KHAN: I am not in a position to withdraw my amendment.

The Honourable the SPEAKER: Then I shall put the amendments. The first amendment to be put to the House would be that moved by the honourable member Mr. Pataskar, on the acceptance or rejection of which will depend the fate of the other amendments.

Khan Saheb FAIZ MOHAMED KHAN: Why not mine first, Sir?

The Honourable the SPEAKER: I am trying to arrange the amendments in such an order that the acceptance or rejection of one may not affect the others. I shall arrange them from that point of view.

Sir ALI MAHOMED KHAN DEHLAVI: May I suggest one thing? As far as my memory goes, the usual way in which amendments are put to the House is this. The more comprehensive ones are to be put first. If such amendments are not accepted, the lesser ones and then the least ones, which come last. Now, taking the present amendments from that point of view, I understand that the honourable member Mr. Pataskar's amendment is the shortest, and therefore it should come last.

Mr. JAMNADAS M. MEHTA: May we know what is going on? We cannot follow. [*Laughter.*]

The Honourable the SPEAKER: The difficulty which I experience is this. Assuming for the sake of argument that the amendment of the honourable member Mr. Chundrigar is accepted by the House,—it merely says that the word "Province" should be changed into "Provinces"—

Sir ALI MAHOMED KHAN DEHLAVI: No, Sir; that has not been moved.

The Honourable the SPEAKER: I am sorry.

Now, the order in which the amendments will be put will be this: first, the amendment of the honourable member Khan Saheb Faiz Mohamed Khan; then the amendment of the honourable member Mr. Pataskar; and last will come the amendment of the honourable member Mr. Jhabvala, which seeks to add one more paragraph. The

[The Speaker]

amendment of the honourable member Khau Saheb Faiz Mohamed Khan is :

"Delete the words 'intimate to the British Government not to impose it on the Province' and substitute the words 'urge upon the British Government to refrain from its enforcement'."

The motion as amended will read as follows. I need not read the first sentence. The second sentence will read :

"This Assembly therefore requests Government to urge upon the British Government to refrain from its enforcement."

Amendment put, and negatived.

The Honourable the SPEAKER : I now put the amendment of the honourable member Mr. Pataskar, which is as follows :

"Delete the words 'intimate to' in line 4 and substitute the words 'urge upon'."

"Delete the words 'on the Province' at the end of the motion."

The motion as amended will read as follows :

"This Assembly is of opinion that the Federation proposed under the Government of India Act, 1935, is opposed to the declared will of the people of the Province and is, therefore, unacceptable. This Assembly therefore requests Government to urge upon the British Government not to impose it."

Mr. K. F. NARIMAN : What is the difference between "intimate to" and "urge upon" ?

The Honourable the SPEAKER : It is not for me to explain it.

Dr. B. R. AMBEDKAR : We have not understood the amendment. I want to understand what the amendment is.

The Honourable the SPEAKER : I will read the amendment again :

"Delete the words 'intimate to' in line 4 and substitute the words 'urge upon'."

"Delete the words 'on the Province' at the end of the motion."

Mr. S. L. KARANDIKAR : Sir, yesterday the inclusion of the words "on the Province" was justified by a reference to the Rules. It was then made clear that unless the reference to the Province was there, the motion would not be in order. It was for that reason that those words were intentionally included in the motion. That was the explanation given yesterday. My submission is, if those words are now omitted, would that motion as amended be in order? Will the Assembly be competent to pass that motion? Either the explanation given yesterday is wrong, or the omission of those words is wrong.

Mr. H. V. PATASKAR : I have already explained, when moving my amendment, that it was for the purpose of securing a certain amount of unanimity in the wording in respect of this motion that I moved my amendment. Finding now that the amendment does not satisfy all, I beg leave of this honourable House to withdraw it.

The Honourable the SPEAKER : I will put it to the House as to whether the honourable member Mr. Pataskar has leave of the House to withdraw his amendment.

Question proposed.

The Honourable the SPEAKER : From the voices, I am feeling doubtful as to what the decision of the House is. So, I will put the question again.

Sir ALI MAHOMED KHAN DEHLAVI : The practice has been that if there is one dissentient voice, the leave is not granted.

The Honourable the SPEAKER : That point was considered and the practice followed in the last session was that I should take the vote of the House. So, I will put the question again to make myself certain as to the wish of the House.

Amendment, by leave, withdrawn.

The Honourable the SPEAKER : Now there is the amendment of the honourable member Mr. Jhabvala and I propose to put it in two parts. The first part of it is : After the word " Province " occurring for the first time, add the following " as it is intended to perpetuate the dominance of foreign imperialism upon the Indian neck and should therefore be rejected " and the words " and is therefore unacceptable " should be deleted.

Amendment put, and negatived.

The Honourable the SPEAKER : I will now put the second part of the amendment which stands thus : At the end add the words " against its will. " Then there is a third paragraph : " It is further of opinion that should British Government act in contravention of the above opinion the Provincial Autonomy itself will be jeopardised. "

Amendment put, and negatived.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, before you put the original proposition to the House, I should like to make a request which is possible at this stage to be accepted. As I said yesterday, as the resolution ends with the word " Province ", I honestly believe that it is an illogical request to the British Government not to impose it on the Presidency of Bombay or the Province of Bombay. Federation is, of course, meant for all the Provinces and this is hardly a request which will carry weight. It is to my mind desirable that we should put in the word " Provinces " and I hope the Honourable the Leader of the House will be agreeable to this.

The Honourable Mr. B. G. KHER : If the Chair allows it, I have no objection ; that is to say, if it is in order, I have no objection. It is for the Chair to rule that it is in order. As I said, there seems to be really no difference between the two points of view.

Dr. B. R. AMBEDKAR : Let the opposition have this little mercy.

The Honourable the SPEAKER : Are all the parties agreed that it should be "Provinces"?

Sir ALI MAHOMED KHAN DEHLAVI : If you permit it.

The Honourable the SPEAKER : Frankly speaking, I am really feeling doubtful whether any substantial amendment can be permitted at this stage.

Sir ALI MAHOMED KHAN DEHLAVI : It is a verbal amendment.

The Honourable the SPEAKER : If it is verbal, I feel clear that it should be permitted. But I think the ground was whether it was logical or illogical. If it is placed on the ground of being something else than a verbal one, I am really feeling doubtful as to whether it should be permit ed. I hope the honourable member Sir Ali Mahomed Khan will see my point.

6 p.m.

Sir ALI MAHOMED KHAN DEHLAVI : I mean it will carry greater weight.

Rao Bahadur N. E. NAVLE (Ahmednagar North) : I rise to a point of order, Sir. [*Laughter.*] The proposition before the House is to insert the word "Provinces" instead of the word "Province". Now, apart from the admissibility of the question whether such a word can be inserted at this stage or not, when the House has already given its opinion, does not the insertion of the word "Provinces" enlarge the scope of the original proposition? It is not allowed, under the rules, to enlarge the scope of the motion already tabled. Apart from the question of admissibility or otherwise of the amendment, the proposition can be objected to from this point of view.

Mr. JAMNADAS M. MEHTA : I take it that Government does not mean, by using the word "Province", that the Federation may be imposed upon other provinces. I think it simply means this that as we can speak for ourselves only, please note that we do not want it. It does not follow that it should be imposed on other provinces.

The Honourable Mr. B. G. KHER : I would certainly say in that connection that we do not mean that it should be imposed on other Provinces. It is not the intention that we should save Bombay and let all the other provinces have this unwanted Federation.

Mr. JAMNADAS M. MEHTA : That is the real difficulty. I think you do not mean that. [*Laughter.*]

The Honourable the SPEAKER : It appears that the House would like to have this verbal amendment without going into the merits of the thing now. If that is so, I think permission to move the amendment should be granted, and Sir Ali Mahomed Khan might move his amendment.

Sr ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Sir, I beg to move that the word "Province" may be changed into "Provinces".

The Honourable the SPEAKER: So, there is one more amendment, which is verbal.

Mr. JAMNADAS M. MEHTA: It is not a verbal amendment at all. "Province" does not mean "Provinces".

The Honourable the SPEAKER: A singular includes the plural and a plural includes the singular. So, the amendment before the House is, change the word "Province" into the word "Provinces".

Amendment put, and agreed to.

The Honourable the SPEAKER: I will now put the substantive proposition as amended. I do not think I need read it again.

Question put, and agreed to.

MOTION REGARDING TITLES.

The Honourable the SPEAKER: We will now proceed with Government Motion No. 2.

The Honourable Mr. B. G. KHER: Mr. Speaker, Sir, the motion, which stands in my name, reads as follows:

"This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued."

Sir, in this country, where already there are so many classes, castes, creeds and distinctions, bestowal of titles has given rise to a further class, and as it is now the earnest desire of all patriotic citizens that democracy, equality, fraternity should be the future order of the day, it is very necessary that we should make a beginning by treating all men as equal and not create these artificial distinctions of Knights, and Rao Bahadurs, and Dewan Bahadurs, and so many others that we have. I do not know, Sir, whether the House will agree with that eminent author, Mr. Gardiner, who has some very pertinent remarks to make as regards the practice of conferring of titles, which prevails in the United Kingdom. I will take the liberty of reading his remarks.

The Honourable the SPEAKER: I think I should first put the motion to the House.

Question proposed.

The Honourable the SPEAKER: I have received three amendments to this motion up to now. With a view to have a comprehensive discussion on all points, I think it will be better if these amendments also are moved formally at this stage, without any speech, and thereafter the Honourable the Prime Minister will speak in support of his original

[The Speaker]

proposition. There is one amendment from the honourable member Sir Ali Mahomed Khan Dehlavi. He might move his amendment now.

SIR ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Sir, my amendment is—

Insert the word "indiscriminately" between the words "person" and "in".

The proposition then would be :

"This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person indiscriminately in the Province by His Majesty or the Governor General be discontinued."

The Honourable the SPEAKER: Then there is an amendment in the name of the honourable member Mr. Jhabvala. He might move his amendment.

MR. S. H. JHABVALA (Railway Unions): Sir, I beg to move an amendment to the proposition and it runs as follows:—

After the word "discontinued" add the following:—

"and that any such title of honour or titular distinction so far conferred on any person in the Province by His Majesty or the Governor General be withdrawn."

[Loud Laughter].

The Honourable the SPEAKER: Order, order. Then there is an amendment standing in the name of the honourable member Mr. Ali Bahadur Bahadur Khan.

MR. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Sir, I beg to move that after the word "discontinued" add the following:

"and all the titles conferred in the past be withdrawn. This Assembly is of opinion that if the titles are not withdrawn the titleholders should be deprived of the rights of citizenship like voting, being members of legislative bodies, possessing arms etc."

[Loud Laughter].

MR. JAMNADAS M. MEHTA: There is one rule, Sir, that the Chair may disallow frivolous amendments. I think the latter portion of this amendment is frivolous and we should not promote tomfoolery in the House.

MR. ALI BAHADUR BAHADUR KHAN: Sir, I protest against this expression.

MR. JAMNADAS M. MEHTA: I submit for your ruling, Sir, that the latter portion of this amendment is absolutely frivolous and should be disallowed. I am not myself aspiring for any title. I am no aspirant for any title, but there are titles even in the Congress. There are Sardars and Chakravartis. Are you going to abolish them?

MR. ALI BAHADUR BAHADUR KHAN: Sir, I beg to protest against the remarks made by my friend, Mr. Jamnadas Mehta. This is

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not frivolous at all. In fact, I have moved this amendment in all seriousness and this is not a novel idea. This has been enforced in Russia and in other places, and I think this is what will be enforced in this country.

The Honourable the SPEAKER: The honourable member, Mr. Jamnadas M. Mehta, wanted a ruling. I am not prepared to rule it out as frivolous.

The Honourable Mr. B. G. KHER: Sir, I may make it clear, lest it is again urged that we are not serious in moving this proposition, that this proposition is moved in all seriousness. Even before the Congress thought of passing a resolution on this subject, I know that the youth of the country has long since felt that the power of patronage, the power of bestowing honours, whether in this country or in others and the manner in which Government usually exercise it, are really not in the basic interest of purity of social life. Very often exigencies of political life compel those who are in power to bestow favours on those who support them, but the result is, as we know, to create classes and distinctions which ought not to obtain in any democratic and properly conducted society. That is why the best men in the land have always preferred to remain plain Misters. Notably we can recall to mind the instance of Mr. Gladstone.

Sir, this question could be looked at from two points of view. One is the legal or the constitutional aspect of the question of bestowing honours. What really are the powers of the Bombay Government, of this House, in the matter of bestowing titles? Often and often people ask us, why even after Congress accepted office titles are being bestowed. And that second aspect, the second point of view, to look at the question would be the general merits of the proposition.

Now, as to the legal aspect of it. The bestowal of titles is a matter of the prerogative of the Crown. These titles have Imperial validity, they are very largely prized throughout the Empire and there are certain principles on which these honours are or ought to be bestowed. But I wish to draw the attention of the House to what happened after the War in Canada when the question of the bestowal of titles first came up for notice in that Dominion and I might incidentally also mention the practice which obtains in the other dominions. I will not be very long about it. I hope to finish my remarks before the House rises at 6-30.

Sir, what happened after the War was that numerous honours on a profuse scale were awarded by the Crown in Canada.

"In the beginning, in 1918, the movement (which was started) was chiefly directed at hereditary honours —"

But ultimately, at that time it became a question of one particular peerage. Later on other honours were also refused or were intended to be stopped from being bestowed, and the conclusion that was come

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to was embodied in the shape of a resolution on which more or less honourable members will find we have based our present motion also. By an address which was conveyed to the King in 1919, the Dominion of Canada asked that the King might be pleased "to refrain hereafter from conferring any title of honour or titular distinction on any of his subjects domiciled or ordinarily resident in Canada save such appellations as are of a professional or vocational character or which pertain to an office." And although thereafter a great deal of effort was made, a great agitation was carried on to induce that Dominion to revise its decision, they persisted in remaining firm. I am quoting from Keith :

"The first part of the address has been acted on by the Imperial Government and the principle has been maintained despite efforts to persuade the Dominion that respect for the Crown demands the renewal of the system of awarding honours."

The point of view put forward was that respect for the Crown demands it. But all these efforts proved unavailing and even today the position in Canada is that although the right to confer honours is a prerogative of the King and is within his power to exercise, the Government there refuse to make recommendations and no honours are given.

"Of the other Dominions.—,

This, Sir, is as far back as 1925——

"The Union under the Government of General Hertzog in 1925 adopted a similar resolution against the conferment of any further honours."

I find that two honourable members here want to go much further than our motion. They not only want to stop the bestowal of titles in future, but wish to deprive those who have got them already in the past and take their decorations away. It might be said, now that the principle has been firmly established, that no honour can be conferred on a resident in a dominion save with the approval of the Local Government, although at the same time it is clear that the Local Government cannot tender advice on the question which is binding on the Crown. This will explain the position. The Local Government might say, the Minister can say, that no titles shall be conferred or that such and such a person may not have a title, but the Crown is not bound to accept that advice as it is the prerogative of the Crown to accept or reject it. The position therefore may be crystallised thus : Whether any recommendation shall be made for honours or not, it rests with the Imperial Government to decide, subject to the King's approval, how far these proposals from the Dominions can receive effect.

Now, Sir, it has been the consistent policy of Congress to condemn the practice of bestowing titles. Resolutions have been passed from time to time rejecting the practice and several persons have come forward and given up their titles. The Royal Commission on honours which had been appointed in England pointed out that even if His Majesty should desire to confer a peerage on a member of the royal family, the

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responsibility for the appointment must rest on the Prime Minister by whom it will be duly recommended to the Crown. So that is the division of powers. The prerogative is with the King, either to accept or not to accept the recommendations. So far as the dominions are concerned, notably those of Canada and the Union, as I pointed out, they have refused to make any such recommendations. The Congress Committee has also passed a resolution at the same session to which I made reference on the resolution of the Federation, whereby they unanimously rejected the idea of conferring honours, of conferring titles, in the new regime, and I think the reasons for arriving at such a conclusion are very cogent.

What are the principles which have been governing the conferment of these titles in the past by Governments which do confer titles? I can conceive of only three reasons, namely, (1) that possibly Government officials have rendered some signal services which are being appreciated. Something may be said in favour of it; but, after all, a Government servant, if he is conscientious, must discharge his duties and even in his case virtue is its own reward. In addition, he gets a pension and he need not rest content merely with a sense of virtue. The other reasons are again similar, viz., a member of the public has been philanthropic or can be induced to be very philanthropic. Large donations, we hear, are occasionally made for this and that big hospital or college and, as a result, in the Honours List certain names are found. And the third reason is that to which I made reference, namely, individuals have perhaps rendered signal service to the Government of the day. Perhaps the Congress or some other political Party or any political opponent has been very obnoxious and the individuals concerned have perhaps rendered service in putting them down in opposing them and such services also are rewarded by patronage in the shape of bestowal of honours. Take any of these three reasons and, if we really want to have that healthy feeling of democracy and equality in the country, I do not think the conferment, the bestowal, of any titles could be justified. As I said, it unnecessarily creates a class which is entirely out of place in a country like ours where already there is so much snobbery, already so much inequality on the ground perhaps of birth, on the ground perhaps of wealth and on so many other grounds.

In this connection, I would like to draw the attention of the House to a passage from that famous writer Mr. Gardiner. I do not know how far the House will agree with his remarks which I will take the liberty of quoting. He says :

“Unlike the Celtic and Latin races”—he is making a reference to Englishmen—“we are not democratic. We have not the ease that comes from the ingrained tradition of human equality. The French have that ease. So have the Spanish. So have the Irish. So have the Americans. But the English are class-conscious. The dead hand of feudalism is still heavy upon our souls. If it were not, the degrading traffic in titles would long since have been abolished as an insult to our intelligence. But we not only tolerate it: we delight in the artificial scheme of relationship. It is not human values but social discriminations that count. And while human values are cohesive in their effect, social discriminations are separatist. They break society up into castes, and permeate it with the twin vices, snobbery and flunkeyism.”

[Mr. B. G. Kher]

I do not think the argument against the conferment of titles could have been better put than it is here. I may not pass judgment as to the correctness or otherwise of the opinion which the famous author gives about his own countrymen. I could not say whether they are already class-conscious or whether it is the feudal system that has had this effect, because indeed I have not sufficient experience, but we need not go into that at all. Here is a very sane, noble, fine opportunity for the House to declare that they stand for the abolition of artificial values and want to value men not by their labels but their intrinsic merit. I am aware of the necessity of preserving that discipline and subordination in society which indeed are of the essence of smooth intercourse, because no doubt all men are born equal. But it is necessary, in order that due subordination may be preserved, in order that the affairs of men may be well transacted, that some men should have to obey orders and others have to command them. We have often, of our own accord, to impose discipline upon ourselves and therefore although such natural distinctions are no doubt necessary, all other distinctions, which are rightly characterised as leading to snobbery, as creating distinctions based on considerations other than those of human values which indeed ought to be the only principle on which men ought to be assessed, are really out of place. These are certainly not a desirable feature of society. It has been, therefore, so far as I am concerned, a dream of my life that it may be given to us, all of us, to behave in that manner of equality and affability which will not admit of any unnatural distinctions created by these titles. When a man comes to my house and sends in his visiting card with half a dozen letters before him and behind him, and announces that he is a big Knight or a big something else he announces that he belongs to a very, very superior class of society. Whether he is or he is not, he ought to take his chance with the rest. He has no right to try to overawe us all. This artificial distinction ought not to be encouraged by any Government. That is one of the reasons on which we want to oppose the conferment of these titles. The evil effects are obvious to those who bestow careful thought on what has happened in present day society. Indeed, there are people who cannot resist the glamour of being treated as something superior. If I may say so, most of us are vain enough, are born with that frailty, with that little feeling behind the back of our minds which makes us want to draw invidious distinctions and want us to feel that we are superior to others, maybe perhaps because they are born in any of the upper castes—those who are considered the Holy of the holies, the Brahmins or the other castes who look upon themselves as superior by birth, maybe perhaps on grounds of personal appearance, maybe perhaps on grounds of the possession of wealth, but we do flatter ourselves, we console our little minds by treating ourselves as a little better than our fellows, and this certainly ought not to be a feeling which ought to be encouraged on grounds other than those of intrinsic merit.

Sir, I promise to bring my remarks to a close before the time is over. I have not much to say. I will not go into an elaborate description of

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varieties of these titles and the scandals connected with their bestowal. I think an enquiry was made by a member of the House the other day as to whether this would include medals which are conferred on one ground or other. I do not think medals could come under titles, Kaiser-i-Hind medals might because they are Kaiser-i-Hind, but medals, which one earns because of one's long service to the country without any titular distinction in their wake, or pensions which are granted, fall into a different category. I personally think that such medals as are awarded to members of the Police services for bravery or Military Crosses would not come under the category of titles or under the category of titular distinctions; but, if they do, I would even condemn them wholeheartedly. Sir, the question is this that the practice of bestowing titles has generally been resorted to more often than not for rewarding political services of some kind, more often than not to reward something which I may say frankly again is not looked upon by society as deserving of encouragement. Often and often we see titles are bestowed and people simply begin to suspect, and ask "Well, what has happened?" "What has he been doing?" and think some jobbery has been perpetrated. I think the best minds are agreed on this. Have not the noblest of the land often and often refused to accept any distinctions for themselves? I will not now occupy more time of the House. I would commend this proposition to the wholehearted acceptance of the House. Let us have a society which can be styled truly democratic, where liberty, fraternity and equality could be said truly to reign, truly to prevail, and I think we will be assisting in this objective a great deal if we make a beginning by voting in favour of this proposition for the abolition of titles.

BUSINESS OF THE HOUSE.

The Honourable the SPEAKER: Tomorrow will be the day for non-official business, namely, Bills, and the discussion of this motion will be resumed, after the two non-official days, when the Government business is next taken up, whatever the date may be. That is how I understand the position to be.

The House then adjourned till 2 p.m. on Wednesday, the 12th January 1938.

Wednesday, the 12th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Wednesday, the 12th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
AIDALE, Mr. J. S.
ALI BAHADUR BAHADUR KHAN, Mr.
ANTROLIKAR, Dr. K. B.
BEGMAHOMED, Mr. HUSEIN ABOOBAKER
BHARTIYA, Mr. S. R.
BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
BRAMBLE, Mr. C. P.
CHITALE, Rao Bahadur G. K.
CHITRE, Mr. A. V.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
CHUNDRIGAR, Mr. ISMAIL I.
COLLACO, Dr. J. A.
COOPER, Sir DHANJISHAH B.
CURRION, Mr. FRED J.
DABHI, Mr. FULSINHI B.
DANDEKAR, Mr. V. V.
DEHLAVI, Sir ALI MAHOMED KHAN
DESAI, Mr. DINKERRAO N.
DESAI, Mr. GURASHIDDAPPA K.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIR P.
DESAI, Mr. S. B.
DESHMUKH, Mr. K. B.
DESPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FAIZ MOHAMED KHAN, Khan Saheb
FERREIRA, Mr. D. J.
FIRODEA, Mr. K. S.
FRENCH, Mr. F. H.
GAIKWAD, Mr. B. K.
GANDHI, Mr. M. M.
GAVANKER, Mr. S. K.
GAVIT, Mr. D. P.
GHATGE, Mr. G. R.
GHIA, Dr. C. J.
GHIA, Mr. M. C.
GILDER, the Honourable Dr. M. D. D.

GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HALIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KANUGA, Mrs. VIJAYAGAUURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.

NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NAVLE, Rao Bahadur N. E.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. SHANKARGOUDA T.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.

VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOOKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

STARRED QUESTIONS AND ANSWERS.

ACQUISITION OF INAMI LANDS OF MAHARS OF VILLAGE BHOSARI IN TALUKA HAVELI FOR WIRELESS STATION.

*Mr. R. R. BHOLE (Poona West) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that certain Inami lands belonging to the mahars of the village Bhosari in taluka Haveli of Poona District have been acquired by Government for the construction of a wireless station ;

(b) whether the mahars were given any compensation for their lands ;

(c) if so, how much compensation ;

(d) if not, what were the reasons for not giving them any compensation ?

The Honourable Mr. MORARJI R. DESAI : (a) Yes.

(b) and (c) The Mahars were given no compensation.

(d) The reason was that even after resumption of the land acquired for the wireless station, the lands remaining with the mahars were still in excess of the standard remuneration.

Mr. R. R. BHOLE : In regard to part (b), is it not a fact that according to the rules of Government interest must be paid on the inami lands which are acquired ?

The Honourable Mr. MORARJI R. DESAI : Interest would be paid in cases where possession is taken before the money is paid. But in this case, the land does not belong to these people but belongs to Government. So, they do not get interest.

Mr. R. R. BHOLE : I am speaking of inami lands.

The Honourable Mr. MORARJI R. DESAI : The inami lands in this connection belong to Government and so no interest would be paid. If they are private inami lands interest would be paid.

Mr. R. R. BHOLE : If I quote instances where interest has been paid after the acquisition of these lands, will Government consider their cases ?

The Honourable Mr. MORARJI R. DESAI : If any specific cases are brought to my notice, I will certainly consider them.

Mr. R. R. BHOLE: In regard to part (d), Government say: "The reason was that even after resumption of the land acquired for the wireless station, the lands remaining with the mahars were still in excess of the standard remuneration." May I know whether the lands which still remain in their possession are mostly barren lands?

The Honourable Mr. MORARJI R. DESAI: That is not what I know of.

Mr. R. R. BHOLE: If I show that those lands are mostly barren will Government consider the question?

The Honourable Mr. MORARJI R. DESAI: I will certainly consider it.

Mr. D. G. JADHAV: In regard to (d), may I know what the amount of remuneration is?

The Honourable Mr. MORARJI R. DESAI: The standard of remuneration is from Rs. 10 to Rs. 20 according to the size of the village.

Mr. K. F. NARIMAN: When did this transaction take place?

The Honourable Mr. MORARJI R. DESAI: It took place long ago.

SCARCITY OF WATER IN CERTAIN VILLAGES OF POONA DISTRICT.

*Mr. R. R. BHOLE (Poona West): Will the Honourable Minister for Public Health be pleased to state—

(a) how many villages are there in the Poona District where there are either no wells nearby or where the need for water supply is specially acute;

(b) what steps Government propose to take to remedy the grievance?

The Honourable Dr. M. D. D. GILDER: (a) 137 in all.

(b) An amount of Rs. 1,50,000 has been placed at the disposal of the Commissioner, Central Division, for expenditure on village water supply in that Division in accordance with the special scheme outlined in Government Resolution, No. S. 92, dated the 14th September 1937, copies of which have already been supplied to the honourable members of this House. The necessary action so far as the Poona District is concerned is being taken by the Collector of Poona in consultation with the District Village Water Supply Committee, constituted in accordance with the orders in paragraph 3 of that Resolution.

ALLEGED GRIEVANCE OF MAHARS OF MULSHI PETA.

*Mr. R. R. BHOLE (Poona West): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether Government are aware that difficulties were experienced by the villagers of Mulshi Peta in the Poona District on account of the practice of Field Batteries in their villages in the months of October and November last;

(b) whether Government are aware that the officiating mahars are troubled by the Police Constables during this time;

(c) whether the officiating mahars are paid for the work done by them during this time ;

(d) if not, whether the work done by them is considered to form part of their legitimate duties ?

The Honourable Mr. K. M. MUNSHI : (a) Government have ascertained that no serious difficulty or hardship was experienced by the villagers.

(b) Government have ascertained that the officiating Mahars were not troubled by the Police Constables.

(c) and (d) The officiating mahars are required to warn the villagers previous to the firing to vacate their houses. This is a legitimate part of the duties of the mahars and no extra remuneration is therefore paid to them for this work.

Mr. W. S. MUKADAM : Will Government be pleased to state in regard to part (a) of the answer what made them say "no serious difficulty or hardship was experienced by the villagers"?

The Honourable Mr. K. M. MUNSHI : There is always some difficulty. It is not a serious difficulty but a nominal one.

Mr. W. S. MUKADAM : May I know whether difficulty not of a serious nature was experienced by the people there ?

The Honourable Mr. K. M. MUNSHI : Yes.

Mr. W. S. MUKADAM : May I know whether Government will be prepared to see that this sort of difficulty which is not serious is not repeated henceforth ?

The Honourable Mr. K. M. MUNSHI : Government will do their best.

Mr. W. S. MUKADAM : May I ask one question of the honourable member (Mr. Bhole) ? May I know from him what sort of work was exacted by the police from the people ? (No answer). May I know, Sir, whether a member is permitted to ask a question of another member of this House ?

The Honourable the SPEAKER : The question by one member to another member is permissible, though such instances are very rare. But I doubt whether a supplementary question by one member to another member is permissible.

Mr. W. S. MUKADAM : I only ask a question and not a supplementary question.

The Honourable the SPEAKER : I do not think that it will be permitted.

Mr. S. L. KARANDIKAR : In regard to part (a) of the answer, may I know what exactly was the nature of the difficulty caused, though it might not be serious ?

The Honourable Mr. K. M. MUNSHI : So far no difficulty or hardship to any extent was experienced, because no complaints have been received by any of the officials from the people.

Mr. S. L. KARANDIKAR : The printed answer says : "no serious difficulty or hardship was experienced." This gives room to suppose that some hardship was caused. What was that ?

The Honourable Mr. K. M. MUNSHI : In a case like this, the people have got to remove themselves to some other place or keep themselves inside their houses for some hours when the practice takes place. It is not one which could be called a serious hardship.

Mr. S. L. KARANDIKAR : Government do not consider it to be a serious hardship ?

The Honourable Mr. K. M. MUNSHI : No.

Mr. H. V. TULPULE : May I know whether any obstacle was placed in the way of their remaining in their houses instead of going away to some other place ?

The Honourable Mr. K. M. MUNSHI : I want notice of that question.

Mr. R. R. BHOLE : Is it not a serious hardship if villagers have to remove themselves to some other place with their cattle and moveables for a full period of 8 hours ?

The Honourable Mr. K. M. MUNSHI : I do not know the facts which you have mentioned. If the honourable member had asked for the facts by his question, I would have given him the facts.

Mr. R. R. BHOLE : It appears from the reply "there was no serious hardship" that Government know the facts and still they consider these difficulties are not serious.

The Honourable Mr. K. M. MUNSHI : As I said, no complaints have been received by the officials concerned. On enquiry, no grievances are reported. If the honourable member requires any more details, I will ask him to give notice.

Mr. JAMNADAS M. MEHTA : What is the test of a serious hardship from one which is not serious ? Have Government got any standard ? (No answer). I think Government are giving no information. If the Honourable Minister is driven away from his house—

The Honourable the SPEAKER : Only a question, and nothing more.

Mr. JAMNADAS M. MEHTA : Government are not giving information. I am asking what would be a serious hardship ?

The Honourable the SPEAKER : The honourable member will only ask a question.

Mr. JAMNADAS M. MEHTA : I am asking a question. Will it be serious hardship if the Honourable Minister is driven out from his house for 24 hours ?

The Honourable Mr. K. M. MUNSHI : I cannot answer a hypothetical question.

Mr. S. V. PARULEKAR : Were the facts ascertained by the police ?

The Honourable Mr. K. M. MUNSHI: It is unfair to ask that question. The original question asks whether Government are aware that they were troubled. I have tried to give the answer to the question. If honourable members want further information, I must have notice of it and if the facts collected show that there was serious hardship, certainly steps will be taken by Government to relieve it.

Mr. K. F. NARIMAN: Will Government take steps to see that in future such operations are carried on in unoccupied tracts which are available, without disturbing the villagers?

The Honourable Mr. K. M. MUNSHI: It is a suggestion for action; it does not require a reply.

Mr. R. R. BHOLE: If it comes to the notice of Government that it is a fact that the villagers had to vacate their houses for a full day, will they think it a serious matter?

The Honourable Mr. K. M. MUNSHI: It is for the honourable member to ask questions with regard to specific facts. As a matter of fact, some cases have been brought to the notice of Government, and steps have been taken to relieve hardship. But unless particular complaints are brought to the notice of Government, it is not possible for them to take any steps.

Mr. R. R. BHOLE: My point is this. If the Government know for certain that it is a fact that the villagers have to vacate their houses for a full day, will it be considered to be a serious matter?

The Honourable Mr. K. M. MUNSHI: Is it not hypothetical?

Mr. S. L. KARANDIKAR: The reply to (b) is that Government have ascertained that the officiating Mahars were not troubled by the police constables. Does it mean that the Mahars who were not officiating were troubled?

The Honourable Mr. K. M. MUNSHI: It is not so worded in order to introduce that element; it is merely a negation of the question.

INCREASE IN JUDI ON MAHARKI WATAN LANDS.

*Mr. B. K. GAIKWAD (Nasik West): Will the Honourable Minister for Revenue be pleased to state—

(a) whether, during the last five years, any officiating mahars were fined by the Revenue Authorities in the different districts for alleged neglect of their duties;

(b) if so, what is the number of such mahars in each district;

(c) what is the total amount of fine inflicted on them;

(d) what are the duties of officiating mahars;

(e) whether it is a fact that the Judi on maharki watan lands has been increased;

(f) if so, what are the reasons for the increase;

(g) whether it is due to the reduction in the number of officiating mahars;

(h) by how much is the Judi increased during the last five years in each of the districts ?

The Honourable Mr. MORARJI R. DESAI : (a), (b) and (c) Yes, the information is as follows :—

District.	Number of mahars fined.	Amount of fine.	
		Rs.	a. p.
<i>Northern Division.</i>			
Thana	2	1	4 0
<i>Central Division.</i>			
Ahmednagar	36	64	8 0
East Khandesh	16	22	4 0
West Khandesh	7	7	14 0
Nasik	216	421	7 0
Poona	23	11	12 0
Satara	109	97	12 0
<i>Southern Division.</i>			
Belgaum	2	0	8 0
Kolaba	13	25	0 0
Ratnagiri	4	1	4 0

(d) The duties to be discharged by the officiating mahars are not defined in the Watan Act. As required by section 64 (b) of that Act these duties are specified at the time of framing the watan registers. According to section 69 of the Act the mahars have to render such service as is customary or as is required by law. In case of disputes the Panchayats are empowered to define the duties under section 18 of the Act. Generally mahars are concerned with miscellaneous duties connected with civil administration and customary services in connection with village sanitation. They have also to carry remittances to the taluka treasury.

(e) to (h) The judi on the maharki inam lands was not increased anywhere except in the Nasik District, where reduction in the number of officiators was made in some cases with a view to bring down the number of officiators to that required for the village having regard to its size, population and land revenue. When the reduction was effected the remuneration hitherto paid to the officiators was in some cases found to be excessive. In the Nasik District judi was increased by Rs. 1,116-7-0 during the last five years.

Mr. B. K. GAIKWAD : Is it a fact that officiating Mahars in the Nasik district were fined for not supplying information about births in villages when they were boycotted by caste Hindus during the temple entry *satyagraha* ?

The Honourable Mr. MORARJI R. DESAI : Not that I know of.

Mr. B. K. GAIKWAD : May I know then why the officiating Mahars were fined ?

The Honourable Mr. MORARJI R. DESAI : For various breaches of duties.

Mr. B. K. GAIKWAD : Will the Honourable Minister state the nature of those duties ?

The Honourable Mr. MORARJI R. DESAI: I do not know exactly for what breaches they were fined in each case, because I have not made any detailed enquiry into the cases.

Mr. B. K. GAIKWAD: Will the Honourable Minister enquire into the matter?

The Honourable Mr. MORARJI R. DESAI: I am making enquiries. I am trying to ascertain the duties and also define them.

Mr. B. K. GAIKWAD: With reference to the reply to caluses (e) to (h), may I know whether there is any reduction in the Government duties to be performed by the officiating Mahars?

The Honourable Mr. MORARJI R. DESAI: As I told the honourable member, I am trying to define the duties and make them minimum.

SELECTION OF CANDIDATES BELONGING TO SCHEDULED CASTES FOR TRAINING IN POLICE TRAINING SCHOOL AT NASIK.

*Mr. B. K. GAIKWAD (Nasik West): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) the number of Sub-Inspectors of Police belonging to the Advanced Classes, the Intermediate Classes, the Backward Classes, the Scheduled castes, the Mohamedan, Christian and other communities, respectively, in each district of the Province of Bombay;

(b) the number of candidates belonging to the Scheduled castes who were recommended every year by the Backward Class Officer for selection for training in the Police Training School at Nasik, since the creation of the post of Backward Class Officer;

(c) the number of such candidates who were finally selected every year;

(d) whether it is a fact that in the selection of candidates for Police Training School, preference is given to those candidates whose fathers are in service in the Police Department;

(e) whether Government intend to give preference to the candidates belonging to the Scheduled castes in the selection of candidates for training in the Police Training School at Nasik?

The Honourable Mr. K. M. MUNSHI: (a) It has not been possible on account of the labour involved to collect the information by districts. The following details give the present composition of Sub-Inspectors of Police in this Presidency according to communities:—

(1) Advanced classes—				
(i) Christians	..	..	..	1
(ii) Other communities	..	..	..	177
				178
(2) Intermediate classes—				
(i) Christians	..	..	..	16
(ii) Other communities	..	..	..	176
				192
(3) Muhammadans	..	..	..	106
(4) Backward Classes	..	..	..	6
(5) Scheduled castes	..	..	..	2
				484
			Total	484
Number of vacancies	..	..	..	54
				538
Total sanctioned strength				538

(b) The Backward Class Officer recommended the following number of candidates during the last five years :—

Year.					Number of candidates.
1932	..	..	..	..	4
1933	..	..	..	..	7
1934	..	..	..	..	5
1935	..	..	..	..	2
1936	..	..	..	..	5

(c) Two were selected in 1932 and one in 1933. The latter failed in the medical test.

(d) The fact that a candidate's family have proved successful in the Police Department is taken into consideration but this factor is not allowed to prejudice the claims of other candidates who have superior qualifications.

(e) It is the policy of Government to secure a fair representation of all classes and communities in the public service, subject to due regard to efficiency.

Mr. S. L. KARANDIKAR: The concluding portion of the reply to (e) says, "subject to due regard to efficiency." Are considerations of efficiency going to remain paramount in such matters?

The Honourable Mr. K. M. MUNSHI: Yes.

Mr. B. K. GAIKWAD: With regard to the reply to (e), may I know whether the Backward Class Officer recommended inefficient candidates from the Scheduled Castes?

The Honourable Mr. K. M. MUNSHI: His recommendation was from among the candidates of the Scheduled Castes available to him. The candidate recommended by him was, according to him, the most efficient among those candidates; but, when compared with other entrants, he was inefficient.

Mr. B. K. GAIKWAD: What is the meaning of this when it is the declared policy of Government that out of every 10 posts, one should be given to Scheduled Caste candidates while recruiting for Government service?

The Honourable Mr. K. M. MUNSHI: The meaning only is that even that one candidate must come up to some standard of efficiency.

Mr. B. K. GAIKWAD: If that is so, the Backward Class Officer had recommended some candidates after taking these factors into consideration.

The Honourable Mr. K. M. MUNSHI: But the Backward Class Officer is not the head of the Police Department, who has got to look to efficiency from his point of view.

(RECRUITMENT OF SCHEDULED CASTES CANDIDATES TO CLERICAL
POSTS IN THE FOREST DEPARTMENT.

*Mr. B. K. GAIKWAD (Nasik West): Will the Honourable Minister for Revenue be pleased to state—

(a) the number of clerks belonging to the Advanced Classes, the Intermediate Classes, the Backward Classes, the Scheduled castes, the Mahomedan, Christian, and other communities respectively in the Forest Department in each district of the Province of Bombay;

(b) whether it is the declared policy of Government to give preference to candidates belonging to the Depressed classes in making clerical appointments in the Forest Department in the districts;

(c) if so, what is the number of candidates belonging to the advanced classes, the intermediate classes, the Backward classes, the Scheduled castes and the Mahomedan, Christian and other communities respectively appointed to the posts of clerks in the Forest Department in each district since the above policy was declared by Government?

The Honourable Mr. MORARJI R. DESAI: (a) and (c) A statement giving the requisite information by Circles is appended. First appointments of clerks are made by Conservators for their circles. One list is maintained for each circle.

(b) Yes. The present orders of Government require a minimum recruitment of ten per cent. of members of the backward classes to clerical posts in all districts.)

STATEMENT.

*Recruitment of Scheduled castes candidates to clerical posts in the
Forest Department.*

*Clause (a)—Number of clerks belonging to different classes in the
Bombay Forest Department.*

Circle.	Advanced classes.	Inter-mediate classes.	Backward classes.	Scheduled castes.
Northern Circle	57	27	4	..
Central Circle	70	17	2	..
Southern Circle	57	19	1	..
Chief Conservator of Forests' Office ..	7*	..	..	..

Circle.	Mahomedans.	Christians.	Other communities.	Total.	Remarks.
Northern Circle	4	..	1 (Jew).	93	
Central Circle	2	..	..	91	
Southern Circle	8	2	..	87	
Chief Conservator of Forests' Office ..	..	..	..	7	

*One clerk is on leave preparatory to retirement in whose vacancy a candidate from the depressed class has been appointed.

Clause (c).— Number of candidates appointed after issue of orders encouraging recruitment of backward classes.

Circle.	Advanced classes.	Intermediate classes.	Backward classes.	Scheduled castes.
<i>(i) In permanent and temporary vacancies.</i>				
Northern Circle	1	6	2	..
Central Circle	2	5	1	..
Southern Circle	2	4	2(a)	2(b)
<i>(ii) In officiating vacancies.</i>				
Northern Circle	2	5	..	..
Central Circle	35	36	2	..
Southern Circle	1	6	1(c)	3(d)
Chief Conservator's office	1	..	..	1

Circle.	Mahomedans.	Christians.	Other communities.	Total.	Remarks.
<i>(i) In permanent and temporary vacancies.</i>					
Northern Circle .. ..	..	..	1 (Jew).	10	
Central Circle .. ..	..	..	..	8	
Southern Circle	1	..	..	11	
<i>(ii) In officiating vacancies.</i>					
Northern Circle	2	3	..	12	
Central Circle	5	1	..	79	
Southern Circle	1	..	..	12	
Chief Conservator's Office	1	..	..	3	

(a) One man resigned.

(b) Both resigned in order to accept appointments in other departments.

(c) Left service. (d) One resigned and one left service for joining College.

RECRUITMENT OF SCHEDULED CASTES CANDIDATES TO CLERICAL POSTS IN THE PUBLIC HEALTH DEPARTMENT.)

*Mr. B. K. GAIKWAD (Nasik West): Will the Honourable the Minister for Public Health be pleased to state—)

(a) the number of clerks belonging to the Advanced Classes, the Intermediate Classes, the Backward Classes, the Scheduled castes, the Mohamedan, Christian, and other communities respectively in the Public Health Department in each district of the Province of Bombay ;

(b) whether it is the declared policy of Government to give preference to candidates belonging to the Depressed Classes in making clerical appointments in the Public Health Department in the districts ;

(c) if so, what is the number of candidates belonging to the advanced classes, the intermediate classes, the backward classes, the scheduled castes, the Mahomedan, Christian and other communities respectively appointed to the posts of clerks in the Public Health Department in each district since the above policy was declared by Government.

The Honourable Dr. M. D. D. GILDER: (a) The accompanying statement I gives the required information. The clerical cadres of the Public Health Department are constituted by language areas and not by revenue districts. The statement is divided into two parts as among Christians some are classed as Advanced and some as Intermediate and Muhammadans are classed as an Intermediate community.

(b) Government have not issued any orders dealing with the recruitment of backward class candidates to the Public Health Department specially. They have, however, issued general orders in regard to the recruitment to the public service as a whole, directing all their officers in the Presidency to give preference to Scheduled Classes *whenever suitable candidates are available*. They have also directed that not less than one in every ten vacancies should be given to Backward Classes [which comprise (i) the Scheduled Classes, (ii) the aboriginal and hill tribes and (iii) other backward classes], provided that suitable candidates are available, until their strength is 5 per cent. of the total clerical cadre in each Department. Government have also directed all heads of offices to give their personal attention to the question of promotion and recruitment of members of backward classes.

(c) the attached statements II and III give the information asked for.

STATEMENT I.

Statement showing clerical appointments according to linguistic cadres in the Public Health Department.

Name of cadre.	Number of clerks.					
	Advanced community	Intermediate community.	Backward community.			Total.
			Scheduled classes.	Aboriginal and Hill tribes.	Other backward classes.	
Marathi linguistic ..	21	6	..	..	..	27
Kanarese linguistic ..	13	10	..	..	..	24*
Gujarati linguistic ..	8	3	..	..	..	11

Name of cadre.	Number of clerks.				
	Hindus.	Mahomedans.	Christians.	Other communities.	Total.
Marathi linguistic ..	25	1	1	....	27
Kanarese linguistic ..	21	....	2	....	24*
Gujarati linguistic ..	10	1	....	....	11

*One post is held by a Backward Class candidate on probation.

One Backward Class candidate appointed left without notice. (This was in a leave vacancy, prior to 24th October 1934).

STATEMENT II.

Statement showing number of candidates belonging to different castes appointed in permanent vacancies since 24th October 1934.

Name of cadre.	Number of candidates.					
	Advanced classes.	Inter-mediate classes.	Backward classes.			
			Scheduled classes.	Aboriginal and hill tribes.	Other backward classes.	Total.
Marathi linguistic ..	3	3	..	..	..	6
Kanarese linguistic ..	..	1	*1	..	..	2
Gujarati linguistic ..	..	..	..	..	..	..

Name of cadre.	Number of candidates.				
	Hindus.	Mahomedans	Christians.	Other communities.	Total.
Marathi linguistic ..	5	....	1	....	6
Kanarese linguistic ..	2	....	....	....	2
Gujarati linguistic ..	....	....	....	....	....

*On probation.

STATEMENT III.

Statement showing the number of temporary vacancies and the number of candidates from different classes in the offices of the Public Health Department from 24th October 1934.

Name of cadre.	Number of temporary vacancies.	Number of candidates.					
		Advanced classes.	Inter-mediate classes.	Backward classes.			
				Scheduled classes.	Aboriginal and hill tribes.	Other backward classes.	Total.
Marathi linguistic ..	42	21	14	7	..	..	42
Kanarese linguistic ..	42	10	24	1	..	..	35*
Gujarati linguistic ..	25	17	3	..	..	2	22†

*7 vacancies were not filled in.

†3 vacancies were not filled in.

STATEMENT III—*contd.*

Name of cadre.	Number of candidates.				
	Hindus.	Mahomedans.	Christians.	Other communities.	Total.
Marathi linguistic ..	39	1	2	....	42
Kanarese linguistic ..	30	4	1	....	35
Gujarati linguistic ..	20	....	2	....	22

Mr. S. L. KARANDIKAR: Are there only three districts in the Bombay Presidency ?

The Honourable Dr. M. D. D. GILDER: As far as the Public Health Department is concerned, the districts are divided in a different way, on a linguistic basis. They are not coincident with the revenue districts.

Mr. S. L. KARANDIKAR: May I know where Bombay City is included in this linguistic distribution ?

The Honourable Dr. M. D. D. GILDER: I could not tell you straight off, but, as far as I remember, public health is in charge of the Bombay Municipal Corporation in Bombay City.

Mr. S. L. KARANDIKAR: It is not included in any of the districts ?

The Honourable Dr. M. D. D. GILDER: I do not think so.

ENROLMENT OF MEMBERS BY POLITICAL ORGANISATIONS.

*Mr. S. L. KARANDIKAR (Ratnagiri North): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that Police Patels in the Amalner Taluka of the East Khandesh District have been instructed by their superior officers to record the names of Congress members in the villages in their respective charge ;

(b) if so, what are the names of the officers who took initiative in the matter ;

(c) whether Government keep a strict watch on the enrolment of members by political organisations in this Province ;

(d) whether Government have punished or intend to punish those officers who took initiative in this matter ?

The Honourable Mr. K. M. MUNSHI: (a) and (b) In September 1937 certain Police Patels in the Amalner Taluka were asked by the Police Sub-Inspector, Marwad, and his writer to supply the number and names of Congress members. There were no instructions from any superior officers, but the action was taken in the course of ordinary

routine under a mistaken impression as to what was required by the office.

(c) No.

(d) No. Government have since issued a Circular to all officers concerned that it is not necessary to ascertain the names of members enlisted in the Congress or any other political organisation and the attention of the two Police officers concerned has been drawn to this Circular.

Mr. S. L. KARANDIKAR : The concluding portion of the reply to (a) and (b) says that the action was taken in the course of ordinary routine under a mistaken impression as to what was required by the office. Which office is referred to ?

The Honourable Mr. K. M. MUNSHI : From the office of the District Superintendent of Police or any higher office to which the Sub-Inspector was subordinate. There were no instructions from such office.

Mr. S. L. KARANDIKAR : It is clear that something was required by some officer.

The Honourable Mr. K. M. MUNSHI : It is stated in the reply :

"In September 1937 certain Police Patels in the Amalner taluka were asked by the Police Sub-Inspector, Marwad, and his writer to supply the number and names of Congress members."

Mr. S. L. KARANDIKAR : May I know what was required by that officer ?

The Honourable Mr. K. M. MUNSHI : The number and names of Congress members. It is stated in the reply.

Mr. S. L. KARANDIKAR : The answer as printed is :

".....but the action was taken in the course of ordinary routine under a mistaken impression as to what was required by the office."

The subordinate officers misconstrued the directions and collected the names ; is that what it means ?

The Honourable Mr. K. M. MUNSHI : The mistaken impression was of the officer mentioned in the reply and nobody else.

Mr. K. F. NARIMAN : Is it not a fact that this was done under instructions from the previous Government ?

The Honourable Mr. K. M. MUNSHI : No.

Mr. S. V. PARULEKAR : Under instructions from this Government ?

The Honourable Mr. K. M. MUNSHI : Do you expect it ? No.

REINSTATEMENT OF MR. MARATHE IN GOVERNMENT SERVICE.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that one Mr. Ramchandra Purshottam Marathe was serving in the Revenue Department in the Poona District up to the year 1921 ;

(b) whether it is a fact that Mr. Marathe was made to resign his post in the Revenue Department on 4th March 1921 owing to his alleged connection with the non-co-operation movement ;

(c) whether Government are aware of the loss to which Mr. Marathe has been put on account of his compulsory resignation ;

(d) if so, whether Government propose to reinstate him in his former post ?

The Honourable Mr. MORARJI R. DESAI : (a) Yes.

(b) No. He was dismissed for his inefficiency and for consistently disobeying the orders of his superiors despite the warnings given to him.

(c) In view of the circumstances in which he was dismissed this point does not arise.

(d) No.

Mr. S. L. KARANDIKAR : May I know the date or the presumed date on which Mr. Marathe's inefficiency and insubordinate tendency was discovered ?

The Honourable Mr. MORARJI R. DESAI : It was throughout his service, at various times.

Mr. S. L. KARANDIKAR : And still he was continued for a long time ?

The Honourable Mr. MORARJI R. DESAI : That is what it shows. I do not know what it was before 1921.

Mr. S. L. KARANDIKAR : It is not a question of the Honourable Minister's or my knowing. Was he continued in service in spite of insubordination ?

The Honourable Mr. MORARJI R. DESAI : As I have already said, he was given warning several times. When it was found that he had not improved, he was finally dismissed.

Mr. S. L. KARANDIKAR : The exact question is, when was the first warning given ? He was ultimately dismissed in 1921, when the civil disobedience movement was going on. If the first warning was given during that period, it has some significance. Therefore, I want to know the first date when the first warning was given.

The Honourable Mr. MORARJI R. DESAI : I was never asked for all this information. If I had been asked, I should certainly have ascertained when the warnings had been given before 1921.

Mr. W. S. MUKADAM : Written warning or verbal warning ?

ALLEGED GRIEVANCES OF TEMPORARY SERVANTS ON SUB-DIVISIONAL ESTABLISHMENT IN PUBLIC WORKS DEPARTMENT.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Public Works be pleased to state—

(a) whether it is a fact that overseers, assistant engineers and sub-divisional officers are the only officers from the sub-divisional establishment in the Public Works Department who are permanent ;

(b) whether the temporary servants on the sub-divisional establishment are entitled to gratuity, provident fund or pension ;

(c) whether it is a fact that in the year 1932 or thereabout the salaries of the permanent and temporary servants on the sub-divisional establishment were subjected to a cut of 5 and 10 per cent. respectively ;

(d) whether it is a fact that the cut in the salaries of the permanent servants has since been restored while that in the salaries of the temporary servants has not been still restored ;

(e) whether Government propose to restore the cut in the salaries of the temporary servants and also make the temporary servants permanent ?

The Honourable Mr. M. Y. NURIE : (a) Yes.

(b) No. They are not entitled to gratuity or pension which are however granted as a matter of grace in very special cases. They are eligible to subscribe to the provident fund, provided they are likely to continue in service for at least three years.

(c) An emergency cut of 10 per cent. was made in December 1931 in the pay of all Government servants subject to certain exceptions. The cut was reduced to 5 per cent. in April 1933 and was removed in April 1935.

Special orders were issued in the case of temporary establishments in the Public Works Department. Their pay was reduced permanently by 5 per cent. in the case of those drawing Rs. 20 per mensem or less and by 10 per cent. in the case of others.

(d) Yes.

(e) It is not proposed to restore the cut as it was imposed as a permanent measure. The question of bringing regular temporary establishments in the Public Works Department on a permanent footing is under consideration.

Mr. S. L. KARANDIKAR : With reference to (c). It is stated "Their pay was reduced permanently by 5 per cent. in the case of those drawing Rs. 20 per mensem or less and by 10 per cent. in the case of others." Does this Government think that in the case of those drawing Rs. 20 or less per mensem, this reduction was fair ?

The Honourable Mr. M. Y. NURIE : It is a question of circumstances. If there are factors which would allow us to reconsider that question, we would certainly reconsider it.

Mr. S. L. KARANDIKAR : In reply to (e) it is stated that the question is under consideration. May I know the lines on which the consideration is going on ?

The Honourable Mr. M. Y. NURIE : The only consideration could be to make them permanent.

ALLEGED DELAY IN SUPPLYING EXTRACTS FROM RECORD OF RIGHTS.

*Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether revenue stamp is necessary for an application for extracts from the Record of Rights ? If so, of what value ?

(b) what fee has to be paid by the applicant for these extracts ;

(c) whether the full amount of the fee is credited to Government or a part of it ;

(d) if only a part is credited, to whom is the remaining portion paid ;

(e) whether Government are aware that the public is put to great inconvenience and also to monetary loss on account of the talathi not being found in his saza with his records when the applicants visit his place ;

(f) if the answer to (e) is in the affirmative, whether Government have considered the advisability of issuing orders to the talathis directing them to be present in their offices with records at least on particular days during the week and notifying those days to the public ;

(g) whether there is any rule which requires that the applicant must be supplied with extracts of the Record of Rights within a certain period from the date of his application ;

(h) if so, what is that rule ;

(i) whether any complaints were received by the Mamlatdars or other higher Revenue officers in the Kolaba District during the last three years ending with 1936-37 regarding delay in supplying copies of extracts from the Record of Rights ;

(j) what was the income of Government in each year between the period of Revision Settlement and Re-revision Settlement in each taluka of the Kolaba District from fees for extracts of Record of Rights ?

The Honourable Mr. MORARJI R. DESAI : (a) No stamp is necessary for an application for extracts from the Record of Rights, when presented to a village accountant. Such application sent to higher officers is exempt from court-fee when copies of entries in the Record of Rights are required for production in Civil Courts ; otherwise the application requires a court-fee stamp of annas two.

(b) The fees for copies from the Record of Rights are prescribed by rules 142 (a) 4 and 142 (a) 4-A of the Land Revenue Rules, 1921, and are as follows :—

(i) For every certified copy of a serial number (or entry) in the Record of Rights, Register of Mutations, or either part of the combined form V. F. VII-XII—One anna.

(ii) For every certified copy of the whole of the combined form V. F. VII-XII—Two annas.

The above fees are exclusive of the cost of paper (or form).

(c) and (d) The fee, except the cost of the form, is retained by the village accountant in respect of copies of records in his charge. The fees in respect of the copies, the originals of which are in Taluka or Mahal offices, are paid to copyists.

(e) Government are aware that inconvenience and loss are sometimes suffered in this way.

(f) Government do not consider that orders on these lines are possible owing to the size of some talathis' sazas and the many duties which they have to perform. But Government are very anxious that all talathis should live in their sazas and are considering what measures are necessary to bring this about.

(g) The rule is that copies must be granted within 10 days when granted by village accountants and within 15 days when granted by mamlatdars or mahalkaris.

(h) Rule 137 (3) and Administrative Order LI of the Land Revenue Rules, 1921.

(i) The Collector of Kolaba reports that a few such complaints were received.

(j) No income was received by Government.

Mr. R. N. MANDLIK : With reference to part (g), my information is that the rule is not observed. Will inquiries be made ?

The Honourable Mr. MORARJI R. DESAI : If specific instances are pointed out to me, I shall certainly make enquiries.

GRIEVANCES OF ACCUSED IN POLICE LOCK-UPS IN KOLABA DISTRICT.

*Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) what is the number of Police lock-ups in the Kolaba District and where are they situated ;

(b) what is the length, breadth and height of each cell in these lock-ups ;

(c) whether any rules have been made as regards the number of persons that should be kept in each cell by day-time and at night ;

(d) what are the dimensions of space prescribed for each prisoner according to Jail Manual ;

(e) whether the same space is allotted to each inmate of the Police lock-up ? If not, why it is not so allotted ;

(f) what are the monthly figures for the last three years of the inmates (accused and convicted) of the Police lock-ups at the several taluka places in the Kolaba District ;

(g) what is the largest number kept in the cell on a single day in each month ;

(h) what is the daily allowance paid to an inmate of the Police lock-up in the Kolaba District ?

The Honourable Mr. K. M. MUNSHI : (a) There are nine Police lock-ups in this district and they are situated at the following places :—

1. Poinad in Alibag Taluka.
2. Ulva in Panvel Taluka.
3. Khalapur in Karjat Taluka.
4. Khopoli in Karjat Taluka.
5. Matheran in Karjat Taluka.
6. Kolad in Roha Taluka.
7. Nizampur in Mangaon Taluka.
8. Tala in Mangaon Taluka.
9. Poladpur in Mahad Taluka.

(b) The requisite information is given in Statement "A".

(c) Under the rules the number of prisoners kept in a Police lock-up must not exceed the number for which there is sleeping accommodation, which is calculated at 7 feet by 4 feet surface area of the floor of the cell. This number is not to be exceeded at night but it may be exceeded in the day-time as a temporary measure for one day only in case of real necessity, provided an area of at least 12 square feet on the floor of the cell is allowed for each prisoner.

(d) The minimum space prescribed for a prisoner in a jail is 75 square yards by day. In a sleeping barrack it is 40 square feet and 560 cubic feet.

(e) No. Undertrial prisoners are as a rule not detained in police custody for more than 24 hours without being produced before a Magistrate, when they are usually remanded into jail custody.

(f) There are no police lock-ups at taluka Headquarters in the Kolaba District.

(g) Statement "B" gives the required information.

(h) Five annas at all the Police lock-ups except those at Khalapur, Khopoli and Matheran where the rate is six annas.

Statement "A".

Police Lock-up.	Length.	Breadth.	Height.
<i>Poinad.</i>			
3 rooms each measuring	10'-0"	9'-0"	8'-0"
<i>Ulva.</i>			
One room	11'-0"	11'-0"	12'-0"
<i>Khalapur.</i>			
One room	9'-2"	11'-0"	9'-5½"
<i>Khopoli.</i>			
One room	10'-0"	10'-0"	12'-0"
<i>Matheran.</i>			
One room	16'-10"	9'-10"	17'-2"
<i>Kolad.</i>			
One room	12'-0"	10'-0"	11'-6"
<i>Nizampur.</i>			
One room	15'-9"	9'-7"	11'-1"
<i>Tala.</i>			
One room	10'-0"	9'-7"	10'-4"
<i>Poladpur.</i>			
One room	10'-6"	10'-6"	11'-6"

Statement "B".

	Poi- nad.	Ulva.	Khala- pur.	Kho- poli.	Mathe- ran.	Kolad.	Nizam- pur.	Tala.	Polad- pur.
January	.. 2	..	..	..	..	..	..	..	1
February	.. 3	..	..	..	1	2	..	..	..
March	.. 1	..	..	..	..	1	..	..	..
April	.. 1	..	..	..	..	1	..	..	..
May	.. 1	..	..	..	..	..	..	..	1
June	.. 3	..	..	..	..	..	..	..	1
July	.. 3	..	..	..	..	..	..	..	1
August	.. 2	..	..	..	..	1	..	..	..
September	.. 5	..	..	..	..	1	..	..	..
October	.. ..	..	..	..	1	..	..	..	..
November	.. 1	..	..	..	1	1	..	..	4
December	.. 1	..	..	..	..	1	..	..	..

Mr. R. N. MANDLIK : In reply to part (a) of the question, 9 police lock-ups have been mentioned ; and in reply to (f) it is stated that there are no police lock-ups at taluka headquarters in the Kolaba district. What is the position then with regard to the keeping of under-trial prisoners in taluka places ?

The Honourable Mr. K. M. MUNSHI : The reply to (f) contains the fact : there are no places.

Mr. R. N. MANDLIK : Where are the under-trial prisoners kept in taluka places ?

The Honourable Mr. K. M. MUNSHI : I require notice.

Mr. R. N. MANDLIK : With reference to (e). What is meant by "jail custody" in a taluka place in the Kolaba district, where there are no jails ?

The Honourable Mr. K. M. MUNSHI : Is the question "Where are they kept" ?

Mr. R. N. MANDLIK : Yes.

The Honourable Mr. K. M. MUNSHI : I require notice.

Mr. R. N. MANDLIK : With regard to (h) : five annas are given to inmates of the police lock-ups. What is the amount given to the prisoners at the taluka places ?

The Honourable Mr. K. M. MUNSHI : I must have notice.

The Honourable the SPEAKER : May I invite attention to clause (d) of the reply :

"The minimum space prescribed for a prisoner in a jail is 75 square yards by day."

Is it a misprint for "75 square feet" ?

The Honourable Mr. K. M. MUNSHI : It may be a misprint ; I shall have to ascertain.

MINIMUM WAGE FOR INDUSTRIAL AND OTHER WORKERS
IN THE PROVINCE.

*Mr. JAMNADAS M. MEHTA (Railway Unions): Will the Honourable the Prime Minister be pleased to state—

(a) Whether Government have considered the advisability of taking up for immediate consideration and early decision the question of fixing the minimum wage for industrial and other workers in the Province of Bombay;

(b) whether Government, as the largest employer of Labour, propose to set an example to other employers by fixing a minimum wage for their own employees?

The Honourable Mr. B. G. KHER: (a) The attention of the Honourable Member is invited to the extracts from the Press Note No. P-205, dated the 17th August 1937, regarding Government's policy in respect of the industrial worker which are placed on the Assembly Table.

(b) Government are carefully considering this question.

Extracts from the Press Note No. P-205, dated the 17th August 1937, regarding the Government policy in respect of the industrial worker.

Government are examining the possibility of devising measures for setting up minimum wage fixing machinery to meet special requirements,.....With regard to industries and industrial centres which fail to provide a living wage to the employees, Government have decided to institute exhaustive enquiries with a view to determining how far wages in these cases fall short of the minimum budgetary needs of the workers, to discover what circumstances are responsible for the inadequacy and to ascertain the ways and means of improving wages to a satisfactory level.

* * * * *

Government are also considering the practicability of legislation enabling the general application in any centre of industry of suitable standards of pay and other conditions of work regarding which there is found to be agreement between substantial and representative section of the employers and the employees of a particular centre.

* * * * *

Mr. JAMNADAS M. MEHTA: Are we to understand that Government are today where they were on the 17th August, in this respect?

The Honourable Mr. B. G. KHER: Sir, may I rise to ask for a ruling on a point of procedure? Is it possible for the Parliamentary Secretaries in charge of the different subjects to answer questions? I know that the point is of some importance. It is allowed usually in the House of Commons. As I expected to be in the other House, I wished to raise this question for the Speaker's decision. I believe in the House of Commons it is part of the duties of Parliamentary Secretaries to answer questions. But before I asked the Parliamentary Secretary to answer questions, I thought the best course was to raise this question myself and get a ruling.

Mr. JAMNADAS M. MEHTA: I have not the least objection to the Parliamentary Secretary answering the supplementary questions.

The Honourable Mr. B. G. KHER: It is a question for the whole House.

The Honourable the SPEAKER : The House of Commons Procedure is that the Parliamentary Secretary can answer the questions even when the Minister is present. If his authority is challenged in the House, it is enough if the Parliamentary Secretary makes a declaration that he has the authority delegated to him by the Minister.

Mr. JAMNADAS M. MEHTA : May I inform you that in the Delhi Assembly, it is not obligatory on the Member personally to answer ? Any of his departmental Secretaries are able to answer on his behalf, because the departmental Secretary has even greater knowledge of the details than the Member. But it is necessary for this that he should be a nominated member of the Assembly. I have not the least objection to the honourable member Mr. Nanda answering my questions.

The Honourable Mr. B. G. KHER : I raised the point because this is the first time that the procedure is to be laid down. I knew what the parliamentary procedure is, but I thought that a ruling might be taken before a precedent was set up here.

Mr. GULZARI LAL NANDA : I hope that the honourable member is aware that considerable advance has been made in this direction already. I hope he is aware that Government have already appointed a committee to enquire into the question of wages in the textile industry, and among the terms of reference to that committee is the question of establishing a minimum wage. That is for one industry, and to cover the question generally, the type of legislation to be adopted is under investigation and I hope legislation will be brought up at an early date.

Mr. JAMNADAS M. MEHTA : What is the use of Government telling us that they are hoping ?

The Honourable the SPEAKER : The honourable member may put any supplementary question, but there should be no comments.

Mr. JAMNADAS M. MEHTA : The question is this. He is offering hopes ; it is not hope that I want, but knowledge. Will the honourable member enlighten me on the question ?

Mr. GULZARI LAL NANDA : The answer is that the matter is being investigated ; the pace is an uncertain matter.

Mr. JAMNADAS M. MEHTA : Is the honourable member aware that the committee only refers to the textile industry ? My question relates to all the industries. Has any step been taken in connection with other industries also ?

Mr. GULZARI LAL NANDA : A very influential committee has been appointed to look into the question of the minimum wage in the textile industry. That committee will collect information on the subject, will go into the principle of the question, and will bring to Government helpful conclusions which will enable them to proceed in other directions.

Mr. JAMNADAS M. MEHTA : In the meantime, the other industrial workers will have to wait. Is that correct ?

Mr. GULZARI LAL NANDA : Yes.

Mr. JAMNADAS M. MEHTA : I am getting no answer, Sir.

Mr. GULZARI LAL NANDA : If the textile workers can wait, the others also can wait.

Mr. JAMNADAS M. MEHTA : Then, Sir, may I invite attention to the fact that my question refers to "industrial and other workers". The statement of Government's policy, which is given as a reply, only refers to industrial workers. What is their attitude as regards the others ?

Mr. GULZARI LAL NANDA : The entire question is under consideration.

Mr. S. V. PARULEKAR : Are Government aware that conditions and wages in other industries are worse than in the textile industry ?

Mr. GULZARI LAL NANDA : Not invariably.

Mr. S. H. JHABVALA : Will Government be pleased to say what they themselves understand by "minimum wage ?"

Mr. GULZARI LAL NANDA : The committee will answer that question.

Mr. S. H. JHABVALA : May I know if Government with the clearest of conscience say that they believe that those who are starving on account of the fact that they are getting below the minimum wage should continue in their present state any longer ?

Mr. GULZARI LAL NANDA : Of course they should not continue. But hasty action in this matter may possibly make their lot worse.

Mr. S. H. JHABVALA : May I know whether the principal thought in your mind between the 17th of August and the 12th of January—that is well nigh six months—should not be the sufferings of people who have been starving because they have not been getting the minimum wage ?

The Honourable the SPEAKER : Order, order. That is hardly a question.

Mr. S. D. SAKLATVALA : I want to know what other industries are being enquired into after the enquiry into the textile industry is completed ?

Mr. GULZARI LAL NANDA : All industries.

Mr. S. D. SAKLATVALA : Do you mean all industries in the Presidency of Bombay or only in the City of Bombay and does it include agricultural industry ?

Mr. GULZARI LAL NANDA : We are concerned with the industries in the whole Presidency, and the meaning of the word "industry" is well understood.

Mr. S. H. JHABVALA : Will Government give some hazy idea—even hazy idea will do—as to the way in which they have advanced, beyond appointing a Committee, to investigate the matter ?

Mr. GULZARI LAL NANDA : It is not possible. The whole question is being investigated.

Mr. S. H. JHABVALA : Am I to understand that the workers should wait till the decisions of that Committee are arrived at ?

Mr. GULZARI LAL NANDA : Yes.

Mr. ALI BAHADUR BAHADUR KHAN : Will Government inform if they have already started an enquiry in the case of other industrial workers ?

Mr. GULZARI LAL NANDA : Government have started investigations.

Mr. S. H. JHABVALA : May I know whether Government are adopting western methods or apt methods adaptable to our country for making investigations ?

Mr. GULZARI LAL NANDA : Government are adopting the correct methods.

Mr. JAMNADAS M. MEHTA : Have Government any special consideration—special responsibility—for question (b) ?

Mr. GULZARI LAL NANDA : The answer is there.

Mr. JAMNADAS M. MEHTA : I am asking whether Government are giving any special attention to this question in view of their themselves being the largest employers ?

Mr. GULZARI LAL NANDA : That depends upon what you mean by "special".

Mr. JAMNADAS M. MEHTA : I would like to know whether their case is being considered separately and now ; because the responsibility is on the Government and they have not to consult anybody.

Mr. GULZARI LAL NANDA : That matter is being enquired into still and, therefore, no conclusions have been arrived at.

Mr. S. H. JHABVALA : Are Government aware that on behalf of the Government peons, not less than six months ago, a complete and exhaustive enquiry was placed before Rao Saheb, that gentleman,—I forget his name—the Honourable Mr. Latthe ? Are they still considering the matter even though six months have passed ?

Mr. GULZARI LAL NANDA : We are considering the complicated nature of the question.

Mr. S. H. JHABVALA : Does the Parliamentary Secretary think that the submission made by the Peons' Union is so very unimportant or insignificant that no practical measures could be taken so far ?

Mr. GULZARI LAL NANDA : No.

Mr. S. H. JHABVALA : Are Government aware that so far as that Union is concerned, particular cases of injustice were brought to the notice of Government, and yet while replying to my honourable friend Mr. Jamnadas Mehta Government stated that they are considering the question ?

Mr. GULZARI LAL NANDA : The whole question is under consideration.

Mr. S. V. PARULEKAR : Are Government aware that the minimum wage in the Government Central Press, Bombay, is Rs. 12 per month?

Mr. GULZARI LAL NANDA : No minimum wage as such has been fixed by any legislation or any other measure.

Mr. S. V. PARULEKAR : Are Government aware that the lowest wage which the workers get in the Government Central Press is Rs. 12 ?

Mr. GULZARI LAL NANDA : I would like notice of the question, but so far as I know, I think it is higher than Rs. 12.

Mr. S. V. PARULEKAR : Are these Press workers to wait till the report of the Textile Enquiry Committee is published ?

Mr. GULZARI LAL NANDA : That matter is being dealt with separately.

Mr. ALI BAHADUR BAHADUR KHAN : Will Government inform whether any interim recommendations have been made by the Textile Enquiry Committee ?

Mr. GULZARI LAL NANDA : Not yet.

Mr. R. A. KHEDGIKAR : In how many industries the investigations are going on ?

Mr. GULZARI LAL NANDA : Almost all.

Mr. R. A. KHEDGIKAR : Does it include *charkha* also—the workers who are working on *charkhas* ?

Mr. GULZARI LAL NANDA : No.

FORMATION OF AN ASSOCIATION IN GUJARAT FOR KEEPING DOWN PRICES OF COTTON.

*Mr. MUSAJI E. PATEL (Broach Sub-Division) : Will the Honourable the Prime Minister be pleased to state—

(a) whether Government are aware that the owners of cotton ginning factories in Gujarat have formed an association with the object of keeping down the price of cotton ;

(b) whether Government are aware that consequently the cultivators in Gujarat are put to material loss ;

(c) if the answers to (a) and (b) are in the affirmative, whether Government have considered the advisability of checking the activities of the said association ?

Mr. GULZARI LAL NANDA : (a) In one District in Gujarat associations or "pools" have been formed among the factory owners (i) to fix the charges for ginning and pressing and (ii) to fix rates at which kapas is to be bought ;

(b) the cultivators must necessarily suffer where such associations have been formed ;

(c) Yes ; the matter is however fraught with very great difficulties, but if the Honourable Member has any suggestions to make Government will consider them.

Mr. MUSAJI E. PATEL : Supplementary to (a). May I know which is that unfortunate district in Gujarat ?

Mr. G. L. NANDA : Surat.

Mr. MUSAJI E. PATEL : If the Government know that there are pools or associations of factory owners in Surat, have Government given very serious thought to this very lamentable aspect in the cotton trade ?

Mr. G. L. NANDA : The question has not been considered.

Mr. MUSAJI E. PATEL : Have Government not got their own suggestions to make in the matter ?

Mr. G. L. NANDA : Government have not considered this question.

Mr. MUSAJI E. PATEL : Do Government expect me to make suggestions on the floor of the House or later on ?

Mr. G. L. NANDA : You can send them in due course.

Mr. MIRZA AKHTAR HASAN : Are Government aware that prices of cotton are mainly controlled by the speculating associations in Bombay ?

Mr. G. L. NANDA : I do not think the question arises.

Khan Saheb FAIZ MAHAMADKHAN : Is there any public market for the sale of cotton ?

Mr. G. L. NANDA : No.

Khan Saheb FAIZ MAHAMADKHAN : Will Government consider establishing a public market so that the agriculturists can come and sell their cotton to the dealers direct instead of through the Gin and Press owners ?

Mr. G. L. NANDA : We will consider the suggestion. Sir, I just want to make one correction. I said in replying to a supplementary question asked by the honourable member Mr. Musaji Patel that the district was Surat. It should have been stated that the district was Broach, not Surat.

CLAIM FOR ADEQUATE COMPENSATION TO VILLAGE PATELS.

*Mr. MUSAJI E. PATEL (Broach Sub-Division) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that the work of collecting land revenue is mainly done by the village patels ;

(b) whether Government are aware that this work of collecting land revenue is an onerous work ;

(c) whether Government are aware that the village patels are not sufficiently paid for doing this work ;

(d) if the answers to the above questions are in the affirmative, what steps Government propose to take in the matter ?

The Honourable Mr. M. R. DESAI : (a) No. The duty of the patel is to help the village accountant in the collection of revenue.

(b), (c) and (d) The attention of the Honourable Member is invited to the reply given to Rao Bahadur Navle's question on the emoluments of village patels on page 477 of volume XII of the Bombay Legislative Council Debates.

ALLEGED GRIEVANCE OF AGRICULTURISTS IN FOREST VILLAGES
IN THANA DISTRICT.

*Mr. G. K. PHADAKE (Thana South) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that the agriculturists residing in forest villages in the Thana District had at one time the privilege of removing the branches of trees from the forest coupes at the time of cutting operations ;

(b) whether it is a fact that this privilege has been discontinued for some years past ;

(c) if the answers to the above questions are in the affirmative whether Government propose to restore the privilege to the agriculturists concerned ?

The Honourable Mr. MORARJI R. DESAI : (a) The inhabitants of the forest villages in the Thana District have long been enjoying the privilege of removing material felled or lopped of less than 6" in circumference, grass, reeds, leaves, etc., except bamboos and palms, from coupes under exploitation, for rab, domestic and agricultural purposes.

(b) No.

(c) Does not arise.

Mr. G. K. PHADAKE : Are Government aware that the forest contractors themselves utilise the materials, thus nullifying the privileges given to the villagers ?

The Honourable Mr. MORARJI R. DESAI : I am not aware.

Mr. G. K. PHADAKE : Will the Honourable Minister be pleased to enquire into the matter ?

The Honourable Mr. MORARJI R. DESAI : Certainly.

Mr. G. K. PHADAKE : Will the Honourable Minister be pleased to issue orders disallowing the contractors to use this material, if my information is correct ?

The Honourable Mr. MORARJI R. DESAI : If you will write to me in due course, I shall certainly do all that is needful.

IMPROVEMENTS TO BRIDGE OVER A RIVULET PASSING BETWEEN
MUNICIPAL GORIKAL NAKA OF BHATKAL AND MUNDALLY
VILLAGE IN KARNATAK.

*Mr. I. H. SIDDIQUI (Kanara District) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware of the existence of a dilapidated bridge over a rivulet passing between the Municipal Gorikal Naka of Bhatkal and the Mundally village ;

(b) whether any repairs were made to the bridge since its construction ;

(c) how many accidents in which loss of lives was caused took place on account of the bad condition of the bridge since 1921 ;

(d) whether Government have considered the advisability of making improvements to the bridge for the safety of human lives and convenience of the increasing traffic ;

(e) if so, with what result ?

The Honourable Mr. L. M. PATIL : (a) There are two crossings to the village Mundally. One is a masonry bridge called the " Tipu Sultan Bridge " which is in quite good condition, while the other is an old crossing between Municipal Gorikal Naka and the Mundally Village. Presumably the Honourable Member refers to this latter crossing, which is now in a completely ruined condition and is very unsafe. This crossing is used by villagers as the road across it is shorter than the one by the Tipu Sultan Bridge.

(b) No repairs appear to have been carried out, as none are possible.

(c) Some accidents seem to have occurred to persons trying to cross the nalla in high floods. The number is not ascertainable.

(d) No repairs can possibly be carried out as there is practically no bridge at the site, except remnants of the old foot-bridge built of stone posts and stone slabs.

(e) The question does not arise.

Mr. I. H. SIDDIQUI : Supplementary to (e). If no repairs can be carried out, is it not desirable to construct a new bridge for the safety of human lives and for the convenience of the increasing traffic when we know that the crossing is much used and that it is also a shorter way ?

The Honourable Mr. L. M. PATIL : It is not possible for Government to do so. And it is also not necessary because there is already a sound bridge which is called Tipu Sultan bridge.

Mr. MIRZA AKHTAR HASAN : Is it the usual practice of Government in matters of repairs ?

The Honourable Mr. L. M. PATIL : No question of repairs arises in this case because there is no bridge at all.

Mr. MIRZA AKHTAR HASAN : My question is supplementary to (d). I want to know whether it is the usual practice of Government in matters of repairs.

The Honourable Mr. L. M. PATIL : Here, in this particular case, it is not possible to make any repairs because there is no bridge. It is only a debris of stones and mortar.

Mr. ALI BAHADUR BAHADUR KHAN : May I know the meaning of " remnants of the old foot-bridge " ? Can they not be improved ?

The Honourable Mr. L. M. PATIL : They cannot be improved. There is not a bridge. It is only a debris of stones and mortar.

Mr. K. F. NARIMAN : If it is unsafe, is it not advisable to close it ?

The Honourable Mr. L. M. PATIL : There are hundreds and hundreds of crossings which are full of dangers to the villagers when they tread them, and it is not possible for Government to prohibit people from treading such crossings. There is no question of closing because there is no bridge.

Mr. MIRZA AKHTAR HASAN : Are the repairs to bridges and roads done from the point of view of expenditure or from the point of view of public interest ?

The Honourable Mr. L. M. PATIL : From the point of view of public interest.

Mr. MIRZA AKHTAR HASAN : With regard to (b), was any representation made by the people with reference to this ?

The Honourable Mr. L. M. PATIL : As far as I know, no representation has been made.

Mr. MIRZA AKHTAR HASAN : Did any official inspection report recommend repairs to this bridge ?

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

Mr. MIRZA AKHTAR HASAN : With regard to (c), is no record of deaths by accidents kept by the police ?

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

Mr. MIRZA AKHTAR HASAN : Shall I take it that no inquests are held on accidental deaths in that area ?

The Honourable Mr. L. M. PATIL : I have not followed the honourable member's question.

Mr. MIRZA AKHTAR HASAN : Is the hospital keeping any records of patients treated for accidental injuries ?

The Honourable Mr. L. M. PATIL : There must be records in the hospital but we have not got complete information in the matter.

Mr. MIRZA AKHTAR HASAN : May I know the reason why the information is not available ?

The Honourable Mr. L. M. PATIL : If the honourable member wants detailed information, I want notice.

ALLEGED HARASSMENT OF AN AGRICULTURIST OF VILLAGE
BADARKHA (PARA) IN DHOLKA TALUKA BY TALATI.

*Mr. ISHWARLAL KALIDAS VYAS (Ahmedabad South) : Will the Honourable the Revenue Minister be pleased to state—

(a) whether it is a fact that on or about the 1st April 1937, the talati of the village Badarkha (para) in Dholka taluka of Ahmedabad district, had gone to the house of an agriculturist by name, Deva Varsang, to recover certain tagavi dues from him ;

(b) whether Government are aware that the said talati locked the door of the agriculturist's house and confined his wife therein for more than 24 hours in order to recover the tagavi dues ;

(c) whether Government are aware that the woman was released next day by one Dayabhai Manorbhai Patel of the Dholka Taluka Samiti by breaking open the door of the house ;

(d) if the answers to the above questions are in the affirmative, what action, if any, have Government taken or propose to take against the talati to prevent the recurrence of similar incidents of harassment of the agriculturists at the hands of the subordinate revenue officers ?

The Honourable Mr. MORARJI R. DESAI: (a) Yes.

(b) and (c) Government are informed that about 11 a.m. the talati illegally affixed a padlock to the house in token of attachment of the moveable property while Deva's wife and infant son were in the house. The lock was removed at 8-30 p.m. by the jividar in the presence of the talati, but the door was again closed by some people from Badarkha till it was broken open the following morning by the person mentioned in the question.

(d) A departmental inquiry has been held. The talati has been fined Rs. 25 and his pay has been reduced from Rs. 40 to Rs. 35 per mensem.

LEVY OF OCTROI BY DISTRICT LOCAL BOARD, RATNAGIRI.

*Mr. P. W. WAGH (Ratnagiri South): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that by Government Resolution, General Department, No. 182, dated 25th July 1929, Government directed the Commissioner, Southern Division, to sanction the proposals of the District Local Board, Ratnagiri, regarding the levy of octroi, as an experimental measure ;

(b) whether it is a fact that according to the orders contained in that Government Resolution the levy of octroi by the said Board was, in the first instance, to remain in force for a period of three years only ;

(c) whether Government are aware that the recommendations of the Taxation Enquiry Committee appointed by the Government of India are against the imposition of octroi duty or terminal tax by local bodies ;

(d) if so, whether those recommendations were taken into consideration by Government, before they issued the orders contained in the Government Resolution, General Department, referred to above ?

The Honourable Mr. L. M. PATIL: (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes.

Mr. P. W. WAGH: With regard to the answer to (c), why did then Government issue orders authorising the Ratnagiri district local board to impose octroi duty against the recommendation of the Taxation Enquiry Committee ?

The Honourable Mr. L. M. PATIL : The Government did not accept the recommendation of the Taxation Enquiry Committee in view of the difficulty of finding other sources of revenue for Ratnagiri District Local Board.

Mr. D. W. RAUT : Why was the Bill published ? Was it not against the recommendation of the Taxation Enquiry Committee ?

The Honourable Mr. L. M. PATIL : I have not followed the question.

Mr. D. W. RAUT : The Bill authorising the levy of octroi was published. Was it against the recommendation of the Taxation Enquiry Committee ?

The Honourable Mr. L. M. PATIL : The Bill does not empower the district local boards to levy octroi duty but only tries to solve practical difficulties in collection of octroi.

Mr. G. K. PHADAKE : Does the amendment suggested use the word " octroi " after the word " toll " ?

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

EXTENSION OF FRANCHISE TO CERTAIN CLASSES OF PEOPLE.

*Mr. P. W. WAGH (Ratnagiri South) : Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that in 1929, Mr. H. V. Pataskar, the then M.L.C., had introduced a Bill further to amend the Bombay Local Boards Act, 1923, with a view to extend the franchise to certain classes of people, viz., to people who own in that taluka or district a certain amount of house property, to persons who do not own any such property but who pay income-tax and to people who possess educational qualifications within that taluka ;

(b) whether it is a fact that the Bill was thrown out on the ground that it violated the principle underlying the Bombay Local Boards Act, 1923, viz., " no representation without taxation " ;

(c) whether it is a fact that in opposing the first reading of the Bill, Government stated that the persons referred to in (a) did not contribute in any way to the local fund cess or did not pay any kind of tax imposable by District Local Boards under section 99 ;

(d) whether it is a fact that octroi duty is imposed by a District Local Board under section 99 ;

(e) whether it is a fact that octroi duty is being levied by the District Local Board, Ratnagiri, for the last seven years ;

(f) if the answers to the above questions are in the affirmative, what are the reasons for not extending the franchise to all classes of the public ?

The Honourable Mr. L. M. PATIL : (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes.

(e) Yes.

(f) The reasons are as under :—

(1) Octroi has been specifically excluded as a qualifying tax [*vide* old sections 15 (1) (c) and 15 (2) (c) of the Bombay Local Boards Act].

(2) Income tax is not a local tax qualifying a person to vote at elections of members of District and Taluka Local Boards.

(3) Under old section 15, franchise was not granted to persons possessing educational qualifications.

It is also pointed out that in the list of the qualifications of voters laid down in old section 15, residence in a constituency is a qualification required of all voters [*vide* old sections 15 (1) and 15 (2)].

The franchise under the Local Boards Act was revised last year after a prolonged debate in the Bombay Legislative Council and the present condition of affairs as regards franchise is the result of the considered decision of the legislature only recently made. Government is not any longer concerned with statements of principles of enfranchisement relating to an earlier period, such as that referred to in clause (b) of the question:

ALLEGED EVILS OF LEVY OF OCTROI DUTY BY RATNAGIRI
DISTRICT LOCAL BOARD.

*Mr. P. W. WAGH (Ratnagiri South): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that since the imposition of octroi by the District Local Board, Ratnagiri, there has been a conflict of interests between the Ratnagiri Municipality and Ratnagiri Notified Area Committee on the one hand and the District Local Board, Ratnagiri, on the other ;

(b) whether Government are aware that as a result of this conflict of interests, the trade from Municipal towns in Ratnagiri District has been directed to rural areas and in some cases there has been double taxation ;

(c) whether it is a fact that in 1931, the Commissioner, Southern Division, brought these evils to the notice of Government and suggested that a joint Octroi Board of all the Local Bodies in the Ratnagiri District should be formed to remedy the evils ;

(d) whether it is a fact that in 1934 a new section 46 (1-A) was accordingly added to the Bombay Local Boards Act, 1923, with the object of enabling a district local board to enter into an agreement with two or more local bodies ;

(e) whether it is a fact that no joint Octroi Board of the local bodies in the Ratnagiri District has been so far formed ;

(f) if so, what steps have Government taken to remedy the evil ;

(g) whether Government have instructed the District Local Board, Ratnagiri, to remedy the evil ?

The Honourable Mr. L. M. PATIL : (a) The President of the Ratnagiri Municipal Borough and the Chairman of the Notified Area Committee, Rajapur, state that there has so far been no conflict of interests between these bodies and the District Local Board, Ratnagiri, in consequence of the levy of octroi by the latter.

(b) This does not really arise in view of the reply to (a). The Presidents of the Malvan and Vengurla Municipalities, however, consider that the trade of the towns has been affected. There has been double taxation in the sense that a terminal tax has to be paid to the municipalities when goods are imported in the municipal limits and octroi to the District Local Board when they are exported from municipal limits to the District Local Board area.

(c) Yes.

(d) Yes. The amendments made in the Bombay Local Boards Act, 1923, and the Municipal Acts by Bombay Act No. XIV of 1934 enable the local bodies in a district to enter into an agreement for the joint levy of octroi in the district.

(e) Yes. The law as it stands at present does not allow the establishment of a *separate* and *independent* octroi board on which *all* local bodies in the district can be represented. The local bodies in the Ratnagiri District are either not willing to join in any scheme for joint octroi or are only willing to do so provided the management is entrusted to a Joint Octroi Board representing all the parties concerned.

(f) and (g) The question of legislation for the establishment of a separate and independent Joint Octroi Board is at present under consideration.

LEVY OF OCTROI BY DISTRICT LOCAL BOARD, RATNAGIRI.

*Mr. P. W. WAGH (Ratnagiri South): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether the attention of Government has been drawn to the High Court decision in 38 B.L.R. p. 790 to the effect that the Bombay District Local Boards Act, 1923, requires immediate amendment so far as the provisions of section 99 of that Act, empowering or authorizing a district local board to impose certain taxes, are concerned;

(b) whether the former Bombay Legislative Council ever considered an amendment of that section;

(c) whether it is a fact that the levy of octroi in the Ratnagiri District is being extended by Government from time to time under that section;

(d) whether Government had ever called for or asked the District Local Board, Ratnagiri, to call for the objections from the public to the levy of octroi after the experimental period of three years was over;

(e) whether Government are aware that the public of Ratnagiri have been protesting against the levy of octroi by the District Local Board, Ratnagiri?

The Honourable Mr. L. M. PATIL: (a) Yes.

(b) No such amendment of section 99 of the Bombay Local Boards Act has been considered by the former Bombay Legislative Council.

(c) Yes.

(d) No.

(e) Some expressions of disapproval have been uttered by various sections of the population of the district.

LEVY OF OCTROI BY RATNAGIRI DISTRICT LOCAL BOARD ON
SUBJECTS OF NOTIFIED AREA COMMITTEES.

Mr. P. W. WAGH (Ratnagiri District): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that the District Local Board, Ratnagiri, has been attaching goods on board the ships and before they are landed ;

(b) whether Government are aware that the said District Local Board has been levying octroi on the subjects of Notified Area Committees in the District ;

(c) whether it is a fact that the said District Local Board had given an undertaking to Government in 1928 that it would not levy octroi on goods passing through and intended for consumption within the limits of the Notified Area Committees of the District ?

The Honourable Mr. L. M. PATIL: (a) The Board has refrained from seizing goods on board ships since the time the High Court's judgment declaring such seizure to be *ultra vires* was brought to its notice.

(b) The Board levies only the difference between the local board rate of octroi and the rate of octroi or terminal tax of the Notified Area Committees where the Board's rate is higher than that of the Notified Area Committee. Where it is lower the recovery of the tax is left to the Notified Area Committee concerned.

(c) No such undertaking was given by the District Local Board.

Mr. P. W. WAGH: With regard to the reply to (a), is it not high-handedness on the part of the district local board to attach goods on board ships and before they are landed ?

The Honourable the SPEAKER: The question is out of order.

UNSTARRED QUESTIONS AND ANSWERS.

EXPENDITURE OVER EDUCATION OF SCHEDULED CASTES AND OF
MOHAMEDANS.

Mr. R. R. BHOLE (Poona District): Will the Honourable the Prime Minister be pleased to state the amount spent by Government on the education of the scheduled castes and of Mohamedans during the years 1935-36 and 1936-37 respectively ?

The Honourable Mr. B. G. KHER: Of the 165,580 Muhammadan pupils under instruction in recognised institutions, 115,000 or 69·5 per cent. attend institutions specially intended for them, while 50,580 or 30·5 per cent. attend ordinary educational institutions. Similarly, of the 75,792 pupils of the Scheduled classes, only 16,589 or 21·9 per cent. attend the 431 separate schools maintained for them, while a very large majority, viz., 59,203 or 78·1 per cent. attend common schools. As the expenditure on common schools and on schools maintained for certain special classes and communities is lumped together in the statistical returns, it is not possible to give separately the amount spent by Government on the education of these communities. The attention of the Honourable Member for Poona District is, however, invited to paragraphs 147, 184 and 185 of the Report on Public Instruction in the Bombay Presidency, 1935-36.

MOHOMEDAN DISTRICT INSPECTORS, ASSISTANT INSPECTORS AND
CLERKS IN THE LAND RECORDS DEPARTMENT.

Mr. SHAIKH MOHAMAD HASAN (East Khandesh District): Will the Honourable Minister for Revenue be pleased to state the number of Mohomedan District Inspectors, Assistant Inspectors and clerks respectively in the Land Records Department of the Province of Bombay?

The Honourable Mr. MORARJI R. DESAI: There are six Mahomedan clerks in the Land Records Department, but no Mahomedan District Inspector or Assistant Inspector of Land Records. There are five Mahomedans, in addition, working as Surveyors in the Land Records Department.

DIFFERENCE IN STATUS OF A SUB-INSPECTOR AND A SERGEANT IN
BOMBAY CITY.

Mr. D. K. KUNTE (Kolaba District): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

- (a) what is the lowest grade of a Police Officer in the City of Bombay;
- (b) whether there is any difference in the rank of a Sub-Inspector and that of a Sergeant;
- (c) whether both of them belong to the same rank and enjoy the same privileges;
- (d) what is the pay of a Sub-Inspector and a Sergeant respectively;
- (e) whether there is any difference in their pay;
- (f) if so, what is the reason for the same?

The Honourable Mr. K. M. MUNSHI: (a) The lowest grade is that of a Constable.

(b) and (c) They are of equal rank and are vested with the same powers, functions and privileges.

(d) and (e) The scale of pay of a Sub-Inspector is Rs. 125—5—200 and that of a Sergeant Rs. 200—5—250.

(f) The difference in pay is due to the fact that the cost of living and of education of children, in case of Europeans, is higher.

APPLICATION OF OLD SCALE OF PAY TO POLICE OFFICERS
APPOINTED AFTER 1930.

Mr. D. K. KUNTE (Kolaba District): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

- (a) whether it is a fact that Government have passed a resolution fixing a lower scale of pay for all Police Officers who joined the Police force after 1930;
- (b) whether it is a fact that in spite of this resolution all appointments after 1930 have been made on the old, i.e., the higher scale of pay subject to the sanction of Government;
- (c) whether it is a fact that ever since 1931, these new officers have been drawing the old, i.e., the higher scale of pay;
- (d) if so, what is the reason for giving them higher scale of pay, in spite of the said Government resolution;
- (e) whether Government propose to continue the old scale of pay even now?

The Honourable Mr. K. M. MUNSHI : (a) A lower scale of pay has been fixed only for new entrants to the cadre of Deputy Superintendents of Police i.e., those appointed on or after 4th August 1931.

(b), (c) and (d) No Deputy Superintendent of Police appointed on or after 4th August 1931 has been given the benefit of the old scale of pay.

(e) Does not arise.

SUPPLY OF DRINKING WATER IN KHARAPAT VILLAGES IN KOLABA DISTRICT.

Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable the Minister for Public Health be pleased to state :—

(a) whether there are any drinking water wells and tanks in each of the Kharapat Villages in Pen Taluka in Kolaba District ;

(b) if so, what is their number in each village ;

(c) whether Government are aware that there is no water in these tanks and wells in the months of April and May ;

(d) whether Government are aware that consequently the villagers are put to great hardship and are required to bring water from a great distance ;

(e) what is the total population and the number of cattle in each of these villages ;

(f) what is the provision of drinking water for cattle therein ;

(g) whether Government are aware that if the tanks in these villages are cleared of silt, the supply of water therein is likely to be sufficiently increased ;

(h) if the answer to (g) is in the affirmative, whether Government have considered the advisability of giving a substantial grant to the Kolaba District Local Board for clearing up the silt ;

(i) whether Government have ever considered the necessity and desirability of preparing, in consultation with expert Government Engineers, a comprehensive scheme of water supply for the Kharapat Villages ;

(j) if so, with what result ?

The Honourable Dr. M. D. D. GILDER : (a) None in 18 villages. In all other Kharapat Villages there are wells or tanks or both.

(b) *Vide* columns 2-4 of statement "A" attached.

(c) Yes in most.

(d) Yes, but this hardship is not of recent origin but dates from the very establishment of these Kharapat Villages.

- (e) *Vide* columns 5-6 of statement "A" attached.
 (f) The tanks and wells.
 (g) Yes.
 (h) Grants have been made by Government in the past for removal of silt from the tanks—*vide* statement "B" attached.
 (i) and (j) No.

A

Statement showing the names of Kharapat Villages with the information regarding water facilities.

Serial No.	Names of Villages.	Number of tanks.	Number of wells.	Total Population.	Number of cattle.	Remarks.
1	2	3	4	5	6	7
1	Rawe ..	3	1	1,368	260	
2	Dadar ..	47	..	1,729	431	
3	Sonkhar ..	5*	..	413	188	*Not for drinking.
4	Johe ..	6†	9	2,351	956	†4 not useful for drinking.
5	Waredi ..	1*	1	438	121	*Not for drinking.
6	Borze ..	11‡	..	1,041	409	‡6 not for drinking.
7	Vadhav ..	67§	..	3,062	782	§47 not for drinking.
8	Kane ..	3*	..	490	284	*Not for drinking.
9	Div ..	3||	1||	500	72	||2 tanks and 1 well not for drinking.
10	Koprolī ..	5¶	9	647	367	¶2 not for drinking.
11	Mouje Sapoli ..	4*	8	476	249	*Not for drinking.
12	Balavali ..	..	8**	400	188	**4 not for drinking.
13	Jite ..	2*	3	783	492	*Not for drinking.
14	Dusavi ..	1*	9	818	497	*Not for drinking.
15	Khar Machela ..	..	..	290	51	
16	Khar Ghat ..	..	..	273	78	
17	Khar Jambeta ..	..	..	166	34	
18	Khar Chirbi ..	2*	..	179	39	*Not for drinking.
19	Mauje Karav ..	..	..	488	93	
20	Mauje Pale ..	1	..	172	128	
21	Mauje Dhombi ..	3††	1	161	85	††2 not for drinking.
22	Mauje Mhaisbad ..	1	1	184	67	
23	Mauje Burdi ..	..	..	202	88	
24	Mauje Pale ..	1	..	440	185	
25	Mauje Jui Haskhani.	1	..	268	59	
26	Patni Pandapur.	2*	..	840	443	*Not for drinking.
27	Dhaulpada ..	..	2	152	58	
28	Kasarughutwadi.	..	..	282	110	
29	Talekhar ..	..	1	145	85	
30	Ovali ..	..	..	130	119	
31	Khar Kalai ..	..	1	230	68	
32	Khar Jambultep.	1*	1*	112	54	*Not for drinking.
33	Khar Shet Jui ..	..	1	75	45	
34	Khar Mundhani.	..	..	207	86	
35	Khar Ativli ..	..	1	273	100	
36	Khar Tarshet ..	..	2	98	71	

Serial No.	Names of Villages.	Number of tanks.	Number of wells.	Total Population.	Number of cattle.	Remarks.
1	2	3	4	5	6	7
37	Khar Gandhe ..	..	2*	221	68	*Not for drinking.
38	,, Chole ..	..	..	191	58	
39	Washi ..	29†	..	1,624	424	†5 Not for drinking.
40	Benavale ..	14‡	..	320	184	‡7 Do.
41	Narvel ..	10§	..	321	159	§3 Do.
42	Vadakhale ..	2*	3	1,269	267	* Do.
43	Wave ..	2*	8	372	132	* Do.
44	Dolvi ..	3*	10	870	379	* Do.
45	Odhangi ..	..	..	437	69	
46	Masad Khurd ..	5||	..	132	69	||2 Not for drinking.
47	Masad Budruk ..	9¶	..	321	97	¶1 Do.
48	Beneghat ..	..	..	..	55	(Unpopulated.)
49	Borve ..	4	..	243	81	
50	Bori ..	3**	..	440	85	**1 Not for drinking.
51	Shirki ..	12*	..	676	243	* Do.
52	Shinganwat ..	1	..	110	28	

B

Lists of tanks in Kharapat Village in Pen Taluka, which were cleared of silt out of the Government water supply grant from 1927-28 to 1936-37.

Name of Tank.	Year.	Amount of Government grant.
1	2	3
		Rs.
1. Borve tank	1933-1934 ..	263
2. Washi Tank	1933-1934 ..	283
3. Vadhav Tank Budruk	1934-1935 ..	320
4. Vadhav Khurd Tank	1934-1935 ..	255
5. Narvel Tank	1936-1937 ..	110
6. Washi Tank (Pitching)	1934-1935 ..	802
		The work is not yet completed.

**SUITS FILED BY AND PROSECUTIONS LODGED AGAINST
PATHAN MONEY-LENDERS IN KOLABA DISTRICT.**

Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) the number of suits filed in the Courts in Kolaba District during the last 3 years by Pathan money-lenders residing in that District for the recovery of their debts;

(b) the amount involved in each suit as principal and interest;

(c) the number of Pathans who were involved as accused in criminal cases in the Kolaba District during the last three years ;

(d) how many of them were convicted ?

The Honourable Mr. K. M. MUNSHI : (a) 3.

(b)	Number of suits filed.	The amount involved in each as Principal and Interest.		
		Rs.	Rs.	a. p.
	1	.. ..	327	Nil.
	1	.. ..	50	10 2 0
	1	.. ..	60	10 12 6
	—			
	3			

(c) 37.

(d) 26.

ALLEGED IMPERTINENT AND UNGENTLEMANLY CONDUCT OF
C. I. D. OFFICERS OF BOMBAY BRANCH.

Mr. R. N. MANDLIK (Kolaba District): Will the Honourable the Minister for Home Department (and Legal) be pleased to state—

(a) whether Government are aware that on the 14th of August 1937 a C. I. D. officer of the Bombay Branch searched the house of one Mr. G. R. Mule, at Karjat, in the Kolaba District for the copies of the book "*Anangarang Ratishastra*";

(b) whether Government are aware that the said Mr. Mule has sent a petition to the Commissioner of Police, Bombay, complaining against the impertinent and ungentlemanly conduct of the said officer at the time of the search ;

(c) whether Government are aware that the Commissioner of Police has not so far replied to the petition ;

(d) whether Government are aware that in the said petition Mr. Mule has complained that he was prevented by the said C. I. D. officer from taking his meal which was ready and which it was necessary for him to take as he had been observing a religious fast for two days ;

(e) whether Government are aware that Mr. Mule was further prevented by the C. I. D. officer from seeing his wife who had fainted inside the house on account of the scolding and ill-treatment accorded to her husband by the said officer ;

(f) if the answers to the above questions are in the affirmative, whether Government propose to take any action in the matter ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) Yes.

(c) The Commissioner of Police has since replied to the petitioner after completing enquires at Karjat in Kolaba District.

(d) Yes.

(e) No.

(f) The suggestions in clauses (d) and (e) are not correct.

**BAN ON CINEMA FILMS SHOWING MAHATMA GANDHI'S MARCH
TO DANDI AND HIS ARRIVAL FROM ENGLAND.**

Mr. NAGINDAS T. MASTER (Bombay City): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that Cinema Films showing Mahatma Gandhi's March to Dandi and his arrival from England after the second Round Table Conference were banned ;

(b) whether the ban still continues ;

(c) if so, what are the reasons for its continuance ;

(d) whether Government intend to lift the ban ;

(e) if so, when ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) No.

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

**ATTITUDE OF EUROPEAN POLICE OFFICERS TOWARDS
INDIAN POLICE OFFICERS.**

Mr. V. N. NAIK (Nasik West): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) Whether Government are aware that the spirit of the Bombay Police Force is anti-Indian ;

(b) Whether Government are aware that it is common for a junior European Police Officer to pass a senior Indian Police Officer without saluting him ;

(c) If so, whether Government propose to take action, in such cases, in future ?

The Honourable Mr. K. M. MUNSHI : (a) No.

(b) No.

(c) Does not arise.

SCHEDULED CASTES MENIALS IN EXCISE DEPARTMENT.

Mr. K. S. SAVANT (Satara District): Will the Honourable Minister for Exise be pleased to state—

(a) what is the total number of menials in the Excise Department ;

(b) how many of them belong to the scheduled castes ;

(c) what is the percentage of the menials belonging to the scheduled castes to the total number of menials employed in the department ?

The Honourable Dr. M. D. D. GILDER: (a) (i) Permanent patta staff 66.

(ii) Temporary Commercial staff 155.

(b) (i) 8.

(ii) 24.

(c) (i) 12 per cent.

(ii) 15·4 per cent.

BUSINESS OF THE HOUSE.

The Honourable the SPEAKER: Before the House proceeds to the consideration of the other business, which consists of the first readings and introductions of non-official Bills, I wish to invite the attention of the House to an important fact; and that is that it is desirable that all amendments which honourable members want to table in respect of any of the Bills, which have not yet come before the House but which may come before the House subsequently when Government business is taken up, should be given in due time. It would be better if amendments are handed over in time, as some time is necessary to consider the amendments, to consider the phraseology, to consider their admissibility and, in some cases, it may give time to Government also to consider whether they should or should not accept certain amendments. In view of the fact that we shall be having, after two days, further Government Bills, I thought I should make the point clear and it would be better, therefore, if any amendments which honourable members desire to table are tabled as soon as possible.

PRIVATE BILLS.

BILL No. VII OF 1937 (A BILL TO PROVIDE FOR RECOGNITION OF REGISTERED TRADE UNIONS IN THE PRESIDENCY OF BOMBAY).

Mr. S. H. JHABVALA (Railway Unions): Sir, I rise to move the first reading of my Bill, which is recorded as Bill No. VII of 1937 (A Bill to provide for recognition of registered trade unions in the presidency of Bombay).*

Question proposed.

Mr. S. H. JHABVALA: Sir, before I offer a few remarks in connection with the meaning and purpose of this Bill, I desire to bring to the notice of the House one particular fact which must not have escaped their notice and it is in connection with the number of other Bills I have also submitted for consideration. Mine are all poor man's Bills—Bills that intend to give relief to the poor, the fallen, and the down-trodden hitherto. In the course of the session here, we have had Government Bills—some pertaining to the imposition of taxation, others pertaining to matters which do not directly deal with the poor man's burden,

*Appendix 4.

[Mr. S. H. Jhabvala]

but here is a case where eight or nine Bills have been tabled to definitely plead for the poor man, and I desire the whole House to kindly give me a sympathetic attention. At the outset, I would certainly request the largest Party in this House which has got, so far as they have stated in their manifesto, direct sympathy for the poor man and the poor man's burden, to kindly give me their full and sympathetic support. I am perfectly amenable to reason.

Now, Sir, what is the object of bringing the present Bill? You may be aware that the province of Bombay is fast getting industrialised. A number of industries have grown in our midst. These industries are largely worked by Western machinery. Along with the Western machinery, there has been the Western importation of the capitalist system. The consequence has been that the whole foreign system, so far as industries are concerned, has been planted on our soil. Under these circumstances, two distinct classes have grown up: One is the employing community and the other is the employed community. Personally, I would be the first man, as I have stated in my statement of objects and reasons, to see that both the employers and the employees put their heads together in the evolution of the industrial prosperity of the country. I have stated it distinctly. But, Sir, from my experience of the past 20 years, I can assure the House, because I wish to carry with me the House, that there has been absolutely no co-operation from the employers, though I must say that there are some employers who have condescended to give recognition to unions when once they came to know the inner management of those unions. But no less than 90 per cent. of the employers have not condescended to give recognition to the organised unions of people who are known as working classes. I can take the instance of the Ahmedabad Textile Labour Union for which the Parliamentary Secretary under the Prime Minister holds the cudgels and point out to the House that this union was given recognition by the employers not on account of the fact that the employers were so very kind, philanthropic and charitably minded men but because there was that great personality of that great man, Mahatma Gandhi. In the year 1919 or thereabout, when a great economic upheaval accompanied with an agitation which had a political tinge was going on under the leadership of Mahatma Gandhi and at the time when he founded a colony on the banks of the Sabarmati, he brought about the organisation of the textile labourers which was recognised by the millowners under his saintly influence. This is not the first instance where a labour union has been organised. Even before the organisation of the labour union in Ahmedabad, we had started a number of unions in Bombay in 1918 and 1919. When the first Trade Union Congress was held, a number of trade unions joined together and there was a wide awakening among the labourers. Since then we have been experiencing the bad treatment meted out to us by the employers in the matter of recognising our registered unions. Only the other day—the employer under question is sitting here and we know each other well—I went to an employer

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to settle a dispute between him and his men in the hope that I would be able to do it because he knew me well. I wanted that neither the men nor the employer should suffer and that the dispute should be settled smoothly and amicably. When I went to his office to interview him—that employer is sitting here on the same benches here as myself—he said: “I do not know you”. What did I go there for? I went there for the settlement of a dispute in his own mill, simply for the reason that the workers should not suffer and at the same time the industry also should not suffer. This is the consequence of a legal non-recognition. But unfortunately in our Province, the employers look at the trade unions of workers through coloured glasses. What is the motive underlying their attitude, we have not been able to ascertain up to now. Have workers no right to organise themselves? They have a right. The Trade Unions Registration Act has empowered us to call that a union which has got 7 members at least, though there could be and are many more than that number. In every industry we have tried to bring in as many members as possible to organise themselves into unions. The employers have not given recognition even to such unions as have been registered and recognised by no less an authority than Government itself. Why, we do not know. [An Honourable Member: Strikes.] Here, my honourable friend draws my attention to one fear of the employers. I will draw the attention of the House to that point. He says that the employers are afraid of strikes. But I want to tell them that the organisation of a union is not a strike. A union is an organised volume of working class opinion aiming at the redress of their grievances. So far as this question is concerned, where is the fear for employers in recognising the unions? If there is a strike going to take place, under the Act we are to give a particular number of days’ notice. I may point out that, wherever there are recognised unions, there have been no strikes or but few or but a negligible number of them. Even if there had been strikes, they have been brought to an end by mutual compromise being arrived at between the parties. In this connection I must state that even the Government of Bombay, prior to the Congress regime, were much better than private owners then and now. So far as the administrative authority in Bombay was concerned, they brought the two parties together and settled the dispute. But still, there was a strike which was unavoidable and inevitable, because it was intended to assert the rights of men which Government never denied to us. I openly admit on the floor of this House that the white man who is an employer is more considerate towards the men than the brown employers. When there was a strike by the Motor Drivers’ Union, the Commissioner of Police, who is next in authority to the Governor in Bombay City, opened the door for negotiations and settled the dispute. The Government of Bombay have recognised the unions of telegraph workmen, of postmen and what not. Still, the private employer of labour, like the Tramway, the Railway, engineering factories and so on—these fellows [Interruption]—

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I am sorry ; it shows I have but low esteem for them—does not want to recognise registered trade unions. We are a community of people who work to produce the wealth of the employers for society in general. The benefit of a trade union is that there is an organised volume of opinion. If the union is disrupted, there will be no organised opinion, which will be troublesome both to the workers and employers—more to the employers than to the workers. But so long as the conditions of the Trade Unions Act have been fulfilled, so long as the Government of India Act says that we are a constitutional body, what employers should have the courage to say that they would not recognise us in defiance of the existing Act ? Simply because at present there is no provision to enforce recognition, we are at the mercy, at the free will and the free choice of the employers. A trade union is a class organization. Unfortunately, living, as we do, under this capitalistic structure, the two classes, employers and employees, do invariably exist. We cannot get out of it. If we can soon get out of it and evolve a kind of system in which both of them could merge themselves into one leavened mass for the common prosperity of the country, so much the better. But as long as that evolution is not brought about, so long we will have to work as two distinct classes. And as these two classes exist now, and as the employers have organised themselves as a conjoint unit in their various Associations the workers too have a right to organise themselves into unions. Only when the employees too are organised will the prosperity of the country be ensured. No worker from the bottom of his heart ever wishes to go on strike. Who can strike work ? Strike brings about a number of disasters. Strike as an economic weapon to be too frequently used is dangerous. We fully realise that. In my lifetime I have organised and had to lead 72 strikes, and at no time have I felt a deeper sorrow than at the time when I found that I had to be in the midst of strikers. When the employers do not want to recognise their own employees' organisations and the employees get out the strike can be said to be the outcome of such non-recognition. The strikers are like so many stray cattle. It is due then to sympathetic leaders like us to organise them, to meet them on a common platform of understanding, to collect their grievances and to represent the same to the employers. If, after doing so, out of ten demands even two are conceded, we call off the strike. The misfortune is that there is something gone wrong with the employers. They believe that these union leaders are very dreadful people ; and primarily their belief is that they are agents of Russia. May I here bring to your notice, Sir, an incident that happened but yesterday ? An important member of the treasury benches told the members of one of my unions when they went to him for the redress of their grievances as the redress was vested in his hands : " You fellows are carrying on a mighty communist propaganda. Why do you join in a procession, stop business and collect together here ? This is the verandah of the Assembly Hall. What do you mean by propaganda in this manner

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against the Congress Government? The best thing to do is to go back and tell your union secretary to make a petition in the terms I dictate. Then, I shall consider it and give you redress." I am after the proper clue, and when I get it, I shall move an adjournment motion, when the whole question will have to be threshed out on the floor of this House. When an important Minister holds a kind of view like this and refuses to listen to the workers whose legitimate grievances have to be redressed, on the ground that a particular secretary or a particular man in the union holds particular views, then I dare say that is the worst of things that could happen under a Government with civil liberties.

Mr. S. V. PARULEKAR : What is the name of that Minister ?

Mr. S. H. JHABVALA : I am here not to give names ; nor am I here to call names.

Now, Sir, in the first place, let me explain to many of my honourable friends here what is a trade union. The majority of my friends here, though they might have employees under them, do not know what a trade union is. A trade union is a conjoint body of employees in a particular industry gathered together for the legitimate redress of their grievances. Now, Sir, the redress of grievances can be carried out in a number of ways. Some institutions are mere subscription-collecting companies and have by some people been called unions ; for example, the N. U. R., the National Union of Railwaymen. They collect subscriptions and they give legal aid to the members. They issue some calls and arrange for mutual assistance. But such a union is not a trade union in the accredited sense of the term. It is called a trade union in a way under the Government of India Act. It is only a subscription-collecting company. Subscriptions are collected, not essentially for the purpose that the Secretary or President might be fed, but for the purpose that the members may be assisted. That is the principle. Beyond that such bodies do not do any real Trade Union work. We find that such a kind of organisation is readily recognised by the employer because the employer knows that it is not a full-fledged, live trade union as such. Then there are others that have laid down a broad policy, and that policy is to organise the workers, train them, give them knowledge, tell them what their duties are, and what their rights are. Certainly, Sir, my friends may rest assured that we teach the workers first what their duty is before we teach them what their rights are. Our misfortune is when we tell them what their duty is, somebody from among the members tells us : " Sir, we have no rights." As a result we stand up and tell them what their rights are. When we tell them " At the time you are sick, you must eat fruits, you must drink milk "—my friend Dr. Collaco will assist me in that, because he is a medical man—somebody will stand up and say : " Sahib, it is all right for you to say ' eat fruits, and drink milk ' . What about the money ? If our wages are raised, then we can eat fruits and drink milk." Immediately, we get up and tell them " Friends, if you want better wages, you must organise yourselves." And we begin to tell them what their actual rights are. Now, is it anyway

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wrong to organise trade unions of this kind? Under the Government of India legislation, it is perfectly legitimate and perfectly constitutional to have a trade union on these lines. I do say openly here—I do not want to mince matters—that trade unionism has got its own political value. Well, you cannot deny that it has got its political value. Trade unionism has got its own politics. It has a politics which will adjust itself to the needs and requirements of the political evolution of the country. For example, some of our trade unions have gone and joined the side of the Liberals; some have gone and joined the Congress; some have remained loose bodies, because they have not been able to realise what is their political creed; and some trade unions, I am ashamed to say, are communal organisations. Dr. Ziauddin would start a communal organisation of his own among the railway workers. In this manner we are split up into faction parties. But it does not matter. Politics is a very uncertain game. But that is not a factor which should weigh with the employers in the matter of the recognition of a union if it has true credit as a trade union. The object of trade unions is the settlement of grievances of the employees. Here is my friend Comrade Saklatvala. We have gone to his office several times on behalf of the unions. I can challenge my honourable friend here to stand up and say whether we ever went up to him and said, “If you do not do it, we shall go on strike.” We have never done it—never. Yet comrades of that great fraternity have always kept us unrecognised. What has been the ultimate result? The result has been that the working classes have been more and more alienated from their masters. The master says, “Why do you organise through trade unions? There is no need for trade unions. Come straight to us and talk.” Now, my friends, can you ever say a poor man, who is working in some lonely, remote corner of a factory on a mere pittance which is less than the minimum living wage—can such a man go to a big man like one of the employers present here and say, “Sir, I have got this grievance; it must be remedied”? The employer chucks him out. In the first place, there are regular rigid rules in every factory laying down that no employee can go to the highest man in the event of a grievance not being settled by the lower subordinates. The man is caught by the lowest subordinate official; his application cannot go further than that at all. During the twenty years of my life in a number of unions that I have set up and have been conducting, I have come across a number of instances in which poor workers were not given permission to go and see the faces of their dying relatives, even when the employees applied to the employers for leave. These men are never allowed to approach the highest official in a factory. Their applications are suppressed.

Now, Sir, this happens due to the fact that the employer does not permit of trade unionism in his factory; and if some trade union is formed out of the factory, the employer does not recognise it. What has been our condition? We get ourselves registered according to the constitution. Government recognises us. Government sends us all its publications. Government demands all our reports, which we submit to it. Government demands all our triennial accounts; those also we

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submit. Everything is done satisfactorily and constitutionally. But when it comes to the employers and our dealings with them there we are caught. Our relations are more with the employers than with Government, because we have got every-day transactions with the employers. Therefore, I press upon the attention of the House that the time has now arrived when, on account of the persistent insistence of these obstinate and stubborn employers, a certain law must be framed by the Bombay Government so that what could not be done in the course of the last so many years by the free will and choice of the employers may be done by Government under certain obligations to be exercised upon them. We are a constitutional body. As soon as Government register us, we ought to be formally and legally recognised by the employers.

What is our position now? If we remain a mere registered trade union, the union does not remain any longer a trade union functioning on desirable and effective lines, in view of the fact that we have daily relations with the employers rather than with any other factor and when we find for this reason the union cannot redress our grievances, the registration of a trade union also becomes valueless and meaningless. When registration has a constitutional value, that in itself should be sufficient index to the employer to realise that it is a constitutionally working legal body. It may happen that in these modern advancing times certain members of the union may hold particular views adaptable to the nature of their studies. But what has the employer got to do with those particular views of particular individuals? Suppose, as the Honourable Minister stated yesterday or the day before yesterday, there is a man in a trade union who holds certain revolutionary views, it does not mean that the trade union as such should not be recognised. That man is free to hold any views he likes. He is not going to be in the leading strings of the union. Nor are those views going to dominate the trade union. To assume that position is rather undesirable as it is uncomfortable to believe that because an individual or individuals hold particular views the whole union as such is committed to those views.

The primary concept of a trade union and its value so far as industry is concerned is unfortunately not recognised by the employer. One fact is certain, that the employer will have now to remember that everywhere there will be a trade union; and as the Congress Government, now that it is in power, has announced its intention that it is going to assist the cause of the workers and the agriculturists, the employers must remember that the best way in which real, tangible assistance can be given is by helping in organising these workers who are under them. If the existing trade unions have been doing that work, then I pray that those existing unions must be given a kind of further value by compelling the employer to recognise those unions that have been working on constitutional lines.

Now, Sir, as regards recognition, there has not been a complete understanding among friends here. I want recognition only in particular items. By recognition I do not mean that I want too many things.

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I want only a limited number of things. I may be blamed for not drafting the Bill like a lawyer. But I am not a lawyer. I have done my best in the attempt at drafting. I am a layman; I passed my first LL.B. and then gave it up because I was mad after these poor workers. The whole Bill is of my own making; nobody has touched it. I thought and wished that the Legal Remembrancer would assist me by brushing up the whole Bill. He seems to have done something and presented the Bill in the form in which I am submitting it to the House.

There are but few clauses; and it is a small, simple Bill. If it is admitted by my employer friends here, I assure them that there will be little fear of any possible contingency in the form of strikes. This is a startling truth that I am telling you, that you will eliminate greatly the fear of strikes taking place in the province by accepting the fact of recognition. Why should we not have the employers and employees meet together and thresh out differences if they are resolved upon bringing all troubles to an end? Do you mean to say that human beings in these modern times cannot devise means to reach a common understanding? Is that not possible? In foreign countries they have done that. Do you mean to say that we by holding particular radical ideas are out to ruin industries? You may brand us as communists, as socialists, but certainly we do wish well of our industries. If your industries were not to exist, how are we to exist? Rest assured, we are not fools; we have eyes and we have brains. We are alive to the reality of the situation as well as the employer is, but the misfortune is that the employer is full of gas, he is full of pig-headedness, full of swollen-headedness. He thinks that he is the man who controls the workers and, therefore, he does not much meddle with the poor man's problems. My friends may rest assured that to an employer in India the worker is—I am telling this after 20 years of my experience—nothing more than a cattle. He is treated like that. By our 20 years' continuous struggle we have made the employer realise at least that a worker is not a beast, he is not a brute, but he is a human being. That realisation was caused only when the workers gathered together and declared a strike and broke the head of the employer. What to do, Sir? That is rather a sad experience to find that only that kind of treatment can bring the employer to his senses, and my honourable friend Mr. Curriion of the Progressive Group, who is the Secretary of the National Union, will bear me out. Though today he is sitting in the Progressive Group, he is a man who will certainly join hands with me so far as trade unions are concerned. Well, Sir, on account of the non-recognition of the rights and privileges of the workers these strikes are declared. When is a battle declared? When the employer sits here and the worker sits there, and in between there is no intermeddling machinery by which a common platform of understanding would be established. The same thing happened in the case of numerous strikes that have taken place in the past. At last, even the highest body like the Government of Bombay itself had to interfere to bring about

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a compromise, to bring about a settlement. That has been unfortunately the result only on account of the obstinacy of the employer. I know the employer has got his difficulties. I fully realise that. All of us who have given our lives in the service of the working class fully realise that the employers have got their difficulties, but the employers ought to realise at the same time that the workers have got their greater difficulties. Their difficulties are pertaining to food, clothing, and practically everything. Even if these amenities are not given to the worker, how can the worker exist? The employers are not prepared to recognise this. Supposing in a factory the employer is brought to a miserable condition, even then the workers are prepared to co-operate with him. I may give you one case. Only a short time ago, in a small factory, the Government of Bombay tried to impose certain restrictions with regard to the Factories Act. Now, this small factory could not exist if Government imposed certain restrictions under the Factories Act. The workers then went to the employers stating that they were prepared to work in a way which would indicate that they were not in favour of a particular clause of the Factory Act. So great is the willingness on the part of the employees to co-operate with the employers, but the misfortune is that the employer has never extended his sympathetic hand to the workers. If, therefore, there was no trade union, if these various workers were in a disorganised state, then certainly the employer would be justified in not recognising anybody, but if in an industry there is a recognised union and if the constitution of that Union has been sealed by the sanction of the Government of India Trade Union Registration Act, then I think the onus lies on the employer to immediately extend his hand of sympathy by way of recognition. But that is not done.

Now, Sir, the compulsion to introduce a Bill on that point demands a certain amount of elucidation on my part. It is this that for a number of years we found that there are only a few sensible people who understand trade unionism and who understand the value of trade unionism in its relation to the working class, in its relation to the industry as a whole. Such employers alone have given us co-operation. But unfortunately that has not been the general view held by the employing community in this Presidency. A majority of the employers are our own Indian people, and pardon me if I say that these Indian people are not prepared to recognise their own fellow workers. Under such circumstances, as a result of my experience, I have been constrained to bring in a Bill of this kind. On account of the non-recognition of our unions, our unions are collapsing, because we cannot redress the workers' grievances, the employers would not recognise us, they would not take any notice of our communications, no scientific understanding could be evolved. Under such conditions, the workers are disappointed and they keep themselves out of the unions. That is the result, but the employers must not think that this is a happy sign for the bettering of their industry in future. Trade unionism is a necessary asset in

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these modern days. I will quote here the case of railway unions. Railway is a subject which falls under the Imperial Government. We have got scattered unions all over the line, and I may tell you what has happened with regard to our railway unions. Here is my friend Mr. Jannadas about whose honesty of purpose and sincerity of interest in the welfare of working classes no one can ever question and no one can say that he will be an ally of strikers. On the contrary, he is a terrible opponent of strikers. He has always opposed strikes tooth and nail and sometimes there have been differences between him and other men holding another point of view on the question of strikes. But Unions conducted by friends like him also have not been recognised simply because there is no arm of law asking the employer to recognise a union even of such a moderate character. Everything is unfortunately kept dependent on the free-will and choice of the employer. What do I want under the recognition clause? I do not want a very big thing. I want only a common platform of understanding to be established between the employees and the employers. I know the drafting of the Bill has not been perfect.

Mr. K. F. NARIMAN : It is all right.

Mr. S. H. JHABVALA : That is very well. If my honourable friend Mr. Nariman thinks that it is all right, then I rise above a common lawyer.

Now, Sir, I do not want to read this Bill clause by clause, but certainly I will briefly read one or two clauses for the purpose of enlightening you as to what I want by recognition and it is this : Clause 12 says that :

“ Every Union so recognised shall have the right of meeting an officer or officers ”

in cordial relationship ; it does not mean going there to give a blow or a threat of declaring a strike. My friends the employers need not be afraid. The clause further says :

“ concerned in the place of employment on behalf of the Union in the matter of complaints forwarded or representations made at times previously appointed and suitable to the officer or officers concerned.”

Without recognition, can the employers, in their heart of hearts, believe that establishment of understanding could be created leading to the right of meeting and discussing grievances ?

Another point is that I want that once every two months every union so recognised shall have the right of holding joint meetings with the employers in the matter of various grievances, complaints and representations. Joint meeting is the best thing that British Trade Unionism has evolved in Western countries—joint meetings for bringing about a compromise, understanding, mutual fellow-feeling and all that, but yet that requires, unfortunately we have been driven to this position that even that requires, recognition at the hands of Government. Sir, I can give you an instance here when I see my honourable friend Mr. Jannadas Mehta here before me. He can tell you that such a kind of right has been conceded to a body called the All India Railwaymen's Federation of which he is the President. There they hold a six-monthly meeting with the presiding Railway bosses and certain grievances that may be

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outstanding pertaining to all railway systems are presented for discussion, they are discussed and talked on and disposed of. We know the results are very disappointing, but still there is this much advantage that grievances are discussed. But the position is not so with other unions in the Presidency just now in the matter of recognition. At least this fact remains that we are invited by no less a body than the Railway Board presided over by the Chief Commissioner, Sir Guthrie Russell, to go there and meet the railway bosses and discuss with them the problems of the railway labour. That in itself has helped to keep the railway unions satisfied to a particular extent in the knowledge that their grievances are being lodged even before the highest body. When such a kind of right is conceded by such high officials and by such a high department under the Government of India, there is no reason why these small employers must not negotiate with trade unions of this kind by recognising them.

Sir, I have taken up much time. I shall be highly obliged to the House and especially to the Congress Party here, because to tell you the plain truth, the whole control of this House is held by the Congress Party sitting here and it is a good fortune as my honourable friend on my left suggests to me, and I do hope that the Congress Party will assist me in carrying this Bill. If that is done, I can give them assurance of the fact that much of the present labour trouble will have abated, but if you continue in the same state in which at present the employers, in the absence of such a law, continue to exist, the result, I am afraid, will be disastrous, for, before I sit down, I want to tell you a plain truth that Capitalism, if it were to continue in the same scientific way of oppression in which it is doing now, certainly will reach a crisis and then workers will be more and more alienated, more and more resolute, will be more and more determined to carry the fight further as bred by alienation; and if they desire to do so, certainly there is nothing to prevent them, but we, on behalf of sound and sympathetic leaders, feel that it is up to us when we are here on the floor of the legislature to enlighten the whole House on the actual situation and thus to prevent the development of a crisis. By that I do not want to extend any kind of threat to the employers. Certainly not. Those who hold the wealth certainly today hold power. It so happens that the Capitalist structure has so determined it. It is highly unfortunate, and I hope the Congress Government will assist me in helping the worker to stand upon his own legs. Today he is like a fledgling that is standing or attempting to stand on tottering legs. Let him not fall down completely in the interest of the future prosperity of the industries of this province. For that let this House give a legal value to the registered trade union. If a trade union is not registered, I have nothing to say about it, but if a trade union is registered, if the Government of India accord their seal of sanction, then certainly the employers must condescend to recognise such a union and should extend to it the sympathy and fellow-feeling which are so necessary for the prosperity both of the employers and the labour.

Sir, I have done and, when occasion comes again for me to speak, I shall seek the indulgence of the House to permit me to expatiate more on the subject.

Mr. JAMNADAS M. MEHTA : Sir, if the Government will at this stage state what their attitude towards this Bill is going to be, it will be of great help in shortening the discussion. On all important matters it is usually done elsewhere. When a Bill is proposed for the first reading, Government give an indication of the attitude they propose to take towards the Bill so that the discussion is regulated in the light of that attitude. Otherwise, honourable members have to make their observations in the dark. This is of course not obligatory, but this is ordinary practice and also courtesy to the honourable member who has moved the Bill. I would like to know whether Government will be pleased to take us into confidence in this matter so that the discussion may be shortened. They have also the right of a final reply. So, if they would only indicate now what their intentions are, our task will be lightened.

The Honourable the SPEAKER : Here is a request to Government by a member of the House to give an indication as to what their position is with reference to this particular Bill and the object of the request is stated to be to shorten the discussion. It is for Government to consider what they should do.

Mr. GULZARI LAL NANDA : I regard it more appropriate that some further expression of opinion should be forthcoming from the honourable members who represent employers of labour before Government can let its mind be known to the House.

Mr. S. D. SAKLATVALA (Bombay Millowners' Association) : Sir, before I tell this honourable House whether I am going to support the first reading of the Bill which my honourable friend has brought forward or whether I am going to oppose it, I think it is due to my honourable friend that I should congratulate him on making for the first time a really temperate speech. I hope, Sir, that this will not be his last in this direction.

My honourable friend has put his case no doubt very lucidly from his point of view, although, as I shall show him later on, his Bill is not so helpful to the interests of labour as he thinks it to be, but at the same time I must say that he has brought to bear on this question his unique experience. I know my honourable friend very well, although when he referred to the employer who told him that he did not know him, he referred to myself, but I can assure my honourable friend Mr. Jhabvala that I know more about him than he thinks I do.

Now, Sir, I rise not only to express a formal opposition to the first reading of the Bill, but I am going to appeal, even at this stage, to my honourable friend not to press the further stages of this Bill for the reasons which I shall make quite clear in the course of my speech.

Now, the principle which we are asked to accept is this : That because a trade union is registered, therefore the employers are bound to give it recognition. Let us see what this fact of registration means. Under

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the Indian Trade Unions Act of 1926, if you read this Act, it will be clear that any seven people can combine together and apply for registering their union and this is what my honourable friend calls "Government recognition." What does the registrar do? The registrar is only concerned with the internal affairs of this union as to how this union is going to function. The registrar, for instance, is concerned with the fact that the union must have a registered office, that the objects for which they join must be laid down, that the joint funds must be spent for a clearly specified purpose, that they should have separate funds for political purposes, that they will be immune from civil suits in certain cases, that there will be enforceability of agreement between the union and the employers, that the registrar will have the right to inspect books of trade unions, that the office-bearers of the union will have a right to amalgamate with other unions and so on. The registrar is not concerned with the actual policy of the union, or its relationship with the employer. Now, Sir, this being the case I ask my honourable friend Mr. Jhabvala whether there is any particular charm in registered unions. There may be unregistered unions which may be working well on trade union principles to which I would rather give recognition than to a union, which though registered, is not working on proper trade union lines, simply for the reason that it is a registered union. There is no particular charm in having unions registered. Because it is registered, my honourable friend has tried to create an impression that because there is Government registration it means that Government accept everything that the union does. The registrar is concerned merely with the domestic affairs of the union and he has no power to cancel the registration so long as the rules are not altered and so long as the accounts are submitted to him. Therefore, first of all, I wonder whether this Bill will achieve the object he has in mind which in itself is a very laudable one. I will certainly support him there that, if there are properly organised trade unions the employers should give them recognition. I am entirely at one with him on this point. Is he going to achieve this object by bringing a Bill which forces the employer to recognise a trade union, simply because it is a registered trade union?

Now, Sir, as regards the recognition which my honourable friends referred to, I do not want at this stage to rake up the past and tell the honourable member as to what has happened in the past, in 1928 and 1929. I think the sooner the past is effaced from the memory both of labour and employer, the better, so that the industry may be put on a better footing and that there may be a really sound trade union which will not only be registered by Government but recognised by employers themselves. After all, my honourable friend himself conceded that the unions have got to deal with the employers and not with Government. It is the goodwill of the employers and the goodwill of the unions that count for much and it is not affected by the fact of the union being registered. Government are not going to come to the help of either the union or the employers, simply because a union is registered. Whether

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the union is registered or not, for settlement of disputes, there are other channels as well. There is the Trade Disputes Act, particularly of Bombay, there is the Conciliation Officer, and there is the Government Labour Commissioner. As I said, without going deep into the past, since we are asked to accept this principle that every registered trade union must be recognised by the employers, I will just refer my honourable friend to the report of the Court of Enquiry—the Pearson Committee—1929. Here, the union referred to is the Kamgar Union which my honourable friend very well knows. The enquiry was presided over by a Judge of the Calcutta High Court. These are some of their final findings. In paragraph 72, they say :

“ They (Kamgar Union) adopted an unconstitutional method of converting the Mill Committee from advisory into executive Committees and their policy was to encourage individual action among the officers of a Mill Committee even to declare a strike though such procedure was unauthorised by the rules and in breach of the agreement of 23rd November.”

Further on, they say :

“ There was nothing in the attitude of the representatives of the Millowners at the conference of 24th April which justified the officials of the Girmi Kamgar Union in breaking off the negotiations and taking the extreme step of declaring a strike.....

“ But we think the blame lies wholly at the door of the officials of the union for the state of affairs which prevailed during the months of March and April resulting in the general strike.”

I do not want to go much further into this report. But I want to refer to one or two sentences of their findings where they say :

“ To sum up, the main causes of the prolongation of the strike are :

(a) the aggressive and mischievous propaganda of the officials of the Girmi Kamgar Union and inflammatory appeals made by them to the workers,

(b) picketing and intimidation by the strikers and acts of violence committed by them on non-strikers.”

Now, my honourable friend will see whether a union of this type should be continued to be recognised, because it was a registered union. This union was registered and it was recognised. This report was published in September 1929 and it was on the 25th November 1929 the Millowners' Association of Bombay formally withdrew their recognition which had been granted and advised the members of the Association not to deal with that union because of the findings of an impartial judicial committee. So, Sir, it is quite obvious that merely the fact that the union is registered does not carry much weight. If it is a good union, it does not matter whether the union is registered or unregistered. The main fact is how the union functions. The soundness of the Ahmedabad Union is due in a great measure to the personality of Mahatma Gandhi. Nevertheless, there is an instance in which the employers and the union have gone on together and done fairly well without resort to frequent strikes which have been the experience in Bombay. Not that in Bombay there was no recognition granted to unions, registered or unregistered. We—I am here speaking mainly of the employers of the textile industry in Bombay—we have always maintained that it would be a distinct advantage to have a real, good trade union. We know our difficulties in dealing with labour.

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Our labour is, in the first place, illiterate for no fault of its own. Secondly, it is disorganised: even when there are unions, unfortunately, the unions try to pull one against the other. And thirdly, there is no unanimity among the unions and that fact presents considerable difficulties. The unions may have been registered, but when there are a dozen unions among 15,000 workers and different policies are adopted by such unions, what are we to do? I will quote an instance. I think my honourable friend Mr. Jhabvala knows about it. When the Fawcett Committee was sitting, one Mill came forward with a complaint before Justice Fawcett to the effect that they had dismissed a jobber, and as a result they had received communications from two registered unions, one union threatening that if that jobber was not reinstated immediately there would be a strike and there would be great trouble in the mill industry, and another union threatening that if that jobber was taken back, there would be serious trouble and there might be a strike. Now, both the unions were registered unions and both the unions were recognised unions. Now, what is the employer to do when such a state of affairs prevails amongst the unions themselves?

Mr. S. V. PARULEKAR: What did the employer do in that particular case?

The Honourable the SPEAKER: Order, order.

Mr. S. D. SAKLATVALA: That is on record. So, Sir, I do not think that the object which the honourable member Mr. Jhabvala has in his mind—a very laudable object, an object with which I am in agreement, namely, to bring about harmony between workers and employers—I do not think that that object will be achieved merely by forcing the employers to recognise each and every trade union simply because it is registered. Sir, I think his purpose will be served better if he tries to bring about a real union which will act, for instance, on the basis of the Ahmedabad Textile Labour Association. Rather than having several small trade unions, all registered and on that account recognised by employers, I think it will be much better if we have one or two sound trade unions including the large majority of the workers in the industry.

Now, Sir, before I proceed, I just have to offer a personal explanation. My honourable friend referred to me when he talked about the employers and gave a story. He did not give the complete story; he did not complete the picture. He told the House that when he came to me I told him "I do not know you at all". I could not possibly tell him that I did not know him. But I certainly asked him, and had every right to ask him, how it was that he came specially to represent my men of the Swadeshi Mills in Kurla, when previously he had never been in Kurla before, and when there was no trade union at all, leave aside a registered trade union to which he attaches so much importance. I put it to him when there was no trade union how it was that he came to represent my men. Certainly, it was quite a legitimate and quite a fair question to ask. Then he informed me that he came as president or vice-president—I do not now remember which—of a strike committee

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which had been formed some days ago after a strike had taken place. Well, after this explanation, I certainly dealt with him. He knows that very well. Therefore, it is not a correct picture to place before the House that the employer told him "I do not know you". I know him only too well.

Now, Sir, the honourable member Mr. Jhabvala has taken a lot of time in trying to teach us the A, B, C of trade unionism. The picture that he has drawn is of what a trade union should be. But will he really tell this House that that is a picture of the unions that do exist and that did exist in the past in Bombay? I am referring to the unions concerned in the textile industry. I am afraid, Sir, the answer will certainly be in the negative.

Mr. S. H. JHABVALA : I agree.

Mr. S. D. SAKLATVALA : I am glad my honourable friend agrees with me. Therefore, it is no use saying that the employers have failed to recognise the unions, and therefore a Bill is necessary to the effect that every registered union should be recognised. My honourable friend knows very well why particular trade unions in Bombay are not recognised, and why in one instance recognition was actually withdrawn after recognition was duly granted. As I said, I certainly am in agreement with him when he says that employers ought to encourage trade unionism. I certainly agree with him that there should be a really sound movement as far as the trade union movement in Bombay is concerned.

Then, Sir, my honourable friend appealed for sympathy particularly to the Congress benches. Although I have not the good fortune or bad fortune to be on those benches, I suppose that appeal applies to me as well. All I say is that my honourable friend certainly needs the sympathy not only of the Congress benches but of all the benches, because he himself, after telling us why employers should recognise all registered trade unions, admitted that there were certain unions which were merely fee-collecting companies, that they were not functioning as proper trade unions, that although they had got themselves registered as trade unions, the main purpose was that somebody should get something out of the four annas charged on the workers. I am surprised that after saying this, he should seriously still insist on every registered union being recognised.

Then, Sir, he himself has also admitted that, after all, it is with the employers that the union has to deal and not with Government. Then, I do not see the force of his argument that because there is Government registration, therefore there should be recognition by the employers, a body which is quite distinct from Government. Government, after all, merely registers the fact of a union being formed. Any seven members can ask for registration, and under the Act Government is bound to register them. I do not see why my honourable friend wants this fact of registration to compel recognition by employers.

(The House re-assembled after tea at 4-30 p.m.)

Mr. S. D. SAKLATVALA : Mr. Speaker, Sir, I will not take much time of the House now. I have touched on most of the important points already. But, Sir, I might just mention, when we are asked to recognise each and every registered union, that in Bombay some people have a regular flair for starting unions. My honourable friend Mr. Jhabvala himself is either the president, vice-president, secretary or something or other of about 43 unions. Now, Sir, is the Government going to encourage this state of affairs? Should the employers also encourage this state of affairs and go on producing more unions actually as if it were an industry?

As regards this recognition, Sir, what is it that my honourable friend wants? I will not go through all the clauses; I will refer to only one or two of them. Clause 9 of the Bill says :

"Recognition shall consist in the employer immediately investigating into all the complaints both individual and general that may from time to time be sent by the Union for his consideration and replying to the Union communicating the results of such investigations."

I wonder if my honourable friend himself realises what this means, when there are, say, at least a dozen unions and the employer is pestered every day with half a dozen letters asking him to investigate this complaint or that complaint, not only about general principles, not only the general wage question, but even individual grievances. Surely, my honourable friend ought to realise that in a large industry grievances are bound to exist. In fact, grievances will be found in every human institution. (An Honourable Member: In families). Not only in families. Man is born with a grievance. A child cries—either it is hungry or wants something or other. That is its grievance. Nobody understands it; it keeps on crying. Grievances will be there. They are there, not only among workers, but among capitalists also; among communists also. So, merely to pounce upon one grievance or other and then to write letters just to show the importance of this or that union—it will become an impossible proposition. It is hardly practical to deal with such a situation.

Then again, in clause 11 (a), my honourable friend wants the right to collect subscriptions within the premises of the place of employment. No doubt my honourable friend the Parliamentary Secretary (Mr. Nanda) will tell us that in Ahmedabad at least some time ago that practice prevailed. I think it is stopped now.

Mr. GULZARI LAL NANDA : No.

Mr. S. D. SAKLATVALA : If it is going on, I can understand it, because there is one union, and the employers can allow one union to go and collect subscriptions. But here, our experience was quite different. Once we did allow this sort of collection—in fact, our permission was not asked. Collections were going on, and then we had to stop them for the simple reason that when there are more than three or four unions, the officials of those unions come inside the premises on the pay day,

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and just as a Marwari or a Pathan waits outside the gate, to harass the work-people and ask for his money, these officials are likely to pester the workmen and ask them to give subscriptions. One union official wants it for his union. The other one opposes it and says, "No, it must be paid to my union." How can such collections be permitted? So, if this is his idea of recognition, I think the sooner my honourable friend gives it up the better.

Now, Sir, another difficulty which we have experienced in Bombay so far is this, that most of the officials of the unions are unfortunately ignorant of the elements of the processes and working and conditions that obtain in the industry. I do not see the honourable member Mr. Khandubhai Desai here, but I must say that in Ahmedabad things must be quite different. I have come into contact with him on the Textile Wages Enquiry Committee. He represents the Ahmedabad Textile Labour Association. I was really pleased to find that he had got a fair knowledge of the industry. He possesses, although not a very great, at least a workable knowledge of the industry. You can argue with a man who knows something about the industry. He can tell the workers whether they are right or wrong. But here the situation is quite different. We are confronted mostly by leaders who know very little and never care to apply their minds to study the processes in the industry. There are exceptions, I grant; but they are very few. When we have to deal with such people, how can we possibly grant recognition to a union simply because it is registered?

So far, Sir, I have attempted to appeal to my honourable friend's reason. He said he was open to reason, that he was a reasonable man; and I must say that I have found him to be so in moving his Bill. So far I have been appealing to his reason. Now I propose to appeal to his heart, believing that that is a more potent factor with him than his faculty of reason. My honourable friend is aware that a Textile Labour Enquiry Committee has been appointed. One of the questions it has got to deal with is the trade union movement. This Committee is going to find out what can be done and what cannot be done, why it can be done and why it cannot be done, what should be the lines on which the trade union movement should be established in this province, and so on. Questions have been asked by it, and replies have been received from associations, including labour associations. I think that to bring in, before the result of this enquiry is out, a Bill of this character and try to upset the existing situation is not in the interests either of the industry or of the workers. I would therefore appeal to my honourable friend not to proceed further with this Bill, and if he has any substantial proposal to make, it had better be made to the Enquiry Committee, which is in a better position to go into the merits of the whole situation, to hear the views of everybody concerned, and then to come to some decision,—rather than that he should ask this House to pass a Bill which, to my mind, is certainly not going even to serve the purpose for which it is intended.

With these words, I oppose the first reading of the Bill,

Mr. SAKARLAL BALABHAI (Ahmedabad Millowners' Association): Sir, while sympathising with the object of the Bill, the Bill which is presented to us is incomplete, badly drafted and shows some other objects behind it which would certainly disturb the smooth working of the industry. I, therefore, oppose the first reading of the Bill. My honourable friend Mr. Jhabvala, the mover of the Bill, has tried to show that this is a very simple Bill, that it is meant to redress the grievances of the workers, that it is meant to hold joint meetings, and thus he has tried to show the importance of this Bill in some way or other; but, he has not correctly put before the House his real or the other objects. I will now try to show what are the other objects or the motives behind this Bill. What is the present Act? The present Registration Act is that a number of seven people forming into a combination may form a union and get the same registered. Now, Mr. Jhabvala says that any registered trade union should be recognised. In support of this, clause 5 of his Bill says that every such registered representative organisation shall have a right to be recognised by the employer regardless of the numbers of members joining the Union. Now, supposing in some industry there are 5,000 or 10,000 workers working and if 7 or 10 or 50 or 100 workers form into a union and get the same registered, does the mover of the Bill think that such a registered union should be recognised by the employers? I do not think so. It would certainly disturb the smooth working of the industry. Then he says in clause 4 that every Registered Trade Union shall be acknowledged by every employer to be a representative organisation of the workers expressing an organised opinion of the workers in the Trade in which the Union is formed. So, it means 7 or 10 or 50 or 100 people, out of a total of 5,000 or 10,000 workers, can form into a union, get it registered and say that it is expressing an organised opinion, representing the opinion of the whole class of workers in that industry. Then in clause 7 he says that no speeches delivered etc.—I do not know whether he means fiery speeches also—or writings made or resolutions passed by such a Registered Trade Union shall be deemed a factor weighing with the employer against recognition. Now, Sir, if these are the objects behind this Bill, then such a Bill would never be accepted by Government. The recognition to trade unions is accorded by voluntary efforts and mutual understandings and not by the State intervening and by this process. I am not opposed to the principle of recognition of trade unions nor am I opposed to the principle of the growth of trade unionism. Let there be trade unions on proper lines; let there be a registrar appointed by Government who may impose on the trade unions certain conditions to be fulfilled before it is fit for recognition. One such condition may be that there should be a certain number of workers belonging to that industry joining the union as members—say, 30 or 40 per cent.

Then it is suggested that the Bill is meant to redress the grievances. Now, while redressing the grievances there are bound to be differences of opinion. Unless and until some sort of machinery, say, an industrial

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board or an arbitration board, is set up to settle these disputes and differences, who is going to settle them? On the contrary, in the absence of such a machinery, there are bound to be quarrels and ultimately they will result in strikes. So, the Bill, as it is drafted, is very incomplete and serves some other objects. It will certainly disturb the smooth working of the industry. I, therefore, oppose the first reading of this Bill.

Mr. R. A. KHEDGIKAR: On a point of explanation, Sir. In his speech, the honourable member Mr. Sakarlal Balabhai said that there were other objects behind this Bill. Will he please explain them?

Mr. SAKARLAL BALABHAI: I have stated them in my speech.

Mr. FRED J. CURRION (Presidency, Anglo-Indian): Sir, it is most unfortunate that my maiden speech on the floor of this House has to touch on a subject of a highly controversial nature, but I am sure that the true friends of Labour will readily admit that the Bill that is now before the House is likely to do more harm than good to the cause of the workers in the Presidency. I am perfectly aware, Sir, that the mover of the Bill (Mr. Jhabvala) has been actuated with the best of intentions, but then I must state that he has allowed his own enthusiasm to override all limits of caution. I yield to none, Sir, in my earnestness to serve the cause of Labour and since it may not be generally known to the majority of the honourable members of this House, I must, in support of my credentials, add that I have been for over a decade now closely associated with Labour, first, in the iron ore mines of Bengal and latterly as the General Secretary of the 40 years old National Union of Railwaymen of India and Burma. In my dual capacity I have had an opportunity of studying labour conditions in India. Now, speaking about the National Union of Railwaymen of India and Burma, my honourable friend Mr. Jhabvala has criticised us. I would like to state this much. He said that this Union is a subscription-collecting one, but perhaps it will interest the House to know that the National Union of Railwaymen of India and Burma is the only one in the East, this side of the British Isles, which affords the greatest number of benefits to its members. I would go further by stating that the National Union of Railwaymen was declared as a "MODEL UNION" by one of the Members of the Government benches on the floor of the Assembly in the Central Legislature, Delhi. My honourable friend Mr. Jhabvala also forgets that it was to my Union that he appealed for help, which help was given, and his cutting remark is the unkindest cut of all. In my dual capacity as Secretary of the Union I have had opportunities of studying labour and I think I may be justly proud that I have done my mite to serve the interests of labour in India. I consider—I speak on behalf of the Progress Party—that this Bill before the House is at best a wrong remedy. The Progress

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Party wants industrial peace. We are most anxious that legislation of a coercive nature should not be rushed through this House to secure what might in the end prove to be of a doubtful benefit to Labour.

Sir, my opposition to the Bill arises from two considerations. Those of us who have presided over the destinies of Trade Unions know only too well that the recognition of an Union *ipso facto* by the employers does not connote any transference of any real power to the Unions concerned. In actual practice, the Unions on recognition gain nothing more than consultative privileges, by which I mean the privilege to represent the grievances of Labour. The representatives of the Unions place proposals after proposals which the employers dispose of very much as they like. To my mind, the recognition of an Union is a matter of little account so long as the employers choose to be antagonistic to all representations from the Unions, and therefore, I would say that it is an atmosphere of friendliness that is more important than recognition, and I do not think that Labour stands to gain from recognition of the type that has been outlined in the Bill before the House.

Sir, again, my opposition to the Bill also arises from an entirely different consideration. Time and again, has it been shown that it is not necessarily those that are loudest in their protestations that have the welfare of the workers nearest their hearts. Unfortunately, Labour in India is still in a disorganised state, due to what I may mildly put as the lack of sound leadership, as well as to the continued exploitation of Labour by the demagogues for political purposes. We have had in the past the sorry spectacle of the true interests of Labour being sacrificed at the altars of personal ambition, political schemes and what not, and it is to obviate such chances in the future that I say that the employers should have a discriminating right to choose and reward Unions that are run on constitutional and methodical lines. Under the Trade Unions Act of 1926, seven workers can join together and register themselves as a Trade Union and if this Bill becomes an Act, we shall have the depressing spectacle of mushroom unions springing up overnight, only to linger for a week or so and then to die a certain natural death thereafter doing nothing, achieving nothing and gaining nothing for the uplift of those for whose benefit the Unions were formed. What is more, recognitions of such unions by the employers will only encourage the growth of such institutions and nobody will stand to gain by such recognitions except perhaps those who happen to be at the helm of affairs of those unions. We will then have more of lightning strikes, more of illegal lock-outs, and more and more exploitation of the gullible workers by political adventurers and opportunists.

I will conclude, Sir, as I began with the assurance that the Progress Party wants industrial peace. The Party is prepared to support any measure that will have the result of promoting industrial peace and

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well being, but we on this side of the House are not satisfied that Mr. Jhabvala's Bill is a beneficial measure. Its coercive character alone is a sufficient condemnation of the Bill. Its potentialities for harm are more pronounced than its possibilities for good. And last but not the least, the Bill defeats its very object by compelling the employers to recognise all Unions. And which institution, I would ask, can hope to gain respect and goodwill by legislation? If this Bill is passed into law, Labour will find itself in a hopelessly unreal position, even as the wife who has won a suit for conjugal restitution in a court of law; and Labour, like our unhappy sister, will soon find that a paper declaration of rights is no substitute for possessive rights. In short, Sir, I oppose the Bill, because it is mischievous, futile and superfluous, and I would appeal to all sections of the House not to touch it even with a pair of tongs.

Mr. M. C. GHIA (Indian Merchants' Chamber): Sir, while I agree that it would be good to have trade unions working on sound lines both in the interests of Capital and Labour, I personally feel that the Bill that has been brought in by the honourable member Mr. Jhabvala is detrimental, not only to the industry but also to labour. Sir, many of the points have been talked over by my honourable friends Mr. Saklatvala and Mr. Sakarlal Balabhai. I will only speak about one or two other clauses of this Bill. I refer to clause No. 11 which reads as under:

"When recognised among others the following privileges shall be accorded to the Union by the employer:—

- (a) Right to collect subscriptions within the premises of the place of employment;
- (b) Right to hold meetings of the Union."

Well, Sir, from what I know of Trade Union Registration Act, it is clear that if a Union has got only seven members, it can get itself registered irrespective of all other considerations. Apart from the textile industry, the Bombay Presidency has many other industries employing 400 or 500 or 1,000 hands. Suppose, Sir, that with ulterior motives some of the men come out and form four unions or even three unions from that particular industry, say for example, the foundry-work industry where they employ 400 to 500 men. In that event, there is surely going to be a clash among all those unions whose representatives will come into the factory for the collection of subscriptions from members of their respective unions. Apart from this, in the case of mill premises there is a chance of each union trying to come within the mill premises in order to address lectures at four different corners of the mill area.

Sir, considering all these things, I personally feel that this Bill ought to be rejected by the House, for it is a Bill which is detrimental to the interests of both Capital and Labour. Even in cases where there are 500 to 1,000 men, forming a union and registering the same unless these unions are brought out on proper lines and approved by Government, to say that because of the fact of their being registered they should be recognised by any industry would, I think, be detrimental not only to the industry but to labour itself. We must further remember that apart

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from the textile industry, there are other industries in this presidency which will be affected by this Bill if it passes into law. For these reasons, I object to this Bill being passed by this House.

Mr. D. J. FERREIRA (Thana *cum* Bombay Suburban District):

5 p.m.

Mr. Speaker, Sir, I do not propose to make any detailed observations on this Bill. Though we are not aware of the attitude of Government on this Bill, we are anxious to see that we should be just both to capital and labour. The honourable member who has moved the Bill wants that the unions registered under the Trade Unions Act should be given recognition by the employers. Under the Act only seven persons need join together—none of them need be over 16 years of age—in order to get a union registered. In an industry, there may be thousands of employees who may form several unions. Suppose there are 100 unions for one mill. Just visualize what will happen. All these unions will clamour for subscription, not impossibly for purposes wholly opposed to one another. They will place before the management their several grievances. Will it be possible for the management to look into all their numerous grievances and send replies to them? Will it be possible to work the provisions of the Act? Clause 9 says:

“Recognition shall consist in the employer immediately investigating into all the complaints both individual and general that may from time to time be sent by the Union for his consideration and replying to the Union communicating the results of such investigation.”

This is what the employer has got to do. Will it be possible for him to reply to the letters specifying the grievances from 100 unions of workers in one mill? I appeal to my honourable friend to reconsider the matter and bring in a Bill after mature consideration which will satisfy all parties in this House. All parties are interested in the trade of this country. We are anxious to be just both to capital and labour. We are today under a Government pledged to help the labourer and we know that this matter of trade unions is before our Government. Why not leave it to the Government to bring in a measure which will really help the cause of labour? I once again appeal to the honourable member Mr. Jhabvala to withdraw this Bill.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I rise to support the first reading of this Bill. I would have very much preferred to have Government's opinion and attitude before I rose. But I have been disappointed. On the contrary the Treasury Benches are all but deserted, which shows which way the wind is blowing. And yet, in this most industrialised province of Bombay, industrial peace depends upon the contentment of the working classes. Various criticisms have been made on the Bill, but all of a negative character. Somebody thinks that my honourable friend Mr. Jhabvala knows nothing and others complain that his drafting is bad, a third honourable member says that it has some ulterior object behind, a fourth gentleman says that he should consult somebody and bring again a properly drafted Bill.

[Mr. Jamnadas M. Mehta]

This is all a policy of negation. I wish that honourable members who found that the Bill was not well drafted had made suggestions to improve it. I fear that there is no real intention seriously to tackle the question of trade union recognition; and yet to my mind that is the most important question in the industrial sphere that this Province has to face today. The trade union has a history of nearly 200 years. In this country also, it can fairly be said to have been in existence for nearly 55 years. In its modern form that trade union was not so called at first, but we have England's History of Trade Unionism by Mr. Sydney Webb where a clear definition of "trade union" is given. Therefore, there should have been no difficulty in defining what exactly a trade union is. If my honourable friend Mr. Jhabvala's definition of trade union does not meet with the approval of honourable members here—

Mr. D. J. FERREIRA: Nobody said anything about the drafting of the definition of trade union. The definition of "trade union" in the Bill has been taken from the Trade Unions Act without the provisos which are mentioned there. Nobody complained about the definition.

Mr. JAMNADAS M. MEHTA: I am very glad that the honourable member did not complain about the definition of trade union in the Bill. When people complain about the drafting, the reply is there are ways and ways to improve it. I was pointing out to one most authoritative work. Mr. Sydney Webb is a man of international repute and is an authority on trade union matters which will not be challenged by anybody on either side of the House. A trade union is a continuous association of wage-earners for the purpose of improving the condition of its members. Now, in this industrialised province, do we or do we not wish to have an association like this which is working for the continuous improvement of the condition of the employees in the industry? I do not think that it will be seriously said that it should not be done. If that is so, how can we achieve the object which is accepted to be the need by all of us? My honourable friend Mr. Jhabvala has proposed that one of the important ways in which you can achieve the well being of the employees is that their association or union should be recognised by the employers. You find that Viceroys and Governors pay visits to the Chambers of Commerce, to the Federation of Commerce and assure them of their continuous interest in the well being of commerce, but I have not heard any Governor or any Viceroy going to a trade union and telling them: "My friends, you go ahead. I shall see that your lot improves." When my honourable friend Mr. Jhabvala comes here, I find member after member saying not one word of encouragement to him; and yet the problem is simple. Whichever committee has held an enquiry, has found that greater recognition of trade unions is absolutely essential. We have got the latest from the Royal Commission on Labour where repeated emphasis has been laid on the need of greater contact and wider recognition by the employers of labour organisations. That report was made in 1931. Now, we are today in 1938. No progress

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has been made during the last seven years towards the consummation which was so much emphasised by the Royal Commission on Labour.

My honourable friend Mr. Saklatvala said: "Are we to recognise a so-called labour union which consists of seven members?" The Royal Commission has given an answer that, if you want to encourage real trade unionism in this country, do not go on complaining that only a minority of workers are in the union. The Royal Commission on Labour says again: "Do not go on complaining that there is more than one union in the same industry, do not go on complaining that they are people who do not know anything about trade unionism, do not go on complaining that the unions are dominated by outsiders." The Royal Commission has told the employers that these pleas won't do. The whole history of trade unionism in England itself bears testimony to the fact that it was the outsider who devoted himself to the work of amelioration of labour conditions. Therefore, all these pleas are not merely negative pleas, but exploded pleas. The one fact is that if you want peace in industry, you must know your workers. Is the employer going to deal with 5,000 workers individually? My honourable friend Mr. Saklatvala rightly said that it may be 5,000. If a union consists of a small minority, even then take it from me that it represents the viewpoint of even those who are not members. Why is the Indian National Congress claiming to represent the whole nation of 36 crores of people when it has barely a few lakhs of membership? Yet my honourable friend has nothing to say about that. Do they represent 100 per cent.? They do not claim that they have a representative membership. Behind every one active member there are a hundred members. That is the claim of the Indian National Congress. That is also the claim of the workers. If the actual worker participates in the activities of the Union there is the danger of victimization. He has got such paltry wages that he cannot even afford to pay the minimum fee for membership. Then, he has hardly time to have active participation in the work of the union. His fear of victimization, his poverty, and his inability actively to associate himself, are often the reasons for the small membership. The union to him is the embodiment of the collective will of the workers. Therefore, this minority plea is, to say the least, an indication of the unwillingness to recognise and not of the unrepresentative character of the union.

Then, my honourable friend Mr. Saklatvala quoted something about communists in the Bombay Textile Labour Unions. Here also the Labour Commission has said: "Do not try to dictate to the union who should be their members and who should be their leaders. The man who merely pretends to lead and does not serve the workers will have his innings cut short." That is in effect what the Labour Commission says; he will not be allowed to continue in leadership if he is not working to the satisfaction of the union members and the workers. Therefore, Sir, all these pleas of minority membership, domination by outsiders, and absence of active association by large numbers of employees have long since been dealt with and they have been found not to hold water

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As against that, what is it that the Labour Commission says about the need of active contact between the workers and their employers? That is the most important thing which I hope my honourable friend Mr. Saklatvala and the honourable member Mr. Sakarlal Balabhai will remember. The Royal Commission on Labour has emphasized the need for contact in chapter XVII, pages 316 to 332 of the Report. Wherever you go you will find that the need for active contact with the employees is the biggest need of industry today. There may be innumerable occasions of misunderstanding when the employer will not find it possible in the absence of a Union to ascertain what his workers are thinking. In the union he has got available an organization which, even if it is small, knows what the worker wants and can prevent misunderstanding, prevent strikes, and prevent far worse results. Therefore, it is to the interest of the employers to be in active touch with their workers. Have they found any alternative short of a trade union, through which they will be in touch with the sentiments, aspirations, difficulties and grievances of their employees? Do they want to know them? Well, if they do, then this is the only instrument by which they can receive that information. It requires a very broad outlook to realise this.

I know that unions in England are not given recognition under any Act: I know that. I know further that in no part of the world, except perhaps in America, there is compulsory recognition of trade unions. I myself am not particularly in favour of compulsory recognition if voluntary recognition could be secured by methods of conciliation. Experts, whom I have consulted, have all told me that compulsory recognition is not prevalent in any part of the world today, except in America in certain cases. But if you think the employees and the employers must know each other, must come into daily, hourly and constant contact, then, in case you do not find the voluntary method possible, you might have a somewhat modified form of compulsion. I do not want to say that you should accept Mr. Jhabvala's Bill as it stands. I do not say that. But show some constructive attitude, some sign that you are prepared to meet him half way; show that you are anxious to solve the problem. The gentlemen who have made speeches so far have fought shy of the problem. I want this House to face the problem and to indicate how it proposes to solve it. In the absence of any solution, conditions would be much worse tomorrow than they are today.

The history of trade unions shows that with the beginning of the eighteenth century, when foreign trade and commerce in Europe was increasing, when scientific inventions were coming to the assistance of industries, when rapid fortunes were amassed by individuals beyond the dreams of avarice, they never cared about the conditions of their employees. On the contrary, in England, there were anti-combination laws; even the presence of trade unions was not desired, and combination of workers was discouraged, and cruel repressive laws were framed and were in force up to the year 1824. In 1869 or 1870, when, for the

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first time, legal recognition was given to the existence of trade unions, an amending Bill was passed, which you will be surprised, Sir, to know, took away by one hand what was given by the other. After giving legal recognition to unions by one Act another Act was passed in which were used the words "violence", "threat", "molestation", "coercion", "obstruction," "intimidation," "picketing," "persistently following," "watching", and "besetting", and they were punishable offences. Strike was permitted; yet if you told the worker "Please, do not go to work" it was called besetting and watching, and it was made criminal. So, while on the one hand the workers were allowed to strike and a strike was perfectly legal, if the means employed were even remotely calculated to coerce the employers, they were called illegal means; and a combination to do a legal act by illegal means was a criminal conspiracy. In other words, a strike was lawful, but anything done in pursuance of a strike was not lawful; and the judges tore up the remedial statute, and each fresh decision went further and developed new dangers. Thus even in England, the development of trade unions and the right of workers were not secured without a long and bitter struggle. Do the Government and does the House want to go through the whole period of terror that the workers there experienced during the 200 years before they came into their own? Are we not going to learn anything by the experience of British trade unionism? The employers went after profits and profits alone and did not care in what condition their workers were. It has been found that the workers' conditions were the one thing that the employers never cared to inquire into. Their associations were kept at arm's length. And what is more, the exploitation of workers—men, women and children—went on unchecked to the extent that I shall read:

"Children of nine or ten years are dragged from their squalid beds at two, three or four o'clock in the morning and compelled to work for a bare subsistence until ten, eleven or twelve at night, their limbs wearing away, their frames dwindling, their faces whitening, and their humanity absolutely sinking into a stone-like torpor, utterly horrible to contemplate."

I am reading from the book "Roads to Freedom" by Bertrand Russell, page 39. This was the condition of the British worker. They were two hundred years of terrorisation, intimidation, repression, and cruel anti-combination laws against the workers. It is only after this experience that there has grown a powerful trade union movement in England. Do we wish to go through this experience? Are we going to allow workers to be exploited in the manner in which it was done in England and will be done in this country so long as trade unions are not strong?

For these reasons, I submit that the Government and the employing classes should not take up merely a negative attitude. Let us agree to the first reading of the Bill. Let us at the time of the second reading send it to a select committee; let us then send it for circulation for eliciting public opinion. There may be ways and ways in which some sort of compulsion can be applied. We need not go the whole hog with

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my honourable friend Mr. Jhabvala. That perhaps does not go down the throats of most of those present here. But if we introduce some sort of compulsion, the principle of the Bill will be met. I am here putting forward a suggestion for what it is worth. I am not saying that it should be accepted. It is possible to devise at a later stage a machinery by which a trade union can apply to an employer to recognise it; failing that, that trade union can approach Government, and if Government are satisfied that it is a *bona fide* union working in the interests of the employees and yet the employer does not recognise it, then it is possible for Government to devise machinery whereby the employer can be called upon to show cause why the union should not be recognised. If Government seriously apply their mind to it, if they take it into their head to solve this problem and not evade it, and if the employers, as they say, are keen to recognise *bona fide* unions, a machinery can be devised at a later stage. To defeat the Bill at the first reading shows the absence of will, not that there is no way out. I submit there is every way out. Although the world has not yet, except in America, made recognition compulsory, we must advance; we must not stay where we are. Without introducing compulsion in the sense in which the honourable member Mr. Jhabvala has proposed it, let us agree to the principle of compulsion and make the necessary changes at a later stage when the Bill comes up for second reading.

The honourable member Mr. Saklatvala gave expression to the opinion that the outsiders did not know anything. It is true: outsiders do not know anything when they begin. Nobody knows anything when he begins—not even employers. In Bombay we find the Baniyas and Bhatias and Parsis putting on a big turban and getting into the office of a mill and becoming Shetias, because they are their fathers' sons although they do not even know the spelling of the word "mill". They go to the cotton exchange with a big red turban. The turban is the only qualification—and the fact that they are their fathers' sons is another qualification. As to the actual knowledge of the trade and industry, the honourable member Mr. Jhabvala knows much better than the son of an average mill-owner. They are in possession because their fathers were there. This knowledge does not come to anybody at birth; it comes by experience. Trade union leaders are, after all, ordinary human beings. They do not claim to be angels. They are there to learn. The Textile Labour Enquiry Committee knows that with all their absence of knowledge, the statement submitted by the Labour leaders was not a document which showed any lack of knowledge.

I therefore once more plead that the House should take this Bill very seriously. This province in particular is getting more and more industrialised. We are 22 per cent. industrialised as against 3 or 4 or 5 per cent. in the case of other provinces; and the task that faces this province is much more immediate and much more important than the task that faces other parts of India. If we do not set an example, we will

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not only be doing an injustice to ourselves, but will be delaying reform outside Bombay also.

The last appeal, therefore, that I would make to Government is this. Let them lay down a standard as to what is a *bona fide* trade union. There was a great deal of confusion in the mind of my honourable friend Mr. Saklatvala when he said that registration was a bad thing. He said he would not even recognise a registered trade union; he would prefer an unregistered union. Why?

Mr. S. D. SAKLATVALA : I did not say that registration was a bad thing.

Mr. JAMNADAS M. MEHTA : The honourable member said that he would prefer an unregistered union. I am prepared to bring the shorthand writer's notes. He said that he would rather recognise an unregistered union than a registered union. That is what he said. But he actually recognises none. That is not the right attitude. I admit there may be some unregistered unions which may be better than some registered unions. But registration presupposes two things: that the union is prepared to work on constitutional lines, and that it is willing to submit itself to certain rules which make for publicity. All the returns of a trade union have to be filed with the Registrar of Trade Unions, and any employer is free to go and see how much income it has, what membership it has, and how it is working. We have to submit audited statements of accounts. This publicity is the first step towards realisation of responsibility on the part of the union men. Even the Railway Board, which is an employer bigger than any other employer in this country, admitted, at least in the evidence that it gave before the Royal Commission, that the fact that a union was registered would create a presumption in its favour. Registration of a trade union must be there as a *prima facie* fee for recognition, and then what is the next stage?

5-30 p.m.

Will you please specify your conditions on which you will recognise them? Have you ever stated them? If not, well, state them now. If you are prepared to have the condition that in addition to registration the workers' unions should do this and should do that on which you will recognise them, specify the condition. But the real difficulty is that the employers in this country have got a medieval mentality about industrialism; they still think that industry is their private property, and they ask to themselves who are these outsiders who are poking their nose into their preserves? That mentality of absolute proprietorship of the industry, which was a feature of the industry two hundred years ago, still persists. They have not realised the modern doctrine that industry is a partnership in which both capital and labour are equally interested. The modern outlook is that the workers are as good partners in the industry as the industrialists themselves. The capitalists give some part of their money, but the worker gives his life. His interest in the industry is therefore greater. He has to earn his bread by the sweat of his brow, while the employers

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may be enjoying the horse races at Mahaluxmi. It is one of the ironies, Sir, that in the summer the people who go to Mahableshwar and Matheran are those who do not deserve to go there. All the employers go to Mahableshwar and Matheran which they need not do. They have got beautiful houses, they have got friends, they have got well-equipped motor cars, while the people who really deserve to go to some hill station or some sanitarium are toiling in the Bombay mills in the mid-summer. Therefore, this mentality that the industry is the private property of the captains of industry has to disappear and the Government at least are bound to make it clear to them that the industry is not their property exclusively; that both the workers and the State are interested equally with the industrialists in the industry. And how are Government going to ameliorate the condition of the workers if the very elementary condition of establishing contact between the employers and the employed is lacking? This is the modest proposal of my honourable friend Mr. Jhabvala that the very foundation of peace in the industry—recognised organisation of the workers—is lacking. In the interest of the industry itself, in the interest of peace, law and order about which we hear so much and in the interest of the community itself, the recognition of the representative organ of the workers is fundamental, and, therefore, at this first reading I am only asking that the principle may be admitted. I am not touching the various sections. I shall agree to any radical alterations to every one of the sections, if need be, to suit the needs of the situation. I, therefore, submit that this Bill is absolutely necessary. I pray the Government not to run away from this most serious responsibility. The foundation of industrial peace in this Province depends entirely on a contented working class, and the basic necessity of that contentment is at least a recognition of their association on conditions which may be laid down. I want the human element in the consideration of this problem; the human factor should appeal to Government. In Bombay Mills alone there are nearly 1,50,000 workers; then there are several thousands of railway workers. There are 75,000 shop assistants who are working 12 hours, 14 hours and even longer hours a day, and one of the changes that I myself propose to make is that this Bill should not be confined only to the industrial workers as my honourable friend Mr. Jhabvala has proposed. Any worker whose trade union satisfies the conditions laid down in the Trade Unions Act of 1926 and any other conditions that Government may impose should get the benefit of this Bill. Government are the custodians both of the interest of the workers, the industrialists and the community. Their obligation cannot be evaded. I beg Government not to run away. I want them to face the situation, and if they are not pleased with Mr. Jhabvala's Bill, they should come out with some alternative suggestion at the second reading, but the worse thing that they can do is to oppose this Bill. That will not solve this problem of the workers. The workers are waiting expectant. The number of workers in this country is not small. We have got at least 25 lakhs of workers

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who are working in factories ; in addition to that there are workers who are working not in any factory but outside factories. The total number of workers will be somewhere about 12,500,000. How are you going to treat these people ? Are you not going to recognise their right to ameliorate their own conditions ? How are you going to tackle the question of minimum wage, of hours of work, of unemployment, of sickness, of various other labour conditions, unless you start with the recognised associations of workers ? And if you do not recognise them, it is a clear indication that you are still flirting with the task ; you are not serious in tackling these questions.

With these words, I wholeheartedly support the proposition for the first reading of the Bill and earnestly appeal to Government not to face it with a negative but with a constructive proposal.

MR. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers): Sir, I stand to support the Bill moved by my honourable friend Mr. Jhabvala. There may be a little difference of opinion or I shall say I may have some disagreement with the honourable member Mr. Jhabvala in its details, but the first principle is to acknowledge the principle of recognition. As regards certain points raised by my honourable friend Mr. Saklatvala, I would like to point out a few facts. Mr. Saklatvala did say that he was prepared to recognise an unregistered trade union rather than a registered trade union which is not, according to him, a *bona fide* one. I understand what he refers to. He refers to the principle of collective agreement. On the Continent there is a principle of collective agreement, but unfortunately he is comparing the conditions of India with the conditions of labour on the Continent. There, the labour is so organised that even if you want a servant, say, on Rs. 4, to do some domestic work, unless such a servant produces a card from this Union, you cannot employ him. It is not due to any codified law nor to any provisions of any statutory enactment, but it is due to the collective agreement. According to the collective agreement, if any non-member of a Union is employed by any employer, the result will be that all people employed in that trade will declare a strike. That is due to the recognition of labour on the Continent. If the Indian masses and Indian labour are to be organised on that scale, if they have got that strength and power, of course it will be futile to ask today on the floor of this House that we want recognition, but, as I say, we are still in the stage of evolution and we need certain support from Government. May I take the liberty to say that there has been a constant effort on the part of Government to stop the movement and growth of trade unionism in this country ? There have been always attempts on the part of Government to discourage this movement, with the result, I may tell you, that it is the Government's repeated refusal that is throwing the people right into the hands of Communism. Government knows it perfectly well. Communism is nothing but a bogey or "Haiwan" which Government is bringing forward. It has

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not entered India and Indian conditions are not at all conducive to its growth in this country. It is nothing but an instrument of exploitation in the hands of employers. Indian conditions are unfit for communism, but because they want to exploit Indian labour, they have come up with that bogey and it is nothing but a bogey.

Sir, the rival unions—I would only use these words in my own terms—more than one union in one trade, are more injurious to the labour itself than to capital. These people themselves call them rival unions which are to the interest of the employers, and let me tell you that I can challenge any impartial and right thinking judge that these rival unions in one and the same trade are nothing but the creation of the employers themselves. I can prove it, if anybody wants to know, to his best satisfaction, that employers go out of their way and pay money to these people and try to see that rival unions are set up. So, it is not the workers who are responsible for starting these rival unions. In fact, it will be my honourable friend Mr. Jhabvala and it will be other leaders like him who will be more affected by our giving recognition to more than one union in the same trade. He has been very impartial, very just and liberal in asking for recognition for all unions and that depends on his own *bona fides*. He knows that though in the beginning of any work which a man undertakes to do in the interest of humanity, he may be beset with difficulties, but ultimately he succeeds if he serves his cause with zeal and if only he is actuated by enthusiasm for his ideal, but still he must admit that recognition of various unions in one and the same trade or occupation has done far more harm to labour itself than to employers.

Now, with reference to what the honourable member Mr. Saklatvala said, we all know that since 1927 there have been several Commissions and Committees appointed by Government. What has been done during these 15 years by Government when we had been expecting much encouragement from the side of Government? What has been the result of the working of all these committees? I take the liberty of saying that it is nothing, and from time to time we have seen that the work of these committees has been of no avail. I would only cite one instance. In 1922, in my Trade of Seamen and Shipowners Government sent people from Bombay to Simla to place evidence before the Clow Committee. From all over India people went there to be examined. People from Calcutta also went there with a similar purpose. Certain recommendations were made by that Committee that the Brokers' institution should be abolished. This recommendation went to the Legislative Assembly in 1927 and after that we have not heard anything as to what happened. Our grievances were placed before the International Organisation year after year, but nothing has come out of that. So, this is the result of the commissions that we are having at the hands of Government; and the policy of Government in giving us simple recognition should be prompt which I should say is the inherent right

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and which should be a genuine right and which I should say we can expect from Government and also from the employers. I am quite at one with my honourable friend Mr. Jamnadas Mehta when he says that Government should declare its intentions with regard to this Bill. The Bill can be sent to the select committee, various opinions can be invited from the employers, from Government and from workers themselves. If necessary, a sub-committee can be appointed, but the principle must first of all be admitted by Government, and that is the only thing which labour can expect from Government today and afterwards any number of changes can be made.

With these words, I support the Bill introduced for first reading and resume my seat.

Mr. GULZARI LAL NANDA (Ahmedabad Textile Unions): Sir, I rise to oppose the first reading of this Bill which my honourable friend Mr. Jhabvala has placed before this House for a first reading. To oppose this is to do the best thing under the circumstances. I want to make it clear at once that in opposing this Bill I should not be understood to stand in opposition to any effort, any real effort, that may be made for the encouragement of trade unionism or for the protection of trade union recognition. Such an antagonistic attitude to trade union recognition would be, for me, something unthinkable. It would be unthinkable for this Party also. It would be unthinkable for this Government also. The Government's view is well known. Government have expressed themselves in unmistakable language that they are very anxious to do all that they can to help forward the growth of trade unionism in this province. After assumption of office, as far as I remember, the very first announcement of policy was in respect of industrial workers. I have got a copy of that communique.

An Honourable MEMBER: We do not want to have it read again. We have read it several times.

Mr. GULZARI LAL NANDA: Still, it is just a few lines to which I would like to draw your attention:

"While Government propose to do all that is practicable for the amelioration of the condition of the working class, they are convinced that no legislative programme can be a substitute for the organised strength of the working class, and till organisations of workers run on genuine trade union lines grow up in the various fields of the movement, no lasting good can accrue. Government are therefore anxious to assist in removing real hindrances in the way of the growth of labour organisations and to promote collective bargaining between employers and employees. Means will be devised to discourage victimisation of workers for their connection with labour organisations and participation in legitimate trade union activity."

This is emphatic language, but it may be asked, "What has been done in pursuance of this?" A circular letter has been issued to employers. I will come to it again later on, but I will just read out a few sentences

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from it to emphasise what the attitude of Government and its anxiety in this matter are :

“ Government fully realise that with a few notable exceptions, the trade union movement in this presidency has received neither the support of the workers nor of the employers. It is not necessary to discuss the reasons why but the fact only emphasises the necessity for a radical alteration in the existing conditions in order that the relations between the employer and the employed in the Presidency may be put on a proper footing and thus bring Bombay into line with other industrial centres of the world in this matter of negotiation between employers and workers.”

And it has further been stated :

“ It is the intention of Government to give the earliest possible effect to their promise to assist in removing the real hindrances in the way of the growth of labour organisations in order that Government may most effectively discharge its responsibility for the welfare of the worker and industrial peace.”

Sir, I think there can be no doubt with regard to the intention of Government in this matter.

Now, my honourable friend Mr. Jhabvala will ask me “ Then, why do you not accept this Bill of mine ? ” I ask him in turn “ What is it that his Bill wants ? Does he want merely the word ‘ recognition ’ ? Will it satisfy him ? Or has his concept of recognition any content of value to the working classes ? ” If he believes that it is the latter, then I warn him that for him and for the working classes there is in store sore disappointment and disillusion if this Bill is passed into law. What is the aim of recognition ? In the statement of objects Mr. Jhabvala has himself stated that the aim is to get redress of day to day grievances of workers. I agree with this aim. It may be something more—to secure for them better living and working conditions, improvement in wages and hours of work—and something more still—the improvement of the workers’ status in industry and society. Now, I ask him whether it is possible to achieve all these things by his Bill. Can he, by any stretch of imagination, say that his Bill will bring about all these improved conditions to workers ? Just scan the provisions of the Bill. All that he wants by his Bill is that he should have the right to communicate with the employer in order to have replies from him and to have meetings with him. I do not think it helps the worker very much. Suppose my honourable friend Mr. Jhabvala, as president or secretary of a union, writes a letter to the employer stating the grievances which are to be redressed. What will the employer do ? He will ask a clerk of his vast establishment to write in reply : “ I beg to acknowledge your letter No. so and so, dated so and so. I am sorry to say I cannot agree with you. I regret I cannot comply with your wishes in the matter.” The next thing he wants is meetings. The same thing will happen with regard to meetings also. He may meet the employer and the employer may listen to him patiently or impatiently and then say, “ Nothing doing.” I want to know from him whether these concessions will really mean anything of moment or value to the worker. These concessions mean nothing. They are not calculated to advance the cause of the labour movement : I believe this will be a mere mockery of recognition.

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The honourable member Mr. Saklatvala has referred to this matter and I do not agree with him. His exception to this clause was on the ground that there might be numerous grievances which the management could not find time to look into and go on sending replies about. My objection to this is not on that ground. If the management has time to look after the sales, look after procuring money for the purpose of running the industry and to pocket the money which comes as a result of the profits for which the worker is mainly responsible, they should have time to attend to every little grievance of the workers. My ground is different. Now, my honourable friend Mr. Jhabvala may say: "It may not be very much. Let it be just a beginning. Let us proceed in this direction. It is an approach." There also I do not agree with him. I believe it would be a beginning in the wrong direction.

This proposal of his appears to be innocent but is not so innocent as it looks. I am sure it is fraught with a great deal of mischief and it will defeat the very object which the honourable member Mr. Jhabvala has in view. I believe that, although the object which he has stated has got the consent and agreement of everybody in this House, the means he prescribes for the achievement of that object will meet with the approval of very few in this House. I hope he will agree with me in this view.

Mr. S. V. PARULEKAR: Will you mention your means?

Mr. GULZARI LAL NANDA: Well, Sir, I have not yet finished—

Mr. JAMNADAS M. MEHTA: You have finished us.

Mr. GULZARI LAL NANDA: Are you so soon finished? Please have the patience to listen to me for a few more minutes. I am certain that you will agree with me in the stand that is taken by this side of the House.

I have some amount of familiarity with the conditions of the workers. [An Honourable Member: "Some"?] Possibly more; and I do not want to make any boastful claim. I know more about the difficulties of workers than my honourable friend there. I know it is true that workers have a very bad time and that at every step the workers take to move forward they are confronted by a virtually irresistible force. I understand that there are practically insurmountable difficulties in the way of the workers. I know all that. And because I know all this, I oppose this Bill. I think there is absolute agreement on the point that the organisation of labour is very weak in this country. It is in a very elementary stage today; and every effort that may be made in the direction of strengthening organisation of labour will have the support of every right-minded person in this country. The aim of a union is to unify the scattered forces of labour, and to inspire solidarity in the ranks of workers. My objection to this Bill is that it would destroy that solidarity and scatter those forces. I can very easily explain how it will happen. It is latent in the Bill.

The Bill says, as has been explained already, that all that is necessary for a union to secure recognition is that it should be registered under the

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Indian Trade Unions Act ; and it has also been explained that to secure registration 7 workers may combine together and make an application for registration. Now, it has been pointed out by my honourable friend there that the employers themselves are responsible for the setting up of rival unions. I want my honourable friend to ponder over this. If any 7 men can come together and form a union, the employer also can buy out some 7 men and there will be recognition for that union. It has not been noticed that in this Bill it is stated that the employer must accept the union of 7 men as representative organization. What the expression "representative" means I know and my honourable friends know. A union having 7 members is representative and a union having 10 members is also representative. I do not know what the word "representative" will come to mean. There is a very deplorable tendency in this country to create splits and further splits. For these splits, the basis may be anything. It may be ideological, it may be personal or it may be communal ; but the fact remains that unions will multiply and the strength of the workers will be divided. I am absolutely certain that this tendency will be greatly strengthened by the proposal which my honourable friend Mr. Jhabvala is making here. Up to now, it was only a question of the trade union coming into being and getting some kind of immunity and protection as a consequence of registration. If this Bill is passed, what is going to be done is that the registered unions will get recognition from the employers ; and it will be a temptation to many people to form more unions for the sake of merely getting such recognition. The ultimate result of this will be that not one union but several unions will come into existence in one centre of industry. This is going to render the organised strength of workers absolutely ineffective. It will practically wipe out all group action on the part of Labour. This is my fear. It is not simply a fear but it has been supported by the conditions we see today. These unions are going to compete for membership and in competing for membership they are going to pitch the demands higher and higher. That would lead to irresponsible and unreasonable strikes, and, owing to the disunity in the ranks of labour, those strikes will have very little chance of success. And, then, the employer will be tempted to put up one set of workers as against another ; and, ultimately, the very worst terms would be obtained by the workers as a result of this arrangement. This is not all. There will be complete chaos and confusion in the industry, as has been pointed out. An instance has been cited, that a jobber was dismissed, and one union said that if they did not take him back there would be a strike and the other union said that if they took him back there would be a strike.

Mr. S. V. PARULEKAR : Is that the only instance ?

Mr. GULZARI LAL NANDA : When there is compulsory recognition, multiplicity will arise, and multiplicity will mean that there is difference in policy. And, therefore, it is not only possible, but probable, that demands will vary, and with varying demands certainly I do not know

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where the employer will be and where the workers will be. This is a thing which can easily be contemplated, and I believe it will ultimately mean paralysis of the industry and ruin of the working class.

Mr. S. V. PARULEKAR: Ruin of the employers?

Mr. GULZARI LAL NANDA: Ruin of the working class. Multiplicity of unions will mean ruin of the working class. In the statement of objects and reasons attached to the Trade Union Registration Bill, it is stated that the primary aim of the Bill is to safeguard the workers' right to combine. Now, this right to combine has been confused with the duty of the employers to accept any sort of combination. The right of the workers to combine is there already. My honourable friend Mr. Jamnadas was dilating on this aspect. He has given us harrowing stories—they are facts—from the history of trade unionism in England, and said that as a result of bitter fights the English trade unionists got the right to combine. But that right is here already. Therefore, all that comparison is really not at all relevant. If you go further and impose a duty on the employer, to recognise a combination, that duty must mean something. You can compel him just to give recognition in a nominal sense, but you cannot compel him to give and to do all that this recognition really aims at. You can impose recognition on the employer, but you cannot impose co-operation on the employer, much less the spirit of co-operation. Therefore, what is really needed is to find out the basis for that co-operation. And, as far as I can read this Bill, I do not find there are any elements in it which can make for that co-operation.

Now, I have been asked what Government is going to do. On behalf of Government I have said that the Bill, as it is framed, is totally prejudicial to the interests of the working class; and I have also stated that it is Government's intention and determination to do all that is possible to promote trade unionism in this presidency. Then, how is that to be accomplished? I have already said that a circular has been issued to the employers, in which it has been impressed upon them that Government are very keen to see that trade unions are recognised and everything possible is done to support this movement. They have been asked to state the conditions under which they will be prepared to give recognition to trade unions. Certain conditions on behalf of trade unions have been suggested to them. Some of the conditions I will read out to you. I believe they mean much more than is intended in the Bill itself.

"I am to suggest for your consideration that, quite apart from absolute freedom from victimization, that is to say, freedom to belong to any organization of workers without risk of dismissal or unfair discrimination, and grant of facilities for collective bargaining, recognition of trade unions might imply the granting of facilities for carrying normal trade union work, including—

1. permission to collect trade union subscriptions at the time of the payment of wages;
2. latitude for communications between trade union officials and representatives of leaders of the workers inside the factory;

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3. circulating of notices of meetings of the union and notification of other important information on behalf of the union ;
4. acceptance of letters and answers thereto ;
5. granting interviews to union officials and representatives of the workers ;
6. joint investigations of complaints brought up by the union or the representatives of the workers ;
7. permission to hold meetings inside the mill compound during the interval of rest after previous intimation to the manager."

There are several other things. But really they are not the crux of the matter. The crux lies here. I want to refer to the long speech of my honourable friend Mr. Jamnadas Mehta. He has referred to the Royal Commission's Report, and quoted several things from that report. He has cited the authority of that report for compulsory recognition.

Mr. JAMNADAS M. MEHTA : Not compulsory.

Mr. GULZARI LAL NANDA : If it is not compulsory recognition, then there is no meeting ground between him and this Bill. In regard to compulsory recognition the Royal Commission says :

" These considerations, apart from any others, make it impossible for us to endorse the proposal, advanced by several labour sympathisers, that recognition should be obligatory in certain cases. It was suggested, for example, that an employer should be compelled to recognise a registered union of his men. Recognition may mean much, but it may mean nothing. No law can secure that genuine and full recognition which we desire to see."

Mr. JAMNADAS M. MEHTA : We agree there.

Mr. GULZARI LAL NANDA : If he agrees there, I really wonder what it is he can have sympathy with in the provisions of this Bill, because it only says that a registered trade union should be compulsorily recognised. The Bill says that it should be compulsory and the Royal Commission says that it should not be compulsory. So, there is nothing common at all.

My honourable friend has cited the American legislation. It has been agreed and admitted on all sides that Western experience does not really furnish any example for this sort of legislation, except, as has been pointed out, the American experiment. Now, I have got the Act with me—the United States of America Act in regard to labour relations. Even this Act does not even remotely resemble this Bill. I would not weary you with all the details, but I would only point out the essence. The Act only recognises the right of workers when there is only one agency exclusively representing the workers. Therefore, I request my honourable friend to think about it. Here it is not a question of altering or improving ; it is the very principle of the Bill that is objected to. The principle is multiplicity ; therefore, it is not capable of improvement. And that is the thing for which there is no instance, no example, no support, at all. Therefore, as I said, it is not possible at all to accept this Bill. As we know, there is really no experience in its favour ; on the contrary, there is experience here in this country against dual unionism—not only in this country, but in

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America, where dual unionism has existed, the experience is that it has done great harm to the working class. For these reasons, I would appeal to my honourable friend Mr. Jhabvala that he should drop his Bill.

Mr. S. H. JHABVALA: I can drop a hundred Nandas instead.
[Laughter.]

The Honourable the SPEAKER: Order, order.

Mr. GULZARI LAL NANDA: I have now just to state in a few words what really can be done. The method suggested by the honourable member Mr. Jamnadas Mehta is also not acceptable, because really it does not lead to any essential improvement in the situation. The Bill says, recognise any and every union. The honourable member Mr. Jamnadas Mehta says, let the union go to the employer, and later on, let it go to Government, and unless there is a reason against it, let it be recognised. But I say that that is not the right thing. There cannot be more than one union going in for recognition. And, therefore, the whole basis of this Bill is entirely unacceptable. I do not visualise any possibility of improvement in it.

I can only just indicate what Government can do in the matter. As I have pointed out, a circular has gone to all the employers, and matters have advanced one stage further. The opinions of the employers have been received. A large number of employers have responded. They have stated their views as to what are the terms and conditions on which they would be prepared to recognise the unions. This is what my honourable friend wants. This has been done. The next step that we are going to take is this. The views are going to be summarised, and they will shortly be circulated to the workers' organisations. Their opinions will also be elicited. Then, out of that will emerge conclusions which can thereafter take legislative shape.

Mr. S. V. PARULEKAR: No Bill?

Mr. GULZARI LAL NANDA: I do not think that a Bill is different from conclusions which will take legislative shape.

That is the position. I wish to emphasise again that the opposition to this Bill is purely in the interests of the working classes. Therefore, my honourable friend should really agree to withdraw his Bill.
[Applause.]

Rao Bahadur G. K. CHITALE: Sir, I move the closure.

Mr. S. V. PARULEKAR (Ratnagiri South): Mr. Speaker, Sir, I rise to support the first reading of the Bill which has been moved by my honourable friend Mr. Jhabvala.

I was not surprised when the employers opposed the Bill. They were unanimous in condemning the Bill. Their opposition is an exhibition of the fact that the interests of capital and labour cannot be reconciled. The Bill which has been moved by the honourable member Mr. Jhabvala is one of the most innocent Bills that could be moved on behalf of labour.

The Honourable Mr. K. M. MUNSHI : Define innocence.

Mr. S. V. PARULEKAR : I think the Honourable the Home Minister finds something mischievous which ought to be suppressed in everything that is moved on behalf of labour.

The Honourable Mr. K. M. MUNSHI : I did not say that. I said, define innocence.

Mr. S. V. PARULEKAR : The Honourable Minister does not agree that the Bill is innocent.

The Bill does not ask the employers to pay more wages. It does not lay any burden on the employers. It does not lay any burden on the Government. The only thing that the Bill begs for is that a trade union which is registered under the Trade Unions Act ought to be recognised by the employers.

Now, Sir, the employers state that they sympathise with the aims and objects of the Bill, but they want to oppose it. They are prepared to recognise a good union. That is what my honourable friend Mr. Saklatvala and others say. But they never care to define what a good union is. They also say that they are prepared to recognise a union which is conducted on sound lines, and they point out that the union which is, according to their view, conducted on sound lines is the Ahmedabad Labour Association. Sir, their remarks create suspicion in my mind. I begin to doubt whether that union is really being conducted on sound lines when I find the representatives of capitalists whose interests conflict with those of labour praising a union which is being conducted by the representatives of workers. Another representative of the employers stated that unless a union has 40 per cent. membership it should not be recognised. I think my honourable friend Mr. Nanda too agrees with the view. The union which ought to be recognised must be a representative one. Sir, you might not know the difficulty experienced in building up a union. I will tell you my experience. I tried to organise a union at Ambernath. That union was recognised for the first five months. Then the employers laid down a condition that unless Parulekar was chucked out of the union, it would not be recognised. That demand was complied with, and the union was composed of only representatives of workers, who began to deal with the employers direct. Their names were taken down and registered in the black list by the employers. When there was a strike, the five workers who used to meet the employers and discuss the grievances of the workers with them were the first to be victimised by the employers. But they were not satisfied with the dismissal of five workers. All those who used to associate with those five workers were also victimised. In all, out of a total number of 900 workers, 200 were victimised. The State also went to the help of the employers by prosecuting the workers and sending them to jail on frivolous charges. Is it possible, under these terrible circumstances, which do not prevail in other countries,

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to build up unions and have a 40 per cent. membership? Sir, it is not. Sir, I can give you an instance of another union with which I am connected. It is the union of tannery workers at Dharavi. The total number of workers employed in this industry at Dharavi is 1,000. Out of this number of 1,000, five hundred workers have been victimised only because they belong to the union. The employers have laid down a condition that only those who do not belong to the union will be employed in the industry. The result is that those workers who are members of the union have been starving for a month and a half. Is it, therefore, possible under such circumstances to build up a representative union? There is victimisation by employers; there is repression by Government. If you, therefore, put down the condition that a union should not be recognised unless it has a 30 or 40 per cent. membership, it means that you do not want any union to be recognised by the employers.

Sir, there is another thing which the employers resent. They say, "Why should the State intervene and coerce us to recognise a union?" Now, they do not resent State intervention when it helps them. They did not show any resentment when my honourable friend the Home Minister promulgated the Criminal Law Amendment Act to crush the strikers at Ahmedabad. They welcomed that intervention. They did not grumble when Government went to the help of the employers with section 144 in Sholapur. [Interruption.] They show resentment only when the State goes to the help of the workers in a most innocent manner by compelling the employers to recognise a trade union.

The employers have pointed out a difficulty. If there are several unions it will be impossible to deal with all of them. I really fail to understand the difficulty of the employers. Supposing that there are 7,000 workers in a factory, is each union composed of seven persons going to approach the employers and ask them for a feast? No, Sir. All that they ask for is that each union should be given the right to represent the grievances of the workers. What does it matter whether the grievance is represented by a union of 7 men or 700 men or 7,000 men? So long as the union represents genuine grievances of the employees, there is no difficulty in dealing with it. If there is a bogus union of 7 men, then it will have no grievance at all to represent. It cannot manufacture grievances. People are not required to manufacture grievances because they are so many.

Sir, the employers say that they want peace in industry. Is it by allowing grievances to accumulate in the industry that they can have peace in industry? Are they aware that the workers in factories are often assaulted by the officers? Are they aware that bribery is rampant among jobbers and head jobbers? No worker gets a job unless he pays a bribe to the jobber or the head jobber? If he does not pay the monthly instalment of bribery, he is dismissed. If all these grievances accumulate, you cannot expect to have peace in industry and there are bound to be strikes. If you want to avoid strikes, recognition of the

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Union is one of the methods by which you can avoid them. Employers ought to have, therefore, congratulated the honourable member Mr. Jhabvala for going to their help in avoiding strikes, and in preserving peace in the industry. Sir, I was not surprised when the employers opposed this Bill. But what surprised me most, and what might surprise others too, was the fact that Government should have gone hand in glove with the attitude taken up by the employers. It reveals the fact that the interests of the Government and the employers are the same. (*Interruption.*) You may deny it, but just now the honourable member Mr. Nanda opposed the Bill. Like the employers he sympathised with the aims and objects of Mr. Jhabvala's Bill, but still he opposed it. It is, therefore, abundantly clear that his attitude is going to help the employers in achieving what they want. If you really want to help the workers, here is a Bill which you ought to support. The Bill asks of you nothing; it does not ask for any funds either from the Government or the employers. The Bill only seeks to compel the employers to recognise a Union. The Bill lays down that whenever there is a grievance, the Union should have the right to approach the employers with a view to redress the grievance and that the union should have the right to have a discussion with the employers to settle the disputes, as far as possible, amicably. Is it such a demand of the workers that it cannot be satisfied by Government? Sir, the honourable member Mr. Nanda referred to the statement of Government's labour policy which is six months old. I am afraid he will continue to read the same statement as long as they are in office, but beyond that statement he does not seem to have advanced towards tangible results. He said that the Bill would encourage rival unions, and assured the House that Government would bring forward a Bill for the recognition of Trade Unions. He does not condemn the Trade Unions Act which allows rival unions; but he does not want rival unions to be recognised. He wants only one union to be recognised. If I may guess the nature of that Bill, it will provide for recognition of only those unions which will be on the model of the Ahmedabad Labour Association. That is the real motive of the Government in opposing this Bill of Mr. Jhabvala, and I have grounds for saying so. Sir, as soon as the Congress took office, the first thing they did, and of which they boasted, was to settle the strike at Gokak; and, if you go into the history of how that strike was settled, you will realise that my fears and anticipations are bound to come true. There was a Union which was already functioning at Gokak. When the representative of the Government went to Gokak, he did not ask the representatives of that Union to go with him and negotiate for a settlement of the strike; but he took his own men. He neglected the Union. A settlement was arrived at, and was signed on behalf of the Union by one who was never connected with the Union at all. It was Mr. Narayanrao Joshi. And, there, in the settlement, a condition was put down that the Union would be recognised only if it was conducted on the sound lines of the Ahmedabad Labour Association, of which Mr. Nanda is the General Secretary. (*Interruption.*) I will

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produce the agreement which is with me and let Government challenge the statement which I am making. Then, Sir, he (Mr. Nanda) has addressed a letter to the employers asking them which of the Unions they would like to recognise, and we can well predict what their reply will be. From the attitude which they have consistently taken during the last 10 years, it is evident that they are going to write to Government, saying that they are prepared to recognise only those unions which are on the lines of the Ahmedabad Labour Association. Then Government will come forward with a Bill, supported by the weighty opinion of the employers, embodying the principles that only such unions as are conducted on the lines of the Ahmedabad Labour Association ought to be recognised. That is what Government is thinking to do. Not that they want the unions to be recognised, but they want to strengthen their own position in the working class. For achieving this end they want to use the political power they possess. Sir, if Government want to strengthen their position among the workers, they are welcome to do it, but they should not use the political power which they have today for suppressing one kind of unions and encouraging another. If they have a different ideology, let them go and preach it among the workers. If the workers accept that ideology, they should not be afraid of others who are preaching a different ideology. Sir, they are free to carry on their own propaganda, but let them not make us believe that they are thinking of bringing a Bill which will be superior in merits to the Bill which has been moved by the honourable member Mr. Jhabvala. No doubt, there may be some defects in his Bill; but the Bill can be improved upon if it is sent to the select committee. But what I fail to understand is that, having made solemn promises six months back to help the workers, they should oppose a Bill of such a simple character. They do not say, "there are some defects in the Bill, let it be referred to a select committee so that those defects may be removed." But they say, "Drop the Bill, withdraw the Bill, we will come forward with another Bill." Nobody knows when. Perhaps it may be at the end of four years when they will be interested in creating a deadlock. They do not give even a vague idea of the character of that Bill although they seem to have made up their minds as to what the Bill should be. Sir, the Government is pledged to help the cause of the workers because they have issued a statement declaring to help the growth of the trade union movement.

The Honourable the SPEAKER: Is the honourable member likely to take some more time?

Mr. S. V. PARULEKAR: Yes.

The Honourable the SPEAKER: He might continue his speech tomorrow.

RE : ADJOURNMENT MOTIONS.

Mr. JAMNADAS M. MEHTA : Before we adjourn, Sir, may I know whether your ruling will be available to us in the course of this week on the submission that I have made on the question of an adjournment motion ?

The Honourable the SPEAKER : I do not think I shall be able to give my ruling during the course of this week. So far as the motion itself is concerned, I have already intimated to the honourable member that I will not be able to give my consent. As regards the request to me to reconsider as to how far the previous rulings be modified, the ruling which I propose to give shall be only with reference to the point, namely, whether a sufficient case has been made out which would justify my overriding the previous rulings. That is the scope. So far as the adjournment motion itself is concerned, the matter is not before the House.

Mr. JAMNADAS M. MEHTA : If your ruling went in my favour, the situation may improve.

Mr. S. V. PARULEKAR : Am I to understand that the fate of the notice of the adjournment motion which I have given depends upon this ruling of yours ?

The Honourable the SPEAKER : So far as the adjournment motions that came to me are concerned, I have definitely
6-30 p.m. told each member who came to me for having my consent that I was unable to give my consent ; and, therefore, those motions will not stand at all. The only question now, as I said, is whether a sufficient case has been made out for justifying me to reconsider the previous decisions. If I take the view that a sufficient case has been made out, then it will be a matter for considering other further motions, but not the motions which I have ruled out of order or in respect of which I have already said that I cannot give my consent. Any ruling that I give will not be retrospective in effect.

Mr. JAMNADAS M. MEHTA : For the future it will be of help.

Mr. S. V. PARULEKAR : What about the statement which the Honourable the Prime Minister wanted to make in this connection which we are eager to hear ?

The Honourable the SPEAKER : That will be a matter primarily for the Honourable the Prime Minister. Whether I consider that these previous rulings should be reconsidered or not, it will be open to the Honourable the Prime Minister, if he thinks fit, to make his statement and that has nothing to do with the view that I may take. He has been given permission because a reference to a particular matter was made and it is but fair that he should have an opportunity of explaining with regard to that reference only whatever he has to say.

ADVISORY COMMITTEE RE : SEATING ACCOMMODATION.

The Honourable the SPEAKER : Before we adjourn, I have to appoint an Advisory Committee relating to the seating accommodation in the House. I am requested by members of the House to allocate seats to each party and I think the House would agree that it is desirable that the allocation should be on the lines of party formation. I therefore appoint the following Committee, which will kindly advise me as to how they propose the allocation of seats ; and, then, after having the Committee's report, I shall proceed with the allocation :

1. The Honourable the Prime Minister,
2. Sir Ali Mahomed Khan Dehlavi,
3. Mr. B. K. Gaikwad,
4. Mr. C. P. Bramble,
5. Sir D. B. Cooper,
6. Mr. D. W. Raut,
7. Mr. Jamnadas M. Mehta, and
8. Mr. Sakarlal Balabhai.

The House then adjourned till 2 p.m. on Thursday, the 13th January 1938.

Thursday, the 13th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Thursday, the 13th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
AIDALE, Mr. J. S.

ALI BAHADUR BAHADUR KHAN, Mr.

ANTROLIKAR, Dr. K. B.

BEGMAHOMED, Mr. HUSEIN ABOOBAKER

BHARTIYA, Mr. S. R.

BHATANKAR, Mr. R. G.

BHOLE, Mr. R. R.

BRAMBLE, Mr. C. P.

CHITALE, Rao Bahadur G. K.

CHITRE, Mr. A. V.

CHAWDHARI, Mr. D. N.

CHAWHAN, Mr. P. L.

CHUNDRIGAR, Mr. ISMAIL I.

COLLACO, Dr. J. A.

DABHI, Mr. FULSINHJI B.

DANDEKAR, Mr. V. V.

DEHLAVI, Sir ALI MAHOMED KHAN

DESAI, Mr. DINKERRAO N.

DESAI, Mr. GURASHIDDAPPA K.

DESAI, Mr. KHANDUBHAI K.

DESAI, the Honourable Mr. MORARJI R.

DESAI, Mr. RANDHIR P.

DESAI, Mr. S. B.

DESHMUKH, Mr. K. B.

DODMETI, Mr. A. D.

FAIZ MOHAMED KHAN, Khan Saheb

FERREIRA, Mr. D. J.

FRENCH, Mr. F. H.

GADKARI, Mr. V. A.

GAIKWAD, Mr. B. K.

GANDHI, Mr. M. M.

GAVANKER, Mr. S. K.

GAVIT, Mr. D. P.

GHATGE, Mr. G. R.

GHEEWALE, Mr. A. A.

GHIA, Dr. C. J.

GHIA, Mr. M. C.

GILDER, the Honourable Dr. M. D. D.

GIRASEY, Mr. G. B.

GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KEER, the Honourable Mr. B. G.
 KHEMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LJALA, Mr. BHOGLAL D.
 LALCHAND HIRACHAND, Mr.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PATIL, Mr. SHANKARGOUDA T.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K. B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPT
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.

THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

**BILL No. VII OF 1937 (A BILL TO PROVIDE FOR RECOGNITION
 OF REGISTERED TRADE UNIONS IN THE PRESIDENCY OF
 BOMBAY).**

Question again proposed, "That the Bill be read a first time".

Mr. S. V. PARULEKAR (Ratnagiri South): Mr. Speaker, Sir, let me start by referring to the statement which was issued by the Government on the 17th August 1937, outlining the policy of the Government in respect of trade unions. That statement says:

"Government are therefore anxious to assist in removing real hindrances in the way of the growth of labour organizations and to promote collective bargaining between the employers and the employees."

Now, I should like to ask Government whether they can assist the growth of labour organisations without conceding recognition to trade unions. And further I would like to ask the Government benches whether a trade union is not a labour organization. The statement which the Government made on the 17th August is unambiguous, and according to that statement they are bound to concede recognition to trade unions which are registered. But their policy, Sir, which was adopted in Gokak and the way in which the Gokak strike was handled, are unequivocal proofs of the fact that they want to kill the unions which are not run on the lines of the Ahmedabad Labour Association and to start unions under their own patronage. Sir, I referred yesterday, in my speech, to the agreement which was arrived at in the Gokak dispute, and I will now refer to terms of that agreement. One of the terms runs as follows:

"The company will accord recognition to the union workers if its constitution provides, and the union undertakes, that it would adopt only peaceful and legitimate means, and that disputes arising between the company and the employees will be settled by negotiations and conciliation, and, failing that, by arbitration."

Sir, this is one of the vital issues which differentiates the Ahmedabad Labour Association from other unions in the presidency. Now, before Government intervened in the Gokak dispute, there was already a union in Gokak. That union was not taken into confidence in arriving at the settlement which they placed before the workers and in which the

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condition for recognition was that the constitution of the Union should be so changed as to bring it in conformity with that of the Ahmedabad Labour Association. Sir, on the grave of a union which was existing and functioning at Gokak they built their own organization. The statement which was made by my honourable friend Mr. Nanda yesterday is but the continuation of the policy which was carried out at Gokak. Sir, the agreement further says :

“ This method of settlement of disputes is also accepted by the company.”

Sir, the employers have all along, during the last ten years, taken up the attitude, that if a union is run on the lines of the Ahmedabad Labour Association, they are prepared to recognise it. That is what the Gokak employers said. That is what the employers of Sholapur said in 1931, when my honourable friend Dr. Antrolikar was the president of that union. Sir, a dispute arose between the textile workers in Sholapur and their employers, and one of the demands on behalf of the employees was that the union should be recognised. And I am sure he will bear me out when I say that the employers stated that they would recognise the union provided the union adopted the constitution of the Ahmedabad Labour Association. Sir, during the last ten years I have met several employers, and one of the things that has been invariably insisted upon by them is that they would not like to recognise a union which does not accept in its constitution arbitration as the final step in the settlement of a trade dispute. They have always said that they are prepared to concede that a union which adopts the constitution of the Ahmedabad Labour Association is a good and a sound union. Sir, now we know—we have known since long—what is in the mind of the employers. They are prepared to concede recognition to unions of the type of the Ahmedabad Labour Association. And the way in which the Gokak strike was settled also gives us an idea of the conditions on which Government are prepared to compel the employers to recognise unions. Only those unions that are cast on the model of the union of which the honourable member the Parliamentary Secretary is the General Secretary, are to be recognised. And things are now being manœuvred in order that this may be forced upon the workers. And I have reasons for saying so. The Bill which was introduced by my honourable friend Mr. Jhabvala was in the hands of Government for the last three months. They had enough time to ponder over that Bill, and to come to certain conclusions. If they were not satisfied with this Bill they should have prepared their own Bill by the time this Bill came in the House for discussion. But instead of doing that, they wrote a letter to the employers asking them to state the conditions on which they were prepared to recognise unions. Sir, even today, when they come before us after three months, in spite of the fact that they got enough opportunity to study the Bill and to come to conclusions, they have not been able to say which of the unions, in their opinion, deserve recognition. The honourable member Mr. Nanda was not able to tell us which of the unions, in his opinion, deserved recognition. Why do

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they fight shy of saying what is in their minds? It is difficult for us to believe that my honourable friend Mr. Nanda—who has been in the labour movement, as he said yesterday, even longer than I or some of us have been—has not been able to come to conclusions on one of the fundamental issues in the labour movement, which vitally affects the trade unions in the country. I fail to understand how, having the time and the experience of my honourable friend Mr. Nanda at their disposal, Government have not been able to make up their minds. Let them tell us frankly what is in their minds and lay down the principles on which they think a union should be recognised. Instead of that, they adopt a procedure which is dilatory. And that, Sir, is an indication that they are manœuvring matters in such a way that we may arrive at a conclusion, the only conclusion, that the employers should recognise those unions which are of the type of the Ahmedabad Labour Association. It is clear that Government after a few months will bring forward a Bill to coerce employers to recognise unions which have for their model the Ahmedabad Labour Association. Sir, I have no doubts in my mind that Government, when they want to do a certain thing, are bold enough to do it. It is not that they lack courage. In regard to the policy of prohibition, only a few days after they took office they announced in this House that they were prepared to lose a revenue of 3½ crores in order to achieve their ideal. It was a bold policy. They have the courage to take a bold step when they want to. But they are very touchy in matters which affect labour. This matter has been under their consideration for the last three months, or for the matter of that for the last several years, because in 1931 they passed a resolution at Karachi sympathising with the aspirations of the working classes. But when it is time for translating into action the promises which they made in 1931 at Karachi, they become touchy. As regards prohibition, they say that they are prepared to forego a revenue of 3½ crores. They said that immediately after they came into power. If they seriously wanted to concede recognition, they would have come before us with certain definite proposals today, instead of saying that the Bill which has been moved by my honourable friend Mr. Jhabvala fails to achieve the object which he wants to achieve.

Sir, they have asked for the opinions of the employers. After they receive the opinions of the employers, they are going to ask for the opinions of the working classes. May I ask them whether, before they decided upon the policy of prohibition, they asked for the opinions of all the drunkards in the Province or for the opinions of all the liquor merchants in the Province? It was not necessary. That issue was a fundamental one and there could not be two opinions about it. So also recognition of trade unions is a fundamental issue; I put it to Government whether recognition of unions is not such a fundamental issue as to dispense with the necessity of asking employers on what conditions they are prepared to recognise the unions. It is the inherent right of the working classes. They have a right to organise themselves in order to place their grievances before their employers and to demand

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redress. That is what recognition means. I fail to understand why Government who adopted a bold line on the question of prohibition should choose altogether a different line on the issue of recognition of trade issues.

Mr. GULZARI LAL NANDA : Has any other country got it ?

Mr. S. V. PARULEKAR : Has any other country succeeded in prohibition ? It is going to be only an experiment in India. There are no precedents for the successful enforcement of prohibition anywhere else in the world. On the other hand, Government know that it was tried in America and that it failed. All the same, Government have the boldness to say that they are going to have an experiment in India. They entertain a still greater ambition to establish a new civilisation in the world by winning independence through non-violence. Has independence been won anywhere else in the world through non-violence ? They have set before themselves these ambitious schemes which have not been tried anywhere else in the world. But when it is a question of the fundamental rights of the working classes, they ask us whether there is a precedent in any other country. Yes, Sir. There are precedents ; and if my honourable friend wants to know them, he must study the history of Russia. That is a most enlightening document, and I would recommend it to the Honourable the Home Minister for study.

The Honourable Mr. K. M. MUNSHI : That is your limit !

Mr. S. V. PARULEKAR : Yes, Sir.

Now, Sir, I will refer to some of the objections which my honourable friend Mr. Nanda raised during the course of the debate. He said that there would be rival unions. I should like to ask him whether there are no rival unions even today, when there is no such legislation in force. He talks of solidarity. Is he serious about solidarity ? I wish he had appreciated the value of solidarity before he became the Parliamentary Secretary. In 1928, in the whole of India, there was one central working class organisation called the All-India Trade Union Congress. There was only one organisation, an important organisation, in the whole of India with a strength of 40,000 workers, I refer to the Ahmedabad Labour Association, which stood outside the central organisation. The All-India Trade Union Congress represented the will of the working classes in India. It was the most solid working class organisation. It was in the interests of the working classes to join the central organisation for achieving solidarity in the ranks of the working classes. That was never done by him. But today, when he becomes Parliamentary Secretary, and is in charge of the labour portfolio, the honourable member finds that solidarity is an essential and useful thing. But Sir, I wish he had appreciated the value of solidarity in the past. The time has once again arrived when his desire for solidarity will be tested. Unity among the trade union organisations is imminent ; and if he has

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really come to value solidarity, the Association which he represents will be affiliated to the united organisation which will come into existence shortly.

Another bogey which the honourable member Mr. Nanda raised was that if there were rival unions, they would pitch their demands at different levels. What is wrong in it? The honourable member Mr. Nanda may be satisfied with a 10 per cent. increment; I may want a 15 per cent. increment; the honourable member Mr. Jhabvala may clamour for 20 per cent. increment. What is wrong there if we are all agreed that an increment is necessary? But the thing of which he is really afraid is strike. He went on to say that if the demands were pitched at different levels, the consequence would be strikes and chaos in industry. When I heard him yesterday, I thought it was not my honourable friend Mr. Nanda, the representative of the workers who was speaking; I thought it was an employer who was talking. Employers also say the same things which the honourable member Mr. Nanda said yesterday. They are afraid of high demands; they are afraid of strikes. They want peace in industry. They are afraid of chaos in industry.

Mr. GULZARI LAL NANDA: You want chaos?

Mr. S. V. PARULEKAR: I do not want chaos. The workers do not want chaos. That is why they reconstructed society in Russia. There is chaos everywhere else in the world.

Sir, the honourable member Mr. Nanda said that strikes were something which were bad. He also said that by pitching the demands at a high level strikes could be brought about. I am really sorry that one who has been in the labour movement for more than a dozen years should insult the working classes in that way. Does he really think that it is possible to bring about strikes by pitching the demands high? Can he tell me whether there was any general strike which had taken place in the absence of genuine grievances? A strike can be engineered among 50 or 100 workers—

Mr. GULZARI LAL NANDA: Strikes were broken by dual unionism.

Mr. S. V. PARULEKAR: Because the Ahmedabad Labour Association never joined the strike when the workers in Bombay were fighting their battles. They opposed the strike. That was one of the reasons why strikes failed. We do want unity among the working classes—unity in the interests of the working classes, but not in the interests of the employers.

As I was saying, it is really an insult to the workers to say that they go on strike by merely looking at the demands. Suppose, Sir, I formulate the demand that all the factories should be owned by the workers. Is it not a demand pitched at the highest level? Does my honourable friend Mr. Nanda think that it is possible for me to take all the workers

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in India on strike on the strength of this demand? Has it ever happened in working class history? No, Sir. I think the sooner he dislodges that conception from his mind the more he will be serving the cause which he says is dear to his heart.

Now, Sir, in conclusion, I will only say a few words. This Bill is one of the most innocent Bills. Yesterday I pointed out that this is a Bill which does not throw any burden, either on the employers or on the Government. But Sir, Government have made up their mind, it seems, to oppose this Bill, and if I am not wrong, perhaps they will oppose all private Bills [*Interruption*]. If they do not want to be more antagonistic to the aspirations of the working class, let me, in all humility, suggest to my honourable friend Mr. Nanda not to do more mischief to the interest of the working class by introducing a Bill of the type, which he is thinking of doing. Enough harm will be done to the working class by opposing this Bill, but let no more harm be done to them by introducing a mischievous Bill. Thereby, you will be driving the workers to a desperate state of mind. They are already groaning under innumerable grievances; do not add one more. Sir, the other day when the peasants from all over the Bombay Presidency—from a large number of districts near about Bombay—

An Honourable MEMBER : Barring some districts—

Mr. S. V. PARULEKAR : You did not allow them to come here. I will tell you how far you allowed them to come and how far they came. Now, Sir, the other day the peasants of the Bombay Presidency had to come in a procession to place their demands and grievances before the members of this House, but the Honourable the Home Minister thought that it would not be prudent on his part to allow the members to be disturbed, by allowing the peasants to come within such distance as would disturb their peace of mind. So, he kept them at an arm's length, ordered them to march at such a distance that they may have only a hazy view of this House but not of the honourable members. Sir, I give him credit for acting like a master tactician. Without disturbing our procession, he defeated the object of our procession. When the deputation waited upon the Prime Minister—

An Honourable MEMBER : Is it relevant, Sir?

The Honourable the SPEAKER : The subject matter under discussion is the Bill.

Mr. S. V. PARULEKAR : I was just pointing out that if Government adopt such attitude, they will force us to bring out another procession. That is how the reference to the procession is relevant to the matter which I am discussing. When the deputation met the Honourable the Prime Minister, he chastised us for organising a procession by bringing the starving peasants from long distances and making them spend lot of money on coming over here. Well, Sir, it was not a football match that attracted them here. He did not realise that it was only an indication

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of the fact that the peasants had been driven to such a state of affairs that they were compelled to come here. Let me give them a word of advice, if they care to have it. If they bring forward a Bill, which will do mischief to the workers, they will be provoking the workers to start on another march to the House—a bigger march. Sir, I know they are relying on their strength, on their numbers, but they will be also teaching the working class to rely on their numbers and on their strength which is greater.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Mr. Speaker, Sir, all the honourable members, who have spoken against the Bill, have been very unjust in making capital out of some of the defects of draft of the Bill and also of the drastic nature of some of the sections of the Bill. Instead of leaving that phase of the Bill for the second reading, they have tried to make out, if this Bill is passed into an Act, that so many things would happen inside the mills and inside the factories; that there will be a chaos and collapse of the whole industry. They have objected to some of the provisions of the Bill—that subscriptions will have to be collected inside the mills and factories, that meetings of the workers will have to be held inside the compounds of the mills and factories, that the employers would have to ignore the nature of the speeches—whatever be the type of the speeches delivered by the members of the unions; that they should not take into consideration these speeches while recognising the Unions. Sir, I myself differ from most of the sections of the Bill. Yet, the question of all questions, that has been raised in the Bill, is the fact that today in the mills and factories, there is no connecting link between the employers and the employed, and the Bill seeks to create a connecting link. There are grievances and grievances daily arising, but there is no machinery through which these grievances of the workers can be redressed. I think the honourable member Mr. Saklatvala, representing the employers in this city, has totally ignored this side of the question. In fact, he has very nearly pooh-pooed the idea of redressing the grievances of the workers. He has gone to the length of saying that a man is born with grievance, that we should not worry about the grievances of the workers. So long as the industry is there, there will be grievances. Well, there will be and there are grievances, and all that we want is that these grievances should be redressed. Show us the way in which these grievances can be redressed without bringing the unions in between the employers and the employed. If he thinks that he can tackle the question of grievances of say 1,000 or 2,000 workers in the mills without any intermediary like that of a union, I think he is mistaken. Sir, I have been living for the last 17 years in the mill area, and have been in constant touch with the mill workers and other workers. I have worked in several unions—in the Dock Workers' Union, Hawkers' Unions and other unions. I think the fear of the Parliamentary Secretary honourable member Mr. Nanda that there will be a multiplicity of unions, if such a Bill is accepted, is

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absolutely ill-founded. I think, if that is the fear, and if on account of that, Government are opposing the Bill, they ought to have come forward with a constructive suggestion. I might suggest one thing and it is this : The All India Trade Unions Congress also does not admit of multiplicity of unions in any particular industry in any particular locality. If a stipulation or condition is laid down, for the recognition of the unions, that only those unions will be recognised, which are recognised by the All India Trade Unions Congress, that will certainly obviate this difficulty. There are other suggestions that can be made, and if we on this side of the House cannot make any suggestions, it is the duty of Government to come forward with a Bill or with some constructive suggestion. What we want is that there should be a connecting link, that there should be a machinery, an agency, through which the grievances of the workers can be redressed. There is multiplicity of unions even in the present condition of things and in many cases employers

2-30 p.m. are responsible. I can give you my own experience of the Dock Workers' Union. When I, as President of the Dock Workers' Union, laid the grievances of the workers before the employers, they, instead of hearing those grievances from me, set up a rival union of the Pathans and when I entered that union and represented the Pathans and put the same grievances before the employers, they, the employers, then set up a third union by bribing some of the persons or by giving money for "Niaz" and "Sabiz"; in this way a third union was set up. You find in the mill area the same thing. If employers are not satisfied with a particular union, then they always manipulate affairs in such a way that new unions spring up. I am not ready to join with those who have condemned the Ahmedabad Mill Mazoor Association, because I find from facts and figures that the condition of workers in Ahmedabad is not worse than that of the workers in Bombay but there is a difference between the character of the unions in Bombay and in Ahmedabad. The workers in Ahmedabad are mostly controlled by the union that has been condemned by so many honourable members here, while practically all the unions of Bombay now which are worth the name of unions are controlled by communist elements. The communist influence in Bombay so far has failed to achieve better conditions for the workers than the Ahmedabad union which is being condemned. I think the wages and other conditions that obtain in Ahmedabad do not warrant that sort of censure which has been made just now by honourable members against the Ahmedabad union, but I ask the honourable member Mr. Saklatvala representing the Millowners of Bombay, what is this communist influence due to ? In Bombay this is due to the attitude that has been expressed by him while giving exposition of the millowners' case. The millowners of Bombay and practically other classes of employers ignore the grievances of workers here and there is no agency in Bombay of the type which exists in Ahmedabad. In Ahmedabad, whatever may be the case, an agency has been set up and it is working and has been working. There may be defects in that Union perhaps ; but, if so, they can be improved. Perhaps it is too moderate; perhaps

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in some cases it leans towards the capitalists ; perhaps in exceptional cases it might have made itself the tool of the capitalists. In spite of all that, taken as a whole, I think it has done much good to the workers, but here in Bombay the whole labour movement has fallen into the control of the communists. Whose fault is it ? I think it is the fault of that attitude which has been expressed by the honourable member Mr. Saklatvala, because it is due to this attitude that they do not allow any union to prosper on right lines. They say that they want unions worked on right lines. What are those right lines ? He ought to have given some indication of those right lines. He ought to have told us what sort of unions he wants. Sir, I differ from the honourable member Mr. Nanda in this matter. What I have gathered from his speech is that he believes that that union should be set up and should be allowed to work which can achieve the cooperation of the employers willingly. I say, Sir, that employers in Bombay have never given willing cooperation to the unions. I do not know how it has happened in Ahmedabad. It may be due to the great influence of Mahatma Gandhi or some other causes might be working. I have very little experience of Ahmedabad. But in Bombay the millowners and other employers have never allowed the trade union movement to prosper and it is on account of this that so many strikes take place in Bombay. A strike is the outcome of the accumulation of grievances which have remained unredressed. Because there is no agency to redress grievances day to day, they go on accumulating, and the intensification of the class war becomes more and more heightened and results in strikes. It is due to this alone that things have become worse in Bombay than in Ahmedabad. It is the fault neither of the unions nor of the workers, but it is the fault of the situation that has been created by this attitude shown by the employers. Communists will always make use of the situation and if they find that the workers are harassed too much, they will go there certainly to help them and if the employers are not reasonable, then naturally the result will be that there will be a strike. Therefore, what I want to lay stress upon is this that whatever type of agency it may be, you can provide conditions, safeguards, safety clauses in the body of the Bill, but at this stage when we are only discussing the principle of the Bill, you should not defeat the Bill. The principle of the Bill is only this that a machinery should be set up. We are not concerned with what should be the conditions of recognition of trade unions. You can hedge the whole recognition question with such conditions as would safeguard against all these drawbacks that you are thinking of. I have suggested one that you may follow All India Trade Unions Congress. Sir, it has been suggested by Mr. Saklatvala that there is a machinery called the Labour Officer. I think this post of Labour Officer has failed to serve the purposes for which it was created. The Labour Officers—I am sorry to say but it is a fact and I must speak out—prove themselves to be tools of the capitalists. They never sincerely want to get the workers' grievances redressed. They have absolutely failed. The workers, moreover, are not intelligent enough to approach the Labour Officers at the proper time and to give

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all the data and all the materials that may be required. The Labour Officer is not such a person. He does not live and move with the workers. Such won't be the case if there is a union. The union officials and the union members are in constant touch with the workers and the grievances of the workers can be better put before the employers through the union than through the Labour Officer. I have myself come across cases when Labour Officer failed. For example, there was a case of a worker whose hand was mutilated and for which injury he wanted to get some compensation. Do you know what the employers did? The mill management took the man's thumb impression on a statement which they placed before him to the effect that the accident was through his own fault and the Labour Officer did not do anything, and the worker could not get any compensation. Similarly, when at the end of the month they get their tickets of wages, there are mistakes due to miscalculations and due to the ignorance of the workers, they are not able to calculate their own wages properly and they therefore find themselves unable to account for the short wages which are paid to them for a whole month's work with the result that they find that their whole month's income is not enough to enable them to make the two ends meet for their family expenditure. They cannot detect the mistakes, but those who can check the mistakes are the officials of the union. But at present these officials or workers of the union are not allowed to take the grievances of the workers to the employers. Therefore, a union is the proper agency for redressing grievances and you should not condemn the Bill at this stage. Of course, we are not enamoured of the sections of the Bill, but you can bring in amendments at a later stage or refer the Bill to the select committee for overhauling the Bill. All that I want now is that Government should accept the principle of the Bill. I think that, if this Bill is thrown out, it will bring the Congress Government into unpopularity. [*Laughter.*] They may laugh now, because they are not expecting any elections and they think they can sit safe in their seats. I may say that I am also a humble worker of the Congress. There are many workers in Madanpura and surrounding places who have joined the Congress. They are coming to me every day in dozens and asking me when will Government do anything for the workers. I ask them to wait and see. They ask how long to wait. I say there should be an end to that and something constructive must be done.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, at this stage I had no intention of interposing in the debate but for the remarks which fell from my honourable friend Mr. Parulekar. A part of his argument ran as follows: He said that Government opposed this Bill because they are against workers and are in favour of employers; and, as an instance he said (which, I am sure, on a second thought he would not have said) that Government applied section 144 and the Criminal Law Amendment Act in Ahmedabad and section 144 in Sholapur in the interests of employers. It is a very serious charge and I think it due to Government that I should refute that charge which is as fictitious as it is malicious.

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I will take first the case of Ahmedabad. It was suggested by the honourable member that Government intervened in the interests of the employers of Ahmedabad. Nothing could be further from truth. Sir, Government have time and again published facts as they came within their knowledge and we thought we had laid the ghost of these malicious rumours and charges. But, if a statement like this is repeated on the floor of the House, it is due to the House that Government should take it once more through the facts and circumstances which impelled Government to take these steps. I can assure the House that those steps were not taken either at the instance of employers or any other interest; they were taken only in the interest of preservation of peace and maintenance of civil liberty which we consider really essential for orderly government. I will only give a short recital of the facts between 9th November and the time about which section 144 was applied. That will satisfy any man who is in his senses that the section was applied purely in the interest of peace and for no other purpose. From the very beginning, the strike leaders declared their intention to establish a rule of peasants and workers; and preached and practised intimidation. The strike began on the 9th November. On the 10th November, some strikers of the Vijay Mills threw stones to bring out the weavers of the Ashok Mills.

Mr. S. V. PARULEKAR : It is the police report.

The Honourable Mr. K. M. MUNSHI : It is not police report only, but statements corroborated by Congressmen and other non-officials who have made inquiries on the spot. My honourable friend who was nowhere near the scene has no right to contradict it.

On the 11th November, the officials of the Majoor Mahajan were assaulted at National Mills. On the 12th November spinners of the Lall Mills were beaten outside the mill gate. On the 13th November, workers of the National Mills were kept out by open intimidation by strike workers and the hirelings whom they had employed. On the 15th, posters were put up at the National Mills threatening serious consequences for those who were responsible for keeping the workers in. Women carrying meals to workers at Arun Mills were abused and threatened by the Red Flag people. Workers of Patel and Nagri Mills were kept out by strikers by dealing out threats on their way. A spinner of New Raipur Mills was beaten by strikers. On the 16th November, spinners of the Lall Mills were assaulted and stoned. Two hundred strikers surrounded the workers of Behari Mills who had come out for recess and a scuffle was avoided with great difficulty. Arun Mill representatives were threatened to be dealt with severely in case they failed to bring out workers. Night-shift workers of the same mill were kept out by 500 strikers surrounding the entrance and dealing out threats. On the 17th November, 200 knives, daggers and kirpans were reported to have been collected from the strikers. On the 18th of November, 1,500 strikers surrounded the Raipur Mills and prevented the workers

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from entering the mill. Two hundred strikers collected in the Jamalpur area and threatened that heads would be broken. On the 19th November, 300 strikers armed with lathis, brickbats and knives assaulted workers going to Raipur Mills. Pickets of the Mill Kamdar Union resorted to violent tactics and were assaulted by the workers. Later, stones were thrown into Raipur Mill compound which hit workers. The weavers left the mill in fright and declared they would not return unless they were brought under some protection. The strikers stopped buses carrying workers along the Naroda Road. It was only when Government clearly came to know from official and non-official reports that intimidation was practised on an extensive scale at the houses of workers, that threats were held out to workers on the roads and entrance to mills,—I have statements of individuals who were hurt in a violent manner by the henchmen of the strikers,—it became the duty of Government to take action under section 144 and the Criminal Law Amendment Act. To say, therefore, that this was done in the interests of the owners is to say that Government must sit quiet while intimidation of this sort is going on, till the rivers of Ahmedabad flow with blood,—as one of their leaders once said. Government cannot do that, and if any one says that in taking the action they did, Government were acting in the interests of the owners, well, reluctantly I will have to say that the statement is not only incorrect but malicious, and made in the hope that the lie will proceed so fast that truth will not be able to catch it.

Mr. S. V. PARULEKAR : I repeat it, Sir.

The Honourable Mr. K. M. MUNSHI : Well, Sir, some people are inveterate. I will take, Sir, the other case of Sholapur. Curiously enough there was no question of employer and employee.

Mr. S. V. PARULEKAR : [*Inaudible.*]

The Honourable Mr. K. M. MUNSHI : My honourable friend can go on talking any quantity of irrelevant matter. His statement is that section 144 was employed at Sholapur in the interests of the employers. I am trying to point out that the employment of section 144 at Sholapur had nothing to do with strikes or employers. It was done to meet a case of mischievous propaganda.

Mr. S. V. PARULEKAR : [*Inaudible.*]

The Honourable the SPEAKER : Order, order. The honourable member should not interrupt as he has been doing.

The Honourable Mr. K. M. MUNSHI : Section 144 was not applied in a strike, much less in the interests of any owner. It was done because a certain set of mischievous leaders was carrying on a propaganda in connection with the Criminal Tribes Settlement, which led to poor, innocent, residents of the settlement being led into adopting violent activities. Sir, by now, not only myself, but some of the other members

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of this legislature who are on the committee are familiar with those members of the criminal tribes. They are persons who have been convicted of non-bailable offences in the past on several occasions. They have a propensity to commit certain classes of offences. Except for that, they are as innocent and as excitable as a little child. I will tell you an experience of my own, which came to me as a surprise. When I received a deputation from these criminal tribes with regard to their grievances, they first of all told me parrot-like what they had been taught to say by the Red Flag Union. Having spoken about human rights and everything else, when they were asked to tell us something which they immediately wanted, the leader turned round and said: "Sir, what we want is a nice Maruti temple in the settlement." That is the naive kind of people there. They are uncultured and highly excitable. And no sooner Congress came into power, a tearing campaign was carried on against the Criminal Tribes Act, against the officer in charge of the settlement, and against Government. Every sort of action was preached; they were incited to break the wires; they were made to live on excitement and defiance. The poor innocent people who did not understand the consequences took the words at their face value. I will read to the House one passage which will show the attitude of those whose activities led to the use of section 144:

"If a lion and 25 sheep will be kept in a cage, the lion will eat all the sheep. In the same way, if 30 crores of peasants would join Congress, a handful of capitalists will eat them.....Lakhs of people are in Congress but the power is in the hands of rich men.....Congressmen now support capitalists, collectors and the police.... The Honourable Mr. Kher advised you not to make any violence and agitation, but he did not look to the oppressions committed in mills and in the settlement by Mr.....In such circumstances what we should do if we want to oppose the Congress leaders? We have lost faith in them. We should not sit quiet."

That is in reply to the Premier's speech advising them to be non-violent.

"We will solve our questions on the strength of 1½ lakhs of people in Sholapur. All the people in Sholapur are ready to help you in your struggle for breaking the wires.... The Honourable Mr. Kher has betrayed your trust."

This is only a specimen. Speeches of this kind resulted in a group of settlers throwing stones at the few officials in the settlement on the evening of the 10th of November. The officials had to seek shelter in the office; the medical officer was injured; the screen of a lorry was smashed. Even an armed guard had to be called. Then it became necessary in the interests of the poor innocent people, who did not understand the value of the speeches or anything, to apply section 144. The speeches were entirely disconnected with their lot; their only object was to make political capital out of the unfortunate conditions of the criminal tribes. This, Sir, was the circumstance, and as these facts will show, the application of section 144 had nothing whatever to do with the attitude of Government with regard to labour or owners. As a matter of fact, only a small portion of the criminal tribe settlers in Sholapur go to the mills. Therefore, Sir, it has become necessary for me to say that the statement made by the honourable member Mr. Parulekar that section 144 was applied in the interests of employers, is entirely unfounded.

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Government have done their best in all these disputes to hold the scales even, and it hopes to do so in spite of political vandalism which very often masquerades in the name of trade unionism in this Province.

Sir, there is only one more remark that I will make, and it is this. As the honourable member the Parliamentary Secretary said, this Government believes in trade unionism; it believes in creating conditions which will make it possible for workers to have *bona fide* trade unions, trade unions working to benefit of the economic under-dog. This Government believes so, because it believes that trade unions are absolutely necessary as agencies for collective bargaining, as part of the democratic machinery of society. Sir, in this connection, Government are very anxious and are applying the closest attention to enlist the power which rests with the workers in the interests of highest productive efficiency and at the same time to raise the standard of living of the workers themselves. It is with this object that from the time that this Government came into power, it has been doing its best in that direction.

But my honourable friend says "You started prohibition immediately; why have you not started this?" Well, as a matter of fact, where is prohibition? Prohibition will start from the 1st of April. After all, questions of this kind which do require considerable thought, which require taking into account various factors, have to be thought out and planned carefully. We do not propose to rush in where angels fear to tread. We want time to consider this question. The question of trade unionism is not so simple as my honourable friends would make it out to be. It has to be studied in all its aspects, not only with regard to Bombay City but also with regard to other places in the presidency, not only from the point of view of one party or other, but from the point of view of the ultimate interests of the workers. And it would require some time to enable Government to come to conclusions. Any attempt at hustling us on the plea that we are stifling trade unions or are being hostile to workers is merely a party cry, not in the interests of the workers, but in the interests of certain political parties which are outside the House and whose spokesmen some of my honourable friends are. [Applause.]

Rao Bahadur G. K. CHITALE (Ahmednagar South): Mr. Speaker, I had no intention of intervening in the debate but for certain remarks that fell from my honourable friend Mr. Parulekar as to the necessity of unions not only in one established industry like the textile industry, but also in others. I am here putting forth certain facts, which cannot be challenged by my honourable friend Mr. Parulekar, showing the ways in which the unions are manufactured by the capitalist class to which the honourable member Mr. Jhabvala belongs. He is a capitalist because he manufactures so many unions and becomes either their secretary, president, or vice-president or managing director. I am only pointing out certain things which happened in connection with the sugar industry, which is in its infancy in my district. Everybody will acknowledge that the people in the Ahmednagar district are very docile; they have

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a reputation of being not a criminal class generally. But I may say that since the release of some of the socialist-cum-communist leaders on the larger plea of civil liberty, situations have arisen in that district which have compelled the authorities to take action, and which have also saved the trouble to the Honourable Minister of promulgating section 144.

What are the facts? In order to give you a picture of the situation, I will say that the sugarcane factories and the plantations extend over several miles. There are several *wadis*, as they are called, separated from each other by a distance of one to four miles. These people go to the servants who work in the fields, reside there, enjoy their hospitality, and then begin propoganda, saying, "What are you getting? This is slavery. You are working in an enclosed mill, you are not allowed to go out." and so forth. I have nothing to do with that. But what happened as a result of this propoganda? A short time either before or after the conference that took place, there was such intimidation that 8 acres of full grown sugarcane was burnt out altogether. Have my agriculturist friends ever heard of a fire spreading over 8 acres of sugarcane? If that kind of intimidation is resorted to either before the conference or soon after it was held, I think the inference is irresistible. However, we took absolutely no notice of it, because we thought that discretion was the better part of valour. So that that spirit might not be contracted by others in other areas, we made no complaint whatever.

Now, my honourable friend Mr. Parulekar also will admit that the wages that are paid in the sugar factories—both the Belapur and the Maharashtra Sugar Factories—are certainly higher than what the labourers get in the actual fields.

Mr. S. V. PARULEKAR : What about the profits of the companies?

Rao Bahadur G. K. CHITALE : I do not want to enter into that question of profits. So far as the population which is working in the sugar factories is concerned, it gets employment from the time that work starts. About 1,000 to 4,000 people are working in each factory. I challenge the honourable member to say that the wages paid there are not more by 20 per cent. than the wages they get in the fields. If that is so, where is the necessity of organising unions and trying to put in conditions so that a strike may be declared? I am not sure whether my honourable friend was there or not, but I may tell him that at least a thousand of the poor workers were brought out of the factories and they made demands to the managers when, as I said, there was absolutely no case made out. My honourable friend must have found that the capitalists there are much more docile than the capitalists of Bombay, because the work cannot be allowed to stop. I believe the workers succeeded in getting half an anna more than what they were getting. At that time, my honourable friend knows, though section 144 was not promulgated, a large number of armed police had to be brought into that area, and that resulted in additional cost to the public purse. Even with the increase, the propogandists were not satisfied, because the affairs were in charge of three different people. I will not name them.

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It is really a struggle between Congress-minded people, socialists and communists as to who should have supremacy over all the labourers in a particular district and as to who should dictate to them. This question of supremacy is at the root of all the trouble that is being fomented and is likely to be fomented in the whole of the province at least in the infant industries which are now growing. It is for the House to judge whether the Bill can be mended from that point of view or whether it should be ended at once. It is too true that the Bill is certainly mischievous and has got potentialities in it which a lawyer can claim to expose.

I must say that the Bill is not conceived in a philanthropic spirit of doing justice between party and party, nor even justice to the people whose cause they want to advocate here. As I have said, it is a pointer as to who should be supreme—socialist, communist or Congress—in order to carry on the struggle. [Interruption.] I must therefore say that when the Government comes forward and says that it is enquiring into the matter, when the Government promises to keep the scales even, I do not see why this Bill should be allowed to go to a select committee at all. It deserves to be ended at once with as little delay as possible.

Mr. R. A. KHEDGIKAR (Sholapur City, Textile Labour): Mr. Speaker, I rise to support the first reading of the Bill which my honourable friend Mr. Jhabvala has moved. Those who oppose the first reading of the Bill seem to feel that there are ulterior motives behind it. Some feel that it is a mischievous measure. Others feel that it is not at all wanted. One of the reasons put forward against the Bill is that there is more than one union in one industry. And, if the Bill is passed, all the unions will have to be recognised and many more may spring up. Sir, those who have worked in the trade union movement have already replied to these questions. It is not the worker who desires more than one union in one industry, but it is the owners who encourage more than one union in one industry because it suits them. Divide and rule is not the monopoly only of alien rulers but also of the capitalists.

An Honourable MEMBER: Of the Congress Government also?

Mr. R. A. KHEDGIKAR: Yes, even of the Congress Government. It is the fault of the Trade Union Registration Act. Why should it allow more than one union to be registered at all? If the rule "One union in one industry" is accepted, why should the Government have allowed a provision in the Act which enables as many unions as people like to be registered in one and the same industry? This is not the fault of the workers. Even today a stop can be put to the system if the Government wants to register only one union in one industry. Government can bring amendments to the Trade Union Registration Act and register only one union in one industry. That being so, there should not be and cannot be any real opposition to the first reading of this Bill.

Then again, it has been said in Bombay particularly that the communists are leading almost all the unions. Sir, I may give my own

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experience. Nobody can call me a communist or my honourable friend Mr. Jamnadas Mehta, who is here. Can anybody call him a communist? He is the President of the B. B. & C. I. Railway Union which Union is still not recognised. As for the G. I. P. Railway Workers' Union, so many people were saying that the workers are led away by outside agencies, by communists, by outside agitators for their own political ends. The employers would appreciate if the workers themselves manage the unions. On the G. I. P. Railway, every office-bearer was an active worker himself right from the president to the lowest worker. What was the result? Within six months every office-bearer was victimised under some pretext or other. Within six months not less than six office-bearers were discharged from the service. Can you call that justice? You do not want the workers themselves to manage their affairs, you do not want others to help them and Government also does not want that the trade unions should grow!

Now, Sir, so much has been said on the Government side that their labour policy is so generous that the workers should not complain. Yet, Sir, the policy, I must say, is not fully satisfactory. I myself welcomed it when it was announced, but so long as it remains only on paper it will not satisfy any worker. The policy has been there since September 1937. What has the Government done? They say they want to improve the conditions of the workers and therefore the honourable member the Parliamentary Secretary Mr. Nanda says investigations have been set on foot. Why does he want investigations in his own department? Why did he not increase the pay of his peon or of your own peons, Sir? Their salary is not more than Rs. 17 or Rs. 18 a month. That is the case.

Now, Sir, about the application of section 144 of the Criminal Procedure Code, the Honourable the Minister in charge of Home Department, after making so many allegations, has disappeared. I am sorry that he is not in his seat when I am replying to his allegations. He placed before the House a number of outrages alleged to have been committed by the strikers. Has he got a list of the violent attacks made by the millowners upon the strikers? I do not know much of Ahmedabad affairs, but I would request Government to set up an enquiry and I shall be prepared to abide by that enquiry's findings, but if they judge by the reports made by the police officers and then say "that is correct", it will be a wrong procedure. As for Sholapur, I would unhesitatingly say that there was absolutely no cause for the application of section 144 to Sholapur at all. Even in the Government press note this is what is said:

"At the beginning of the last month the District Magistrate, Sholapur, considered that the state of tension and unrest created amongst the Sholapur workers was such that acts of violence were apprehended."

They do not say that there were any cases of violence. In fact, there were none at all. The District Magistrate's only fear was that there might be cases of violence. Do you think that simply by the taking for granted by some officials that a certain man is going to murder a certain man, you would be justified to hang that man? [Interruptions.]

The Honourable Mr. MORARJI R. DESAI: Should you not take steps to prevent that?

Mr. R. A. KHEDGIKAR: Cases of violence were only apprehended as far as Sholapur was concerned, and if the Honourable Minister will read the press note again, he will see that there is not a single line to show that there was any resort to violence. We actually went beyond our way and told the settlers to remain quiet even if they were beaten or kicked and we advised them that in any case they must not lose their heads but be quiet. This is what we preached to the settlers. In one way Government wants to suppress the trade union movement by applying section 144 and at the same time they want to allow their own people to come and address the men inside the settlement. Why? Is not this section 144 applicable to Congress members? What does it show? It shows Government's desire that the trade union movement among the settlers should be suppressed and that the Congress movement should be spread among them. If you are going to use their powers for these purposes, you are welcome. [Interruption.] Even now the Honourable Minister said there was stone-throwing. Why have those three people been transferred from there?

The Honourable the SPEAKER: Order, order. The affairs of the Criminal Tribes Settlement are not before the House on this motion. A charge was made, and that is why the Honourable Minister for Law and Order was allowed to give a personal explanation about it.

Mr. R. A. KHEDGIKAR: Since he has placed one side before the House, I propose to place the other side also, but if you do not permit my doing so, I shall give up the attempt and proceed with my speech. Now, Sir, it may be that by passing this Bill it will not do any tangible good to the workers. What is the real state of affairs in the presidency at this moment? The workers have got a lot of grievances. They are accumulated. They have registered trade unions and they request the owners to recognise those unions. This Bill wants only a recognition, a right to get replies from the owners, a right to sit together and discuss the matters and come to a conclusion. That is all what the Bill wants. If you discuss the things with the labour leaders, with the representatives of labour, certainly you can avert certain strikes, though not all. What will the workers gain from this Bill? Only one thing, viz., the recognition of their union. At present, we do not get any response, any reply from the employers. If the grievances are accumulated, if they are not cared to be replied to, the outcome will be nothing but a strike. If the millowners and the employers really want peace in the industry, they must at least listen to what the grievances of the workers are. If they refuse to do it, they are responsible for the consequences. The workers are not going to sit tight. On several occasions they have requested both the employers and the Government, and, if at every stage they are disappointed, then there shall be no alternative left to them but to resort to a strike. We know a strike means serious trouble to the workers and also loss to the industry. We do not want that;

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we want to try to avoid it, but if the State and the owners do not want real peace in the industry, let them continue their present attitude. The workers are now awakening; they are trying to stand on their own legs. They are not very strong, I admit. If Government come forward and oppose the principle of granting recognition to trade unions, then I expect nothing from this Government except repression and section 144 and the Criminal Law Amendment Act. Now, what do they lose by this Bill? They say that if the unions are recognised, so many unions will spring up and every representative will come and intermeddle and try to collect subscriptions in the mills and create trouble. Now, the Ahmedabad Union is collecting subscriptions inside the mills. My honourable friend Mr. Sakarlal Balabhai will tell us whether they have got any trouble in Ahmedabad because of collecting subscriptions in the mills.

Mr. SAKARLAL BALABHAI: They do not collect subscriptions in the mills in Ahmedabad.

Mr. R. A. KHEDGIKAR: My honourable friend Mr. Nanda has agreed that they collect subscriptions in the mills. So, if subscriptions are collected in the mills, there would be no trouble; and, who are the persons who will collect subscriptions? They are wise men; they will not create any trouble and stop the work. They are not Pathans. They would collect subscriptions only from those who are willing to pay. So far as the holding of meetings is concerned, we are not going to hold meetings in mills when the work is going on; surely, the meetings will be held in some open space. It is in the interest of the millowners and the employers themselves to support this Bill. If they do not, well, the ways are open to them as well as to the workers. But my request to Government is not to oppose this Bill at this stage. If the Bill is defective, you have got a number of opportunities to correct it. You can send it to a select committee; but instead of doing that, I am pained to see that Government have selected a labour leader to oppose this Bill. A man, who has spent so many years in the trade union movement, should come forward and say, "I oppose the recognition of the trade unions"—I fail to understand this mentality.

An Honourable MEMBER: It is the Congress mentality.

Mr. R. A. KHEDGIKAR: *Bona fide* trade union, real trade union, sound trade union—so many words have been said, but none has explained what it really means. I am in the trade union movement for the last 20 years—not as an outside agitator, but even while in service, I was working in a trade union. My experience is this: whenever an owner does not like a particular trade union, he will call it a communist union and withdraw recognition. I will quote one recent example. On the B. N. Railway, the workers had a number of grievances. They represented them to the Agent of the Railway and

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the Railway Board ; nothing happened and at last they were forced to go on strike. The strike was going on for two months, and at last the administration had to settle this strike with the aid of the trade union ; but, what happened afterwards ? Within six days, the first thing that the administration did was to withdraw the recognition given to that trade union. My honourable friend (Mr. Curriion) spoke the other day on behalf of the National Union of Railwaymen of India and Burma. I also was a member of that union in 1908, when it was the only union of the railway workers. That union also, which was considered to be sound and *bona fide* and what not, declared a strike in 1914. As soon as that union declared a strike, recognition was withdrawn, and that recognition has not still been restored to that union. Today the workers have got so many grievances. Though I do not belong to the textile workers' union, still a number of workers come to me and say, " our wages have been deducted, we have got so many rupees short this month and so on and so forth ". If the union is recognised, all these small grievances can be redressed. I know increase of wages or reduction of hours cannot be achieved by recognising the unions. It all depends upon the strength of each party. If you expect that the millowners or the employers will give their consent to the introduction of any social legislation, then I think we shall have to wait for centuries together. Let us take the latest example—when the hours of work were reduced from 10 to 9, the millowners opposed it tooth and nail. But the Government thought that it was for the good of the workers, and so they did not care for the opposition of the millowners. They passed a law, and it is now working all right. If the present Government really think that, in spite of the opposition of the millowners, a certain piece of legislation is necessary, they must have sufficient courage to come forward and say " this is for the good of the workers and we are going to do it in spite of the opposition of the millowners ". But today what is the position ? Government are trying to ride on two horses—they want to please the capitalists on one side, and they want to please the workers on the other, which they cannot do. Unless they take out something from the pockets of the owners, they cannot give anything to the workers. So, you shall have to take something from the owners and give it to the workers. If you are not prepared to do it, then do not talk that you are doing something for the workers. Leave them alone to fight for their rights, but do not boast that you are doing this and that for them and give them false hopes. As the majority party and the Progressive Party have opposed this Bill, we know the fate of the Bill, but I congratulate my honourable friend Comrade Jhabvala for having brought forward this Bill. It matters not if our Bill is lost. We do not care. " Not failure but low aim is crime ". We do not care for failures, we are prepared to face any number of failures, but we will march on and on.

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

Mr. N. G. JOSHI (Belgaum North): Mr. Speaker, Sir, I had no mind to take part in this debate, had it not been for the fact that the honourable member Mr. Parulekar referred to me by name in his speech while he made a reference to the Gokak Mill strike. It is only a sort of personal explanation I am giving. While he was referring to the Gokak Mill affairs, he has levelled two charges against the settlement that was arrived at between the workers and the mill management. The first charge was that I signed the settlement, though I have nothing to do with the workers there. This is a personal charge against me. The second charge is that an attempt was made to bring about the settlement in such a way that the Gokak Workers' Union is to be run in the way in which the Ahmedabad Union is run. As a proof of the second charge he read to this honourable House term No. 5 in the settlement.

Firstly, I want to give an explanation as to how it came about that I had to sign this settlement. As a result of the strike in the Gokak Mills, there was great hardship to workers. Some 3 or 4 responsible workers of the union came to the District Congress Committee of Belgaum and expressed their desire that the Congress should interfere in this affair and see that the hardship of the workers is lessened and that the strike is ended by some settlement between the workers and the management. It was at their instance and with their consent that the District Congress Committee in its general meeting appointed a committee to interfere in the matter and bring about a settlement between the workers and the management. It was a committee of five members of which I was one. The committee met several times, saw the manager and, after certain negotiations, brought about the settlement to which the honourable member Mr. Parulekar made a reference in his speech. No doubt, the honourable member Mr. Nanda was present doing some part of the negotiation. But believe me that we were not at all influenced by him in the settlement we brought about. When the committee appointed by the Belgaum Congress Committee was negotiating, it was found necessary that somebody must be authorised to go to the management and do everything in the name of the committee. All the members of that committee authorised me to do something in the matter. When a settlement was arrived at, it was in that capacity as an authorised member of the committee appointed by the District Congress Committee of Belgaum and as representing the workers of the Gokak Mills, I signed the settlement on behalf of the workers. This honourable House will now understand that probably my honourable friend Mr. Parulekar does not know that I had that authority given to me by the committee appointed by the District Congress Committee at the instance and with the consent of responsible workers of the Gokak Mill Workers' Union. It was in that capacity I signed on behalf of the workers and the workers themselves have absolutely no complaint about my signing the settlement in their behalf. Probably, the honourable member Mr. Parulekar does not know that, after the settlement was arrived at, at a meeting of the workers numbering about 3,000, this settlement was read out. Every word of the settlement was explained to them and the workers gave their

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approval to it. It was with the unanimous consent of the union members this settlement was made final. It was under these circumstances, I came to sign the settlement, though it was complained by the honourable member Mr. Parulekar that the settlement was signed by one who had absolutely no authority in the matter.

As regards the second charge, namely, that the settlement was brought about in a fashion that will make the Gokak Mill workers' union run in the manner in which the Ahmedabad workers' union is run, I do not know what he meant by saying "to run in the manner of Ahmedabad union". As a proof of this he relied upon clause 5 of the settlement which reads as follows :

"The company will accord recognition to the union workers, if its constitution provides and the union undertakes that it will adopt peaceful and legitimate means and that the disputes arising between the company and the employees will be settled by negotiation and conciliation and, failing both, by arbitration."

This method of settling was also accepted by the company. I do not know whether my honourable friend wants absence of peace, violence and illegitimate means to be adopted. Every sane man will agree that it is a sound condition that the company will accord sanction only if the union agrees to lay down in its constitution that it will adopt only peaceful and legitimate means. Apart from the general reason that the Congress will observe absolute non-violence in all its activities, there is a special reason why this condition was inserted in the settlement. The reason is this. Some time before the settlement, 7 or 8 workers attacked Mr. Cook, the Assistant Manager of the Mills, and beat him to such an extent that he was very badly hurt. The accused were prosecuted and sentenced to a term of imprisonment. After they came out of jail, the members of the committee found that they were repentant. They confessed that they did the act at the instigation of some men. We intervened in the matter and the management has re-employed all those persons. As the settlement was drafted after this incident, we put in that clause. We found it absolutely necessary that the condition of non-violence, peacefulness and legitimate means should be inserted in the settlement. It was for this reason that clause 5 was inserted. I do not think that this honourable House will find it wrong that such a condition was inserted in the settlement. The committee appointed by the Belgaum Congress Committee in this connection has done nothing wrong in the matter.

As regards the three conditions or ways to bring about settlement of disputes between the management and the workers, namely, (1) negotiation, (2) conciliation, (3) arbitration failing both, I do not think there is anything wrong. I do not know whether it is the desire of the honourable member that immediately a dispute arises the workers should go on strike and bring chaos in the matter. When a dispute arises, negotiation commences and it is well and good if the dispute is settled by negotiation. If negotiation fails, then comes in conciliation by which the conciliator approaches both the parties, sees what the right thing is and brings

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about a settlement. If both these methods fail, there comes in arbitration which is a sort of compulsory imposition of a decision upon both parties. Under these circumstances, there is nothing wrong in condition No. 5 which has been inserted in the settlement between the workers and the management of the Gokak Mill. The reason for the embodiment of the words "peaceful and legitimate means" in the constitution of the union has already been given by me. In these circumstances, the honourable House will see that there was nothing wrong in my signing the settlement. I had complete authority from the committee appointed by the District Congress Committee to sign it, and I signed it with the consent and at the instance of the union workers. Fortunately for me, the president of the union is a member of this honourable House; he is present here. Till now he has not found fault with me for signing that settlement.

Mr. S. V. PARULEKAR : The President was Mr. N. M. Joshi.

Mr. N. G. JOSHI : He was once. "Was" is not the same thing as "is". The president now is the honourable member Mr. K. S. Patil.

Mr. JAMNADAS M. MEHTA : When did he become the president—after or before the settlement ?

Mr. N. G. JOSHI : After the settlement.

Mr. JAMNADAS M. MEHTA : That makes a difference.

Mr. N. G. JOSHI : It does not make any difference at all. If my honourable friend Mr. K. S. Patil had found fault with the condition, he could have insisted on the deletion of the condition. The settlement was placed before a meeting of the union workers, numbering about 3,000 or 4,000; the terms of the settlement were read and re-read to them; every word of it was explained, and every implication of it was explained to them; and yet not a single voice was raised against it. In these circumstances, the settlement was arrived at and I signed the settlement. It is working very well now. I know there are some communists who are trying to create trouble in Gokak. They are not satisfied as they see that there is peace in the village and peace in the mill and work is going on smoothly. They want to create trouble. I do not know whether they will succeed or not,—but attempts are being made by them.

Mr. K. F. NARIMAN (Bombay City) : Mr. Speaker, Sir, I am afraid that since this morning we have been drifting miles away from the original subject. We have drifted to an interesting discussion on Russia, the Continent, Ahmedabad, Sholapur, Belapur, Gokakpur and all sorts of places, seven hundred miles away from Bill No. VII of 1938, and we have not heard any real discussion centering on the real topic. After the exposition of my honourable friend Mr. Nanda, who put forward specific objections as to why this Bill should not be accepted by this House, I wished that instead of accounts of the individual experiences of members in different centres of the presidency, we had definite specific statements as regards the point raised by the honourable member Mr. Nanda. I am

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afraid, Sir, from the very beginning, on every topic, there has been an attitude of distrust and suspicion, and that has taken us off the track. In this matter too, rightly or wrongly, I have no doubt that the capitalist attitude is always one of suspicion, and rightly too. I was sorry to hear the sorrowful and tragic wail of my honourable friend the mover of this Bill. He told the House that when he went to an honourable member of this House, who was a capitalist owner, although the honourable member knew him personally very well, still he told him that he did not know him, as much as to say "I do not know you if you come to me as a representative of the workers. If you come as a representative of the House, you are welcome." I want to ask the honourable leaders of the workers, what brought about this tragic position of the workers—this impotency, this helplessness that is responsible for the humiliation of the workers? Why is it that in other countries, without compulsory recognition of unions by legislation, the workers can assert themselves, and the leaders of the workers can go to the top of the ladder,—and even kick the ladder by which they ascended? In England, the late Ramsay MacDonald, from the position of a poor leader of a trade union rose to the position of Prime Minister of England and took the topmost rank in society. And why is it that my honourable friend Mr. Jhabvala could not gain recognition in the house of a capitalist in a country like India? It is admitted that in England there is no legislation to force the owners to recognise unions, as is proposed by this Bill.

I am, Sir, really surprised at the drift of the discussion. In the last session in Poona, we also had about a hundred non-official resolutions on all important topics, and yet I think, we wasted nearly three days on one single resolution. Similarly, in the agenda for this session, I find so many non-official Bills and resolutions, and yet two days out of the four days allotted for non-official business are gone, even after the Bill has been practically buried.

We are all carrying on an academic discussion on it. In fact, the fate of the Bill has been sealed after the funeral oration of my honourable friend Mr. Nanda. We have therefore to find some way out and reach the original topic and go to the rescue of the helpless workers. It is the question of the rescue of the workers that is in the mind of my honourable friend Mr. Jhabvala. Can we not rid ourselves of the attitude of suspicion and distrust and find some solution? One view that I wish to put forward to the leaders of the workers is that it is not this kind of legislation that is going to bring real strength to the workers. Real strength will come to the workers automatically through organisation and development of their power of resistance. They have to cultivate their power of resistance. Let them not depend upon external helps as this piece of legislation. It is the same as politicians in India saying that they will wait for Swaraj till the British Parliament passes a legislation granting us Swaraj. Swaraj is not going to come to India by means of legislation by the British Parliament, but by means of the development of our own power. Similarly, real strength to the workers is not going to come by means of such legislation.

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What is it that the workers are fighting for? I was rather surprised when my honourable friend the representative of the millowners complimented the honourable mover of the Bill on his temperate speech, moderate tone and gentlemanly expressions, but refused to grant recognition to unions. The honourable mover of the Bill wants one thing; the honourable member (Mr. Saklatvala) gives all things, except the one that he has asked for. I say, then, it is humiliating for the workers to be knocking at the gates of the capitalists who are kicking them. Why do they go to their doors at all? Let them gather their strength, and then the capitalists will come to knock at their doors. Therefore, I say to the workers: gather your own strength, and the capitalists will come to you. When labour has gathered its strength, the capitalists will go to the leaders of labour and beg for their help to run the industry. It is by gathering their own strength and not by knocking at the doors of capitalists or by knocking at the doors of the legislature that labour will gain its goal. I ask the honourable mover, what does he want? The precious right of recognition? What does it concede? As the honourable member Mr. Nanda put it, does it solve the problem? Supposing this Bill is passed tomorrow, does it solve the problem? In other words, does it redress the legitimate grievances of the workers for which we have been clamouring for years? What is it that you are asking for? This precious right of recognition—this right of the worker to see the capitalist, this right to discuss with the owner the grievances of the workers. That is all. What does it matter? I am surprised to see the capitalists here opposing it. What does it matter if a workman looks at his master? A cat may look at the king, and the worker may look at his employer. What is the objection to the worker going into the office of his employer and seeing him? It only means a waste of half an hour both for the leader and for the capitalist. It does not go further. It does not impose any responsibility on the owner to do anything after the discussion. There is no demand that you are called upon to meet. You have not to go to arbitration. Nothing of the sort. Merely hear what he has to say. When the honourable member Mr. Jhabvala comes to you, do not say, "Mr. Jhabvala, I do not recognise you; I do not know you." Say, "Come in, Mr. Jhabvala; have a cup of tea; if you smoke, have a cigarette." Have a chat with him. I do not know why the capitalists are so serious about it; nor do I know why the workers are so serious about this precious right.

An honourable member from the Muslim League Party said there were rival unions. I know there are rival unions. I know that they are manufactured by the capitalists. Why should they not do it? They have the resources. They will employ any means to fight labour in order to keep them going. Self-preservation is a human instinct. It is the first human rule. They will fight for their survival. You will fight for yours. Survival of the fittest is the rule. They will employ all possible means to run you down. They will fabricate false unions. And why should they not, when the law gives them facilities, when the workers are not united? When the workers are not united, when the leaders

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are not able to unite them into one body, the employers will take advantage of that circumstance and exploit it.

What is going to happen if this Bill is passed? Suppose a bogus union is started by the capitalists. This law will recognise that union. This union will be favoured by the employer as against the genuine union. It will be welcomed by the owner. It may be a union of 7 or 17 men. It is considered to be a representative union by the law. Then the capitalist-owner will say, "Come along, Mr. Thomson; come and discuss matters with us". As a result of bogus discussions with a bogus union, certain decisions will be arrived at which will be binding on the workers, because that union has been recognised. Therefore, this Bill has potentialities of great mischief. I ask the leaders of the workers to consider that standpoint. Because the honourable member Mr. Nanda happens to be the secretary of a particular union, you distrust him. I quite agree that it is not right for a Congress Government or any other Government, because a particular union holds particular political views, to look upon it with disfavour. Also, it is not right for the opposition, because the honourable member Mr. Nanda happens to be the secretary of a particular union, to view everything that comes from him with distrust.

I appeal to you to find a solution which meets the requirements of the case. A solution of the problem—that is how to go to the rescue of the workers. We must be able to redress the grievances of the workers, grievances which nobody disputes nor doubts. When Government makes a promise, you distrust Government. You say that they are not *bona fide* in their intentions. Give them time. They say that they want to bring in legislation which will satisfy the House. That legislation will be before you. Government will not take any action without your knowledge; it will not be a story behind the curtains. It will be open to the public. You will be invited to join the discussion and consider the measure. It may be during the next session, or it may be during the session after that; it does not matter. If honourable members are satisfied with that measure, this Bill drops automatically; it will be superfluous. The object of the Bill is to redress the grievances of the workers. It does not matter whether the redress comes from this side or the other side. So long as the object is served, honourable members ought to be satisfied.

Therefore, Sir, I ask the House not to pursue this futile debate any further and waste time. Instead of having this Bill buried, I would suggest that it should stay over for some time till the Government measure is before the House. You can go to a select committee and discuss it; and if you are satisfied with it, then you can drop this Bill. If, on the other hand, any of the provisions of this Bill can be incorporated in the Government Bill, that proposal can be made in the select committee. By co-operation and harmonious working the whole House can attain the object which is behind this Bill, namely, the redress of the grievances of the workers.

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It was expected, when the Congress Government came into power, that whatever differences there might be in higher politics, in questions relating to the amelioration of the condition of the workers and peasants there would be full co-operation between both sides of the House in order to attain that object. This is the first measure before the House wherein real relief to the workers is sought. Government say that they do want to give relief to the workers. Leave the capitalists alone. Why do you appeal to the capitalists? They are not expected to help you. They are expected to look to their own incomes. They know it is against their interests. Just as we cannot appeal to a Civilian to help us to get Swaraj you cannot expect the capitalist to help in the organisation of labour. If they do it,—there are honourable exceptions,—welcome their assistance. But the various leaders of workers should join hands in order to find out a proper solution of the problem.

I, therefore, appeal to my honourable friend the mover not to pursue this futile Bill in order to complete its funeral and have it buried. Leave it where it is. Stay your hands for the present. See what the Government Bill is going to be. If you are satisfied with the Government Bill, you are at liberty to proceed in your own fashion. If you are not satisfied with the Government measure, you can incorporate this measure in the Government Bill. Thus, I think that by the co-operation of all the parties the object of this Bill will be served. I do hope that no more time of this House will be wasted. I hope that the honourable member will agree to this Bill being held over till the Government bring forward their own measure.

(The House re-assembled after tea at 4-30 p.m.)

HOLIDAY FOR MAKAR SANKRANT.

Dr. K. B. ANTROLIKAR : Sir, I have a request to make. Will you kindly declare tomorrow and the day after 4-30 p. m. as holidays? It is the general desire of the House that we should have a holiday tomorrow and the day after.

The Honourable the SPEAKER : The request may be repeated when there is a fuller House.

Honourable MEMBERS : Sir, we have not been able to hear a single word.

The Honourable the SPEAKER : An enquiry was made as to whether tomorrow and the day after tomorrow should be holidays. It was represented to me that it was the general desire of the House that tomorrow and the day after tomorrow should be holidays. My reply was that the request might be repeated when there was a fuller House, so that I might consult the views of all groups.

TRADE UNIONS RECOGNITION BILL—(Discussion resumed).

Mr. K. K. DESAI (Ahmedabad Textile Unions): Sir, my task is rather not an easy one in opposing the Bill moved by my friend Mr. Jhabvala, but it is my duty to oppose it in the interests of the working class. Now, Sir, I will place before the House my grounds for opposing the Bill that has been moved before this House. I was not surprised when I read this Bill because constitutionally Mr. Jhabvala is incapable of producing anything better. For the last 20 years, I have found that he had been in the habit of fathering scores and scores of unions which die a natural death because he had not been able to feed them with work. He is constitutionally so built up and so one need not be surprised. He has brought before the House a Bill which, if passed, will toll the death knell of the trade union movement in this Presidency. I am saying this from my own personal experience as a trade union worker for the last 20 years. As a matter of fact, what does this Bill propose? The Bill proposes in reality the recognition of self-styled labour leaders without any following. This will not strengthen the growth of genuine trade union movement, but it will certainly strengthen the growth of irresponsible and self-styled labour leaders, who will positively harm the interests of the workers, and that is exactly what we have seen in the City of Bombay. We were told that the employers do not recognise the communist unions. Well, Sir, I will not be wrong if I say on the floor of this House that in the year 1928-29, the Bombay Millowners themselves gave recognition to the union which was then run by my friends Mr. Dange and Mr. Nimbkar. What has happened? They called out a strike which was not proper and naturally the recognition was withdrawn. Personally I do not stand for the employers' attitude so far as the recognition of the unions is concerned. There is nothing to choose between an ultra diehard employer and an ultra leftist labour leader. Between these two extremes they have practically ruined the textile industry of Bombay. I have got reasons to believe that if the employers of Bombay had been a little more wise, they could have saved crores and crores of rupees to the textile industry of Bombay. Simply because they have not recognised the unions in the beginning, the situation has come to this disastrous stage.

Now, unfortunately, I found that the debate was not proceeding on the right lines; it has gone into a channel which is most undesirable. The debate went on as if the Ahmedabad Textile Labour Association was being discussed. Well, Sir, I am proud to own that I belong to the institution which has been so much maligned without any knowledge by some of the labour leaders sitting on that side (*the honourable member points his finger towards Messrs. Jamnadas Mehta, Jhabvala, Khedgikar and Parulekar*). In spite of their opposition and abuses, in spite of their maligning it in season and out of season, our union has not only thrived but the union is growing from day to day, as it is the genuine trade union organisation. I am saying with the fullest responsibility at my command that that union is the only union in this Presidency which is being run entirely on democratic lines. What I mean by democratic lines is this that a strike in the textile industry in

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Ahmedabad cannot be called out unless workers themselves decide to do so by a ballot. It is not that we have always easy time with the employers. Our union has grown not because of the sweet will of the employers, but our union has grown out of our own inherent strength. From my own experience of the last 20 years I can definitely say that no compulsory Act asking the employers to recognise the unions will strengthen the trade unionism in this Presidency, but it will rather retard its growth.

Certainly, Sir, time has no doubt come—for this the people who have shouted the loudest in this House are responsible—that some sort of protection should be given as far as recognition is concerned, that is to say, it must be considered on the same merits as protection is considered advisable in the case of industries, that is, it should not be a permanent compulsion on the employers to recognise unions. It may be given temporary protection. Unions can only be recognised by inherent strength of the working class which is developed in those unions. Recognition is not a thing that can be imposed either on the employers or on the employees. My experience is not only limited to the city of Ahmedabad alone. We have had our branches in a few Indian States and other places where the textile industry is working. There we have not gone begging either to the States or to the employers to recognise our unions. In the beginning there was some resistance, but because the workers wanted to get their right of unionism recognised, they fought for one month, two months, three months, four months and even six months and got their right recognised, and now I find that there is no employer there who dare oppose our unions. That is the position in the Indian States also.

Now, I would like to place before this House very briefly the weakness of this Bill. This Bill has been brought before this House, as I have placed it very candidly and frankly, not for the recognition of genuine trade union organisations but the recognition of a few self-styled leaders who would like to call themselves labour leaders. As it is, the employers are called upon to recognise a union with seven members, and that is my solid ground for opposing the first reading of this Bill, because it will never strengthen the trade union movement which we all desire. My honourable friend the member representing a Muslim Constituency of this City said that if the Congress will oppose this Bill it will lose its popularity with the masses. Sir, I may just say that the Congress does not depend for its popularity on sloganising or on bringing forward Bills that might appeal to the gallery, but its popularity rests on the actual and solid service of the masses, whether peasants or labourers, and that is my answer to my honourable friend Mr. Ali Bahadur.

Now, Sir, much has been said about the Ahmedabad Textile Labour Association, because my honourable friend the Parliamentary Secretary Mr. Nanda happened to be the Secretary of the Ahmedabad Union.

Mr. S. D. SAKLATVALA: On a point of information, Sir, I want to know if the Parliamentary Secretary is still the Secretary of the Ahmedabad Association.

Mr. K. K. DESAI : I have stated that he happened to be the Secretary of the Textile Labour Association.

Mr. S. D. SAKLATVALA : But he is not now ?

Mr. K. K. DESAI : I have given my answer. Now, Sir, the Congress Government—even if there had been anybody else in the place of the present Parliamentary Secretary—would have failed in its duty if it had not opposed the pernicious and mischievous principle of this Bill, and if Government has done anything in opposing this Bill, it has been certainly done to help the cause of labour organisations in the Presidency.

The Honourable the SPEAKER : Order, order. I have to invite the attention of honourable members to a conventional practice that while any member of this House is speaking, no other member entering or leaving his seat for any reason should cross the line between the member speaking and the Chair. I find instances of this type and therefore I deem it necessary to invite attention to it. Members will kindly refrain from doing so till the speech is over.

Mr. K. K. DESAI : Sir, I was referring to an allusion made by one of the previous speakers to the effect that in the very first session the Government declared its Prohibition policy ; and why should it, therefore, take so much time in bringing in a Bill for recognition of trade unions ? If this Government had to begin on a clean slate, I could and would join in that chorus because then it would be possible to bring in a Bill for recognition of trade unions immediately. But, Sir, unfortunately the Government has to deal with a situation in this Presidency for which the people who are today shouting the loudest, are themselves responsible. There are not one union or two unions or three unions but a dozen unions, and so the Government has to take stock of the whole situation before bringing in a responsible Bill which will be likely to strengthen trade unions themselves. Sir, I, on behalf of the trade union organisation which is considered to be a well organised union in this Presidency, urge upon the Government that it must take time and should take time in order that the real interests of the working classes are served. It is no use hurrying in a legislation which will more or less result either in helping or harming the interests of workers according to the way in which it has been drafted. My friends have also asked—I am surprised to hear that—“ why should employers' associations have been invited before the unions of labour organisations to express their opinion ? ” Well, Sir, I am putting this question to the honourable member Mr. Jhabvala, namely, “ Are you coming before this House as a matter of right owing to your strength ? ”

Mr. S. H. JHABVALA : On a point of order, Sir, I never said that. I never mentioned to the House that it was an objectionable practice that Government should have elicited the opinions of employers prior to eliciting the opinions of labour leaders. I did not say that.

Mr. K. K. DESAI : I mean, Sir, that if Mr. Jhabvala and his friends have come here before this House to ask this facility as a concession from the employers, I am really sorry for the working classes because the people who have been the loudest have themselves brought the poor workers to this unenviable position of pity. I would certainly have a union, a union recognised by the clear inherent strength of its workers and not because of Government patronage or because of the employers giving the recognition as a matter of concession. I would like the recognition to come to the organisation through the fight which the workers will be able to put up. Now, Sir, beggars should have no choice, and I am telling you that I am sorry, very sorry.

Mr. R. A. KHEDGIKAR : May I know, Sir, whether the term "beggar" is parliamentary ?

The Honourable the SPEAKER : The term "beggar" by itself is not unparliamentary. It is not intended to be applied to any member.

Mr. K. K. DESAI : Sir, I regret very much the pitiable position to which the workers of this Presidency have been reduced by their leaders.

Now, Sir, there is one point which has pained me the most. When my honourable friend Mr. Khedgikar said that Government were not doing anything and that whatever they wrote on paper remained only on paper, it is preposterous for the honourable member to say so, in spite of the fact that he is a sitting member along with me on the Textile Labour Enquiry Committee, which has gone into the question of wages and has come to report stage. Is not the Textile Enquiry Committee by its work implementing what has been stated as the labour policy of the Congress Government ? Anybody else more ignorant than the honourable member would have been excused for this reckless charge. It breaks all record for a member who is himself sitting on the Committee to come forward and say that Government have not done anything. [*Interruption.*] The honourable member said that Government had done nothing and he has not the least ground to make such a statement.

Then, Sir, some reference was made to the recent strike in Ahmedabad. Of course, the Honourable Minister for Law and Order has effectively replied to it. I just wish to refer to one point. What is the origin of that much talked of strike ? The weavers of the New Commercial Mill working on night shift, came out on the night of 9th November. I can very definitely state that there was no ground whatsoever as there was no grievance, there was no reduction in wages so far as that mill was concerned. The weavers of that mill came out on strike at the instigation of a man, who wanted to be the head jobber. When they came out on strike, there were not wanting men in the city who wanted to fish in troubled waters. The next morning, the Red Flag Union which has got hardly 50 members found out that there was no ground for any grievance and they were puzzled as to what to do. Immediately after the strike, they came out with a handbill demanding 12½ per cent. increase in wages, an increase in night shift wages, etc. They put in all sorts of imaginary

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demands. One honourable member observed here that it was an insult to the working classes to say that they had been pitching their demands high. I may point out to the honourable member what sorts of impossible demands the workers are made to make. During the last Bombay strike, the demands made, among others, were that the political prisoners should be released and that the rents of private chawls should be reduced. What have these demands got to do with the genuine economic strike? Even my honourable friend Mr. Saklatvala and his Association could not be expected to concede these demands, however much they try, as release of political prisoners was not in their hands. To continue the strike on this ground is the height of absurdity. Now to come to my narrative: Sir, what happened in Ahmedabad was that the strikers put forward all sorts of impossible demands and, as has been pointed out by the Honourable Minister for Law and Order, coercion, intimidation and violence were very largely exercised. I have been working in the Ahmedabad union for the last 20 years. We have had general strikes lasting for 65 days and individual strikes lasting from 3 to 6 months. But never during all these years had I experienced the spirit and atmosphere of violence of the type I saw during the recent strike. I am ashamed to say that Ahmedabad was converted into a city not fit for decent people to live in. This is the achievement of those so-called friends of labour. Now, Sir, I shall point out how the strike ended. The strike went on for 18 days and the men wanted to resume work saying, where is the moon that has been promised? Incidentally, a friend of theirs came to our Association and asked us somehow or other to settle the dispute and save their faces, and Sir, we settled the strike. This is the origin, progress and conclusion of the ill-conceived and thoughtless strike which benefited nobody.

We ourselves are not afraid of strikes. But we do not believe in strikes called out by individuals. A Gulzari Lal or a Desai cannot call out a strike in Ahmedabad at his sweet will. Any strike that may be found necessary shall be called out democratically, i.e., if the workers in a ballot decide to strike. And, Sir, that strike won't be a strike for defeat; but it will be a strike that will lead by its very genuineness to victory.

Mr. T. S. JADHAV (Sholapur North-East):

अध्यक्षमहाराज आणि सभ्य सभासदहो,

मी या सभ्य श्री. झाबवाळा यांच्या विलाळा विरोध करण्याकरिता उभा राहिलों आहे. कारण हे अशातऱ्हेचे विलच नको असं नव्हे; परंतु त्यांत सुधारणा करून त्यांत कमिजास्त फरक करून सरकार स्वतः ट्रेडयुनियन्सना मान्यता देण्याचे विल आणणार आहे. याच विलास मान्यता दिल्याने आज जी मजुरांची चळवळ काहीं लोकांच्याकडून चालते त्याच दृष्टीने जर चाळं लागली तर अतिशय धोऱ्याचे आहे. या विलांत अशाच लोकांना जास्त वाव मिळावा अशीच योजना

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करण्यांत आली आहे. यामुळे जास्त निरनिराळ्या त्या कामगारांच्या संस्था निघतील आणि आपसांत भांडणे होतील. सोलापूरच्या १४४ व्या कलमाच्या बाबतीत थोडासा खुलासा करावा असे वाटते.

The Honourable the SPEAKER : The honourable member will not be in order with regard to that matter. The Honourable Minister in charge has already given explanation.

Mr. T. S. JADHAV :

मला हे बिल आणणारे सम्य मंत्र श्री. शाबवाला यांना एवढेच सांगावयाचे आहे की, त्यांनी त्यांच्या विलांतील योग्य ते घेऊन सरकार नवीन बिल आणितोपर्यंत आपले बिल परत घ्यावे.

5 P.M.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Sir, I rise to support the Bill. The Bill provides that all unions registered under the Trade Unions Act should be recognised by the employers. I think it is in the interests of the employers themselves that they should recognise these unions. The difficulty of the employers is to know what the wishes of the labourers are, and a union is the best agency to acquaint the employers with the wishes and desires of the labourers. We have staff unions working in the case of the employees of the district local boards and school boards, and those unions have been found to be working very well. Recognition is absolutely necessary, because without recognition the unions will not have any status. We do not want the employers to dictate to labour what kind of unions labour should have.

At the first reading, only the principle of the Bill is under discussion. The principle of the Bill being good, the first reading may be accepted. If any alterations are necessary they can be made in the select committee. The honourable member Mr. Nariman said that the Bill may be withdrawn, as it was Government's intention to bring forward a Bill of their own. Sir, the difficulty is that if the Bill is withdrawn now, under the rules of procedure it will not be competent for the House to discuss a similar Bill for some time to come.

Mr. K. F. NARIMAN : On a point of explanation, Sir. I did not say that the Bill should be withdrawn. I only suggested, under Standing Order IV, 4 (1), that it would be possible to postpone consideration of the Bill either to the next session or to any future session. The Standing Order says :

"A motion that consideration of a Bill which has been introduced not being a Bill sent under section 90 of the Act or of any resolution moved in Assembly be adjourned to any future day in the same Session available for such business or to any future Session or *sine die* may be moved by any member at any time....."

Sir ALI MAHOMED KHAN DEHLAVI : Before the honourable member proceeds, may I ask whether he is moving such a motion ?

Mr. K. F. NARIMAN : I do not move it. I am simply correcting the misapprehension in the mind of the honourable member Mr. Raut. He said that I suggested that the Bill should be withdrawn. I did not suggest withdrawal ; I suggested postponement.

Sir ALI MAHOMED KHAN DEHLAVI : Then in connection with that, I should like to know, first of all, from the Government benches what their intention is. I do not remember—I might have missed the point—any of the responsible speakers from the Government benches having said that Government intend to bring in a Bill later on dealing with the question of trade unions. If that is the intention of Government, then what has been suggested by the honourable member Mr. Nariman may be in point.

The Honourable Mr. K. M. MUNSHI : Government do intend to bring forward legislation relating to trade unions.

Sir ALI MAHOMED KHAN DEHLAVI : Within a comparatively reasonable time ?

The Honourable Mr. K. M. MUNSHI : Yes.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I move, under Standing Order IV, 4 (1), that the consideration of this Bill be postponed till after Government find it possible to bring in a Bill dealing with the subject. Because we do not know when Government will be in a position to bring in such a Bill,—they cannot tell us the date approximately—the consideration of this Bill should be postponed *sine die*. I think that was a very reasonable suggestion made by my honourable friend Mr. Nariman that the consideration of this measure should be postponed so that it should not be doomed in this House today. I think according to the same Standing Order, my motion has to be put first.

The Honourable the SPEAKER : Under the rules, if the motion is opposed, I have to permit a short explanatory statement from the member wishing to oppose it. May I know if this motion is proposed to be opposed ?

Mr. GULZARI LAL NANDA : We are not opposing it.

The Honourable the SPEAKER : So I put the question now. The motion before the House is that the consideration of this Bill be postponed *sine die*.

Question put, and agreed to.

PRESENCE OF STRANGERS ON THE FLOOR OF THE HOUSE.

The Honourable the SPEAKER : Before we proceed with the consideration of the next business, I wish to invite the attention of the members of the House to one little matter. Before we adjourned, I noticed some person coming into the House and having a talk with some members. As I thought that the gentleman was not a member of the House, I immediately inquired of the members with whom the gentleman was talking as to who the gentleman was and how he came in—whether at the invitation of the members or others, or under what circumstances. I was informed that none of the members with whom he

[The Speaker]

apparently talked, as I could see from this place,—I could not hear the talk, obviously,—knew the gentleman. This means that there is a misapprehension on the part of at least some members of the House that their friends or other people or strangers can be introduced into the House for the purpose of having a private talk or consultation, or whatever it may be. I therefore wish to make it clear that it is not permissible for any one who is not a member to enter the House, nor is it permissible for any person who is not a member to cross the galleries and come into the "Ayes" and "Noes" lobbies. It is also reported to me that strangers are introduced beyond the place where the board is put up forbidding strangers to go beyond it. I would, therefore, earnestly request honourable members that they will kindly see that none of their friends or any other persons come within the House itself or into the lobbies. If any member wants to see any of his friends, there is a separate place provided for that purpose outside, and it is permissible for members to leave the House and see their friends there.

Mr. JAMNADAS M. MEHTA : This applies when the House is in session ?

The Honourable the SPEAKER : Obviously. "The House" does not mean the structure consisting of brick and mortar.

Mr. R. A. KHEDGIKAR *rose*.

The Honourable the SPEAKER : Order, order. There is no occasion for any personal explanation, as the Chair did not refer to any member by name.

HOLIDAY FOR MAKAR SANKRANT.

Dr. K. B. ANTROLIKAR : May I repeat the request which I made earlier, that tomorrow and the day after should be holidays for the Assembly ?

The Honourable the SPEAKER : The request which was made when the House was thin is being repeated now. A request was conveyed to me that the House, instead of sitting tomorrow—

Honourable MEMBERS : And the day after.

The Honourable the SPEAKER : Order, order. There seems to be unanimity that it should not meet tomorrow.

Some Honourable MEMBERS : Meet on Tuesday.

Some Honourable MEMBERS : Monday. [*Interruption.*]

The Honourable the SPEAKER : What is the wish of the House ? Instead of everybody getting up and speaking, it would be better if their request is conveyed to me after an informal consultation among the party leaders. The question whether the House should be adjourned till Monday or Tuesday may be settled by informal consultations among the party leaders, and their agreed views may be communicated to me later on. There is yet time enough for adjournment. In the meanwhile, the House may proceed with the business before it.

BILL No. VIII OF 1937 (A BILL TO MAKE PROPER PROVISION FOR THE FIXATION OF TARIFF FOR VEHICLES PLYING FOR HIRE IN THE PRESIDENCY OF BOMBAY).

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move the first reading of my Bill to make proper provision for the fixation of tariff for vehicles plying for hire in the Presidency of Bombay, being Bill No. VIII of 1937.*

Question proposed.

Sir ALI MAHOMED KHAN DEHLAVI : I am sorry to interrupt, Sir, but I should like to know whether the question about holidays will be considered before you rise this evening ?

The Honourable the SPEAKER : I conveyed to the House my desire that they might carry on informal consultations and let me know their agreed views at the end.

Mr. S. H. JHABVALA : Sir, in moving the first reading of my Bill, I have to make a few remarks. I stated yesterday, in my preamble, that all the Bills that I have presented so far to the House are poor man's Bills, but I was loath to see that the Congress benches have opposed the first poor man's Bill. Now, I pass on to the next of them—the second poor man's Bill—in order to gauge the volume of Government opinion on my second Bill.

What is the present condition of the vehicular traffic in Bombay City and the Bombay Presidency ? We find that with the developing industrial system in the Province of Bombay, there is growing in our midst a large magnitude of vehicular traffic which needs a certain amount of adjustment so far as the fixation of tariff is concerned. We have got in our midst the tramways, we have got the buses, we have got taxis, we have got carts, we have got motor lorries and we have got victorias. These are the principal vehicular machines which carry the whole traffic of Bombay from one place to another. But, Sir, the tariff which is fixed is of such a queer nature that, as I have said in my objects and purposes of the Bill, a regular rate war settles in, or sometimes it so happens that particular interested parties raise certain prices or some other interested party, in order to capture the trade, lowers the prices. The result is that the driving community has got to suffer much. I want to quote an instance to the point. In fact, the principal reason which actuated me to bring in this Bill is the one which pertains to the taxi-driving trade in Bombay. It must be noticed that the taxis are driving at a particular tariff which is fixed by a meter which is an indication of the journey and the amount of money spent for the journey. This meter is an index—I am simply quoting an instance to the point ; the same may be said in connection with other vehicles as well—indicating the fact that for a particular journey so much amount of money shall be paid. But while the taxi driver is the man who has got to deal primarily with the tariff, that tariff is imposed on him by a party, which is absolutely foreign to the interest, for example, the Commissioner of Police. Now it may be urged that the Commissioner of Police has got certain powers, among

[Mr. S. H. Jhabvala]

which one is the fixation of tariff for different vehicles in the Town of Bombay, but there are other vehicles over which the Commissioner of Police has got no control and such vehicles are not affected by this tariff, such as the bus. The consequence is that there starts actually a rivalry between these two competing bodies, one, say, for example, the taxi and the other the bus. Now, I shall quote the instance of the bus. The bus is a vehicle which is driven by a Company which is a limited concern. As it is owned by a large Company, it can easily afford to lower its charge and the result is that the taxi becomes a valueless conveyance in the vehicular traffic on the streets of Bombay. This is simply an instance to the point which has been quoted to indicate to you the necessity and desirability of introducing a Bill of this character. Now, Sir, my point was that as a result of this, some time ago, through the Taxi Drivers' Union we had to start a regular struggle, a struggle for the assertion of our right, namely, that the tariff should be fixed at the will and at the desire of the driver himself and not by the Police Commissioner because under the statute he happens to have a right. The Police Commissioner under a particular right dictates a particular fare, but when that is found to be incompatible with the needs and requirements of the driver, certainly it is up to the driver to protest. Well, Sir, the result was that the whole combined organisation, the trade union of the workers, protested against it and the drivers had to declare a strike which lasted for about a month. The strike had to be resorted to in view of the fact that the taxi driver himself was declared not to be the master of his own vehicle though in actual fact and practice he was one. Even though he drove the vehicle, he was not the master of that vehicle, that is to say, so far as the earning was concerned. Under the circumstances, what happened was that the taxi drivers had to carry on a lengthened strike. On behalf of the Police the action was faulty and it so happened that a particular will was forced on the driving community and that will was that they should fix a rate which would facilitate *the right of a private capitalist company like the Bus Company* to enter into baffling competition with the taxi drivers. Why should such arbitrary will of the Police have been permitted to interfere? They could not flout the law of the land, they had not power enough in them to do that because they had not got sufficient strength in them to do that. So, a small red flag was brought into existence and that flag was an index of the fact that taximen were prepared to drive at a rate which could easily compete with the other vehicles in the country. Then there arose a tussle between the two wills, the will of the Police Commissioner as indicated by the taxi-meter and the will of the taxi drivers as indicated by the small red flag. Now, as a result of that, it naturally so happened that the Police Commissioner had got his own way of dealing with these things, and my friends here will agree with me that those who have control of the executive power in the country have got peculiar methods of their own to demolish their opponents however sound-reasoning they may be and the result was that this flag was thrown to the earth, not that the taximan was not able to

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continue driving at the competitive rate of four annas but because the police control was so very tyrannous in many indirect ways that ultimately the flag had to be thrown out. The consequence was that the man had again to revert to the Police Commissioner's will indicated through the taxi-meter, and today we find that in the absence of a will like that envisaged in this Bill, the taximen are suffering. Of that this is an instance in point, and I am quoting that instance immediately in view of the fact that I happen to be closely associated with the Taxi Drivers' Union. The same thing has happened with other members of the driving fraternity. I happen to be associated with the Victoria Drivers' Association and there I find the same state of affairs. My main plea in regard to the Bill in hand is this that those who own the vehicles, those who own the means of livelihood, who own the principal means from which they can earn maintenance for themselves and for their families, must have the control and power of bringing about a settlement of tariff rate. So far as the carrying trade is concerned they must be free to create mutual relationship in the matter of agreements of rates of fare, and in fact the vehicular fraternity may be free under the control of Government and other social factors. What do I want? I do not want to give an ultimatum of any kind, because I know the Congress members, our friends here, and even our Congress Minister will not be prepared to resort to very radical measures. I am sure of that fact and I have been prompted to bring in a Bill like this in view of the fact that I always have relied on the manifesto of my Congress friends here who have often expressed in very glowing and shining terms their great sympathy and their determination to bring about a great improvement in the condition of the masses, and I naturally thought that the Congressmen would be sure to lend their support to any measures that would be calculated to bring about such a happy result. But, Sir, I must admit that I have been disappointed and disillusioned by their previous performances. However, Sir, disappointment is not in the code of labour Leaders, much less in my vocabulary. If any kind of disappointment had been capable of demolishing the class of people like me, I should certainly have died 20 years ago, but we are prepared to give our life, our energy, for what we feel to be right; our whole work lies in fighting, fighting for the good of the masses. It may be that at times we are in opposition to the Congress here or to somebody else there. But, Sir, I have been actuated with the feeling that our Congress friends here, with all the sympathy they have been expressing for the masses, would be bound to look upon my Bill with nothing but a spirit of good will, and in that hope I have sponsored this Bill.

Now, Sir, I do not want to enter into very many details pertaining to the different clauses, but I shall hurriedly explain to you the general purpose underlying the various clauses. The general purpose is such as will be acceptable to all the different parties concerned. In a legislature of this kind which is a very heterogeneous body consisting of various kinds of elements owing allegiance to various schools of political thought, I know we have got to observe caution. I hope my honourable friend Mr. S. K. Patil will agree with me.

[Mr. S. H. Jhabvala]

Sir, my first point is that with regard to these vehicles there shall be a standing Board of Control. Don't please bring in that flimsy pretext that "such a thing has never existed anywhere in the world and why, therefore should it be brought into this country?" Please do not say that, because, rest assured that the Congress achievement of driving away the strong and powerful British administration that existed only a year ago is in itself a very great achievement and, therefore, those who could bring about such a kind of achievement should certainly be relied upon in the matter of accepting such a radical principle as the one I have propounded in my Bill. What I want to tell you is this that the worker is an important factor in the State. I would even go a step further and say that the worker is the only chief pillar of the State. I have, of course, got to direct my energies in such a manner that my Bill will be carried through and, therefore, I have to urge upon your notice the fact that you will have to begin with the acceptance of the fact that the worker is an important event in the State. Very good. Having accepted that theory, we go a step further. The worker who owns the means from which he earns his livelihood has a right to use his machine in such a way that he earns out of it just as much as he needs. That is the second fact which cannot be gainsaid. Each man having a vehicle of his own has got the right to earn out of it according to his will, but in such a way that the general public may not be exploited, and that such ideas of general welfare of the body of the general Society are not away from the mind of Unionism could be evidenced from the fact that the Union was instrumental in starting the agitation for a four anna flag, but, alas! you know with what result. I want to tell you how the worker, when he is assumed to be a useful factor in the common society, could be made to assist in the promotion of the welfare of the life of society in general.

The Honourable the SPEAKER: Will the honourable member please confine himself to the subject matter of his Bill?

Mr. S. H. JHABVALA: I was just explaining the general purpose of the Bill and trying to show that I have some clauses in my Bill which would assist the worker in helping forward the welfare of the common society. By one of the clauses in this Bill I have given the sole control to the Local Government itself. The Local Government is the presiding factor. By "the Local Government" I mean the Honourable the Home Minister in charge. He would be the President of a Board like this. You can therefore judge about the *bona fides* and guarantees of a helpful scheme of this character, and you can drive out of your minds all those hazy perceptions of fear of communism, socialism, revolutionism and all other *isms*, if not for anything else, at least for this reason that I have, in this Bill, entrusted the destiny of a Board like this to no less a person than the Honourable the Home Minister himself.

Then, Sir, there are other factors in society. What are they?

An Honourable MEMBER: What does the honourable member mean by "Local Government"?

Mr. S. H. JHABVALA: By "Local Government" I mean the Government for the time being ruling in the province, whatever the time may be, now or hereafter.

Secondly, I have provided for a Control Board which will be composed of, besides the Honourable Minister of Local Government, one representative of the Tramway Company; one representative of the Victoria Owner Drivers; in the same way one representative of the Taxi Owner Drivers; one representative of the Bombay Municipality; one representative of the passenger public from the Passengers and Traffic Relief Association which has been in existence for the last several years doing efficient work for the relief of the distress of passengers, because I feel and you will agree ultimately the passenger community use the vehicles; one representative of the Private Bus Owner Drivers; one representative of the Lorry Owner Drivers and the Commissioner of Police, Bombay. I am running the Lorry Owner Drivers' Union and in order to be fair to them I have given one representative for that union as well. You will find, therefore, that the constitution of the Control Board is impartial and representative in character.

The next question is, what the board should do. This board will meet from time to time as determined by the member in charge of this portfolio. The board will fix the rates. In the fixation of the rates, we have now got the direct voice of the persons involved in the trade. That is all I want. This Bill is intended to take the arbitrary powers from the hands of those who are representatives of vested interests and the Police Commissioner, Bombay, and to vest them in those people who are actually doing the work. Now, the House will understand why this Board has been constituted in this manner. This board has got nothing else to do but only to control tariff. I shall briefly point out how the necessity for this measure has arisen. Certain persons who are not entitled to ply their cars for hire do so, thus deceiving the public and taking away the trade from the hands of the people who have the right to run the trade and who pay heavily by way of taxation for the right. These persons defraud the public and the persons involved in the trade. Some of the private owners of motor cars, there are many of them, do not use their motor cars for a certain period of time, during the day, nor do they pay their drivers and cleaners a monthly salary. These private owners send round their motor cars during day time on a contract with the drivers, that a certain percentage of the day's earnings should be given to the owner and the balance taken by the driver. In order to stop this illegitimate trade, this measure which has been brought in will be of particular value. This board will fix the rates which will be in force for one year and at the end of one year there will be a revision of rates according to the changes in the condition of industry, in the different relevant economic factors and so on. At the end of the year this change if any will be brought up. This is the main purpose of this Bill. The very idea of control indicates to us certain amount of powers being vested somewhere. In connection with this particular matter, it is fair that that power should vest in the hands of those who use the vehicles and those who are involved in that trade. This Bill will relieve the distress long felt by the drivers

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in the Bombay Presidency. In view of the fact that the Congress Government are prepared to assist the advancement of trade unionism, the advancement of industry, the advancement of the masses and so on, I hope Government will accept my Bill giving a constitutional right in the matter of fixing rates which serve as the source of livelihood for many poor people in this trade. It might be argued whether the Police Commissioner is not a proper judge of the whole situation and why that power should be taken away from him. I want to say in answer to that that the times have changed and we have entered the dawn of a new political era. One more fact that should be remembered is that those who held these arbitrary powers should cease to do so now. This power should vest in those persons who have a direct interest in the trade, because it affords them means of livelihood. With these remarks, I beg to move the first reading of this Bill in the hope that Government and the House will support it.

Mr. K. F. NARIMAN (Bombay City) : Mr. Speaker, Sir, this is another measure which I am afraid the honourable mover, with the best of intentions, has brought in under entire misconception. He describes it as a poor man's measure. I will prove it that, if this measure is passed, so far as at least the Bombay City is concerned, I do not know of any other measure which will be more harmful to the travelling public than this one. Among the vehicles he has mentioned, the poor man's vehicle, the proletarian vehicle, is the tramway ; it is not the taxi, nor the bus, nor the victoria. The cheapest vehicle for the poor man is the tramway. So far as the tramway is concerned which is used by millions of travelling public, this is the most reactionary measure which we could conceive of. If only my honourable friend knows how the tramway tariff is controlled, he would not have included the poor man's vehicle in his Bill. The tramway fare is controlled by the Bombay City Corporation. The tramway fare is suggested by the Tramway Company and unless it is approved by the Bombay Municipal Corporation, it cannot be sanctioned and enforced. I am sure my honourable friend will admit that the Bombay Corporation is a better representative of the travelling public than the Board he proposes. I will mention only one instance to show how the public interests were safeguarded by means of this democratic control of the Municipal Corporation. Some years ago, the Tramway Company wanted to enhance the fares from one anna to two annas. The capitalist members in the Bombay Corporation, who held shares in the Tramway Company, voted in favour of a resolution for sanctioning the enhancement of fares, and with the help of their votes that resolution was passed. But one of the members of the Corporation went and challenged the decision in the High Court and got it nullified. Thus nearly 14 or 15 lakhs of rupees have been saved every year to the poorest of the travelling public by the action of one member of the Corporation.

Mr. JAMNADAS M. MEHTA : Sir, may I rise to a point of order ? At the first reading of a Bill only the principle is discussed and not the details. If you go into the details, the principle will be lost. It happened so on the first Bill, and that prejudiced the chances against Mr. Jhabvala. Here, I submit that the principle of popular control is the only thing to be discussed just now, and not the composition of the Board, which can be changed later on. Therefore, Sir, unless you regulate the debate so as to allow only the discussion of the principle, the honourable member Mr. Jhabvala's Bill will have no chance.

The Honourable the SPEAKER : While agreeing entirely with the proposition that only the principle of the Bill is to be discussed at the first reading, I am afraid it is very difficult to define or limit the scope of discussion having regard to relevancy. The question of popular control is, in short, the principle of this Bill. But there is something further than that in this Bill, and that is the constitution of the proposed Control Board. And when a particular form of constitution is proposed as the means of carrying out what the author of the Bill desires, if a speaker says that that form of constitution is not desirable or practicable, I am not prepared to rule that he is irrelevant on the ground that he is straying from the principle.

Mr. K. F. NARIMAN : I would be the first person to agree that the control now vested in the arbitrary hands of the Police Commissioner should be transferred to a more popular body. But I am now trying to show that the control as proposed by the Bill will be transferred to a more reactionary body than the one that at present exists. Today there is a more popular body than the proposed board to control certain classes of fares. If you see the composition of the board, as it is proposed in the Bill, you will find that out of the total of nine members, five are representatives of interested bodies, namely, the Tramway Company, the victoria owner drivers, the taxi owner drivers, the private bus owner drivers, and the lorry owner drivers. These bodies are all interested bodies, and their interests conflict with those of the travelling public : these bodies are all interested in enhancing the fares. The five representatives sent by these bodies will always be in the majority in the board, with the result that they can combine and compel all the travelling public to pay enhanced fares for the tramways, the victorias, the buses and the lorries. They can all combine to raise the fares, and the rest of the board would be absolutely helpless against them in looking after the interests of the travelling public. Therefore, Sir, the control proposed in the Bill is not popular control, but control by vested interests. I am sure my honourable friend, with the best of intentions, is trying to protect the interests of the few unions he is representing. But if he had looked to the interests of the travelling public, I am sure he would have been the last person to introduce a Bill like this.

At the same time, I quite agree that the present system of arbitrary fixture of fares by one officer like the District Superintendent of Police or the Commissioner of Police is out of date and should be changed. But this is quite a different matter from trying to transfer the control from

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a popular body to a reactionary board. Now that Government's attention has been drawn to the matter, we expect from them an authoritative statement on the subject. So far as the rest of the Bill is concerned, I submit that the travelling public will be in a worse condition than it is today, if the Bill is agreed to.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I congratulate the mover of the Bill on the interest that he has evinced in the poor man and also on the principle that he has tried to enunciate in this Bill. And if, after I have spoken, the honourable mover sees that there is not much difference in principle between Government and himself, perhaps he may think it worth while to consider the question of withdrawing this Bill altogether. I entirely agree with him, Sir, that the question of fare is such an important one, not only to the drivers but also to the public in general, that it should not be left in the arbitrary hands of a single individual, however trusted he might be or however highly placed he might be. Secondly, I entirely agree with him that the fares have to be fixed from two or three points of view. Two of them he has enunciated himself. The first is that of the traders—I will call them traders for the time being—that is, those who are plying the vehicles. The second is that of the public, who should not be exploited by charging a higher fare. And the third, if I may add,—I am sure he will agree to it,—is the maintenance of the efficiency of the vehicles for the purpose for which they are intended. So that, as between him and Government there is very little difference in outlook with regard to this Bill.

But as to the Bill itself, he will permit me to point out that in view of the existing Acts which cover the field, the greater portion of the Bill is either unnecessary at the present stage or will become unnecessary. This Bill proposes not only to control ordinary vehicles which are governed by the Public Conveyances Act, 1920—that is, the hand carts, horse carriages, and bullock carts—but also motor cars, buses and tram cars. Now, Sir, we have different Acts to cover different kinds of vehicles, and if any of them have to be amended, my honourable friend will agree with me that the proper course would be to amend each particular Act rather than deal with all in one omnibus Act. Take, for instance, the Tramways Act, 1871. Under that Act, by a deed of concession dated the 7th August 1905, the Municipality of Bombay has come to certain terms and conditions with the B. E. S. T. Co., and it would not be possible by a Bill of this character suddenly to alter the terms of that deed of concession, because the parties to that deed of concession are the Bombay Municipal Corporation and the B. E. S. T. Co. To that extent, therefore, the

6 p.m. honourable mover will see that the Police Commissioner has not got the deciding voice in the matter, but that it is a matter of negotiations between the Bombay Municipality and the Tramway Company. It is presumed that the Bombay Municipality and the Tramway Company are expected to take all the three points of view into consideration, namely, the point of view of the Tramway Company and that of the public, and of efficiency of the vehicles.

[Mr. K. M. Munshi]

Therefore, I do not think that in a case like this it is necessary to refer the fixation of fares to any particular board, as is suggested. For instance, if a question with regard to tramway fares came before the board which he proposes, most of its members would have no knowledge of the question at all. There would be only one person to represent the passengers ; there would be another to represent the Bombay Municipality, and there would be the Commissioner of Police to represent Government. Therefore, today the position is better. The Municipal Corporation of Bombay will be certainly a better body to consider the question of the fares of tramways than a body like the one proposed by the honourable member, which consists of different kinds of representatives. Even if my honourable friend wants to go to the length of taking away the power of the Bombay Municipality and vesting it somewhere else, a Bill like this would not be the proper way to do it. Possibly, the Tramways Act as well as the Municipal Act will have to be amended for that purpose. But I am sure the honourable member realises the implications of such a step, and will accept that the present system is perhaps the better of the two.

The next is the Public Conveyances Act, Act No. VII of 1920. This Act, as I mentioned before, covers the cases of hand carts, bullock carts and victorias. So far as they are concerned, it is not correct to say that the Police Commissioner fixes the fares. Section 18 of the Act says that the power of the Police Commissioner is subject to the conditions of previous publication and the previous sanction of Government. Therefore, so far as the vehicles covered by the Public Conveyances Act are concerned, it is the Government which has the right to decide. And I am sure the honourable member will realise the difference between the old Governments and the new ; now it will be a Government responsible to this House. Therefore, the principal objection of the honourable mover is taken away.

The third class of vehicles which is sought to be included in this Bill is the taxi. This is governed by the rules framed under the Motor Vehicles Act of 1914. As the honourable mover knows full well,—he is a great authority on mechanically propelled vehicles,—the Government of India have on the anvil a legislation which controls the whole subject of mechanically propelled vehicles. Under that Act, a regional authority will be set up for Bombay by the Local Government. That authority will have the control of motors and taxis, including fixing their fares and various other matters incidental to the trade. Therefore, this is a question which will really be governed by that Act when it comes into force. Even the power which the Police Commissioner possesses now of fixing the fares of taxis will pass into the hands of a regional authority which Government will appoint. The proper time will be in April, when that Bill becomes an Act and when the Bombay Government is called upon to form a regional authority, to see that the power is entrusted to a representative body which is likely to do full justice to the taxi owner and to the public and also look after the efficiency of the vehicles.

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From that point of view, what is contemplated by my honourable friend is either provided so far or is going to be provided by the new Act.

I will now turn to the Bill itself, which does naturally require a lot of amendments before it can be made to fit in with the existing structure of law. The Bill provides that it should extend to the whole of the Bombay Presidency. If it extends to the whole of the Bombay Presidency, I fail to see how the representative of the victoria owner-drivers in the city of Bombay will represent the cab drivers of Poona or of Ahmedabad. In the same way, how is the representative of private bus owner-drivers of Bombay to represent the private bus owner-drivers of Belgaum? Such a Bill requires to be looked at from the point of view of the whole Presidency. There is another point which is not clearly brought out. The fare is to be fixed not only from the point of view of the drivers, but also from the point of view of the owners of the vehicles, who are generally different from the drivers. They are not represented here at all. Therefore, assuming that this Bill goes to the stage of a select committee, it will have to be redrafted in its entirety. The control board should really be intended to apply to the Province of Bombay. In addition to having the Police Commissioner, it will become necessary, when the question relates to districts in the mofussil, to consult the police officials of the district concerned also.

In view of all these difficulties, I would appeal to my honourable friend the mover to withdraw this Bill. The point of view of Government being the same as his, namely, that the fixing of fares should not be in the hands of a single official but must be controlled by a representative body, I think there will be no objection to his acceding to my request. There is only one point which I want to add, and it is this. A board like this will be a very expensive luxury. If you have a representative board like this, it may involve a considerable amount of money in the shape of travelling expenses and other expenses incidental to a representative board. If at all a method is to be devised, it will have to be devised for the three different sets of vehicles that I have mentioned, and in three different ways. I would, therefore, again appeal to my honourable friend to withdraw this Bill.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Sir, before the speech of the Honourable the Home Minister, I was going to support the Bill; but, after his speech, I believe I am in a position to appeal to my friend Mr. Jhabvala to withdraw the Bill. Only one point remains to be cleared by Government. As far as I see, there are two important features involved in the principle of this Bill. First, the question of popular control; there is another important point which has been lost sight of so far—and it is the question of co-ordination. I think the Bill aims at stopping the tariff war especially in the City of Bombay. Tramway fares are controlled, to a great extent, by a popular body, but the fares of victorias and taxis are not controlled by any popular body. I think at present the most important point is that there should be one body that should

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control all the fares of all sorts of vehicles. If there is an assurance from Government that they are going to bring some legislation or that they are going to take some steps in this direction, then I think a Bill of this nature, in the body of which there are so many flaws and defects, should be withdrawn at this stage. I think the greatest difficulty that arises, so far as the city of Bombay is concerned, is this that the taxi drivers are hit hard in their profession because of the tariff war with the buses. I give one instance. Whenever there is Mahim fair it is always a season of roaring trade for the taxi drivers; but this year the buses reduced their fares—in fact, the buses were running at the rate of 2 or 3 pies per mile.

An Honourable MEMBER: Public benefited by it.

MR. ALI BAHADUR BAHADUR KHAN: It is true, but what about the persons who are carrying on trade in taxis? They will be ruined. Even in considering the point of public benefit, there should be some system. Supposing the taxi drivers also reduce their fares to a very low degree, then what about the victorias? They will be absolutely ruined. What I want to impress upon Government is this that there should be co-ordination and collaboration between the agencies that are given the power of fixing the tariffs. Different bodies should not be allowed to fix tariff for different vehicular trades. That is the important point in this Bill, and I think if this point is conceded by Government and if they promise that they will take this point into consideration while taking the necessary steps in this direction, then I shall advise my honourable friend Mr. Jhabvala to withdraw the Bill.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I do not think it is necessary any further now to advise my honourable friend Mr. Jhabvala. The time is advising him and within a quarter of an hour he will be advised quite definitely where he stands. It is clear that the debate, if further prolonged, will be quite dull, and, therefore, I do not wish really to make any elaborate statement, except to say that the honourable member Mr. Jhabvala has brought out three important points in his proposed Bill, and they are, first, that some public control of the traffic and the fixation of rates is necessary; and, secondly, that, both in the interest of those who run these vehicles and in the interest of the public, the present control should be decentralised; thirdly, that that should be done through an organisation like the one which he has indicated. At this stage, I only want to mention that my honourable friend Mr. Jhabvala has brought out two difficulties of those who are plying the vehicles for hire. Some people can ply vehicles and bring down their rate up to any limit; others are not allowed to bring down the rate. Then some people evade the vehicles taxation, and the taxis have to bear the whole taxation. Sir, there is in the city of Calcutta even a recognition of the private taxi driver. Here, in the city of Bombay, he is not recognised in law, though in fact, he plies about the

[Mr. Jamnadas M. Mehta]

whole city, and he is entering into an unfair competition because he avoids paying the same taxation as the taxi driver. He can cut the taxi driver's throat because he evades taxes; he can charge any fare, and one of the biggest difficulties of the poor taxi driver in the city of Bombay is this contraband or rather smuggled traffic of the private taxi drivers. Then there are the motor buses—the Tramway Company's buses—running today at a fairly cheap rate. If the taxi driver is eliminated by them, God knows where his trade will go. For these reasons, it is time to institute some decentralised and more popular control. All that my honourable friend Mr. Jhabvala pleads for is this simple principle, and I must commend the Honourable the Home Minister's statement as confining himself, with almost meticulous precision, to the principle of the Bill, which, I am afraid, my honourable friend Mr. Nariman did not do. He harped upon the reactionary character of the proposed Board, but it can be changed out of recognition if once the principle is conceded. The last Bill of my honourable friend Mr. Jhabvala went by the board because too many details were given in it; now, this Bill is going by the board because there are no details. My only request to Government, therefore, is that the principles which the honourable member Mr. Jhabvala has indicated, namely, that of a more decentralised and popular control, may be kept in mind when they bring out a Bill in this connection, and the business of running private taxis should be strictly controlled so as to run on lines which will put more bread and butter in the mouths of the poor taxi drivers. All that the honourable member Mr. Jhabvala is concerned with is that those people who ply for hire—whether taxi drivers or others—should not be at a disadvantage on account of an improper competition and on account of an improper control. That is what I conceive to be the central point of this Bill, and which, I feel certain, Government will keep in mind. That will be the reward for my honourable friend Mr. Jhabvala for having brought this fact to the knowledge of Government, and, therefore, any disappointment that he may feel on account of the Bill not being carried further will be counteracted by the knowledge that his work has been done.

Mr. S. H. JHABVALA (Railway Unions): Sir, under the rules I have a right to reply. Before the final verdict of the House is taken on this Bill, I feel fortified by the assurance given by the Congress Government as regards the betterment and amelioration of the lot of those persons who are involved in the trade of driving the different vehicles in Bombay. But, Sir, my object, as an independent quantity in this Legislative Assembly, is not only to try and win over the friends here, who are now vested with all the authority in their hands, but also to impress upon the mind of the House that there are certain factors in the body politic which have hitherto not been taken care of, which have never been given any consideration by the previous administration, and it is the duty of the present legislature to see to it that their condition

[Mr. S. H. Jhabvala]

improves. I shall carry every Bill of mine to a division. I would not mind doing so, because I want the verdict of this House on all the different principles that I have adumbrated here. The assurances of the Government benches are not going to detract me from the firmness of my purpose in the least. Unfortunately, our friends like my honourable friend Mr. Nariman do not understand and do not care even to read the Bill. [*Interruptions.*] They have made the mistake of entering too much into details of the Bill while they were thinking that they were discussing the general principles of the Bill on the first reading; and naturally when they begin to enter into details at the first opportunity they get, it so happens that the general principle is always lost sight of. I am therefore glad that the Honourable Mr. Munshi has understood the principle of the Bill, and I am also equally glad that he has begun to move in the matter and that he has also given me an assurance that the Indian Motor Vehicles Act is going to be brought into force and that certain measures will be taken. But still, I am afraid he is not quite alive to the actual situation. What is the point? The point is that the control of fixing tariff should vest in the person who owns and who drives the taxi. Why? Because those who control the means of production should be their masters. That central theory from working-class point of view cannot be lost sight of, but I am afraid this theory will sit too high upon your heads. I am quite sure of that, but then this is the theory which is now coming into vogue everywhere in the world. Yes, I do admit that the public also is entitled to consideration, and for that reason, I have given a special seat to the public in the constitution of the Board which my Bill seeks to establish. I have given a seat even to the Bombay Municipality, whose welfare the honourable member Mr. Nariman has so much at heart—

The Honourable the SPEAKER: I hope the honourable member wishes to bring his remarks to a close within about two or three minutes.

Mr. S. H. JHABVALA: Yes, Sir. I know that it is nearly 6-30 p.m. and the 2 or 3 minutes now at my disposal will be enough to bring my remarks to a close and then to have the motion put to the House.

Now, Sir, I do not attach any very great importance to the opinions advanced by some of the honourable members, but I am surprised to hear my honourable friend Mr. Munshi saying that the previous sanction of Government is taken before the fixation of tariff by the Police Commissioner. It must be remembered that there are various items in which the power is vested in the executive authority like the Commissioner of Police and in which matter Government is guided by the opinion of those authorities concerned. I will give you an instance in point. I am just now having a very hard tussle with the Honourable Minister in charge of the Home Department as regards new meters, but the only guiding factor which influences the decision of an important Government like the Provincial Government of Bombay is the Commissioner of Police.

The Honourable Mr. K. M. MUNSHI : No.

Mr. S. H. JHABVALA : My honourable friend Mr. Munshi knows very well that oftentimes he has had to postpone giving his own personal opinion because of the fact that he has not had the guidance or the necessary consultation with the Commissioner of Police. Can he deny this ? No, I think not. In the Act governing this matter the Provincial Government has to be consulted beforehand by the Commissioner of Police, and the whole system works this way. Every power here is vested in the hands of the Commissioner of Police. He delegates it to his subordinates, so that the ultimate man who determines the whole question is the man who holds the key of the Motor Vehicles Department. This is the explanation which I wanted to place before the honourable House before I sat down.

Sir, with these words, I do desire that the House do consider the merits of this Bill and deliver the control of the fixation of tariff to the persons who are directly interested in the trade and in this way evolve a new system under which all people who are working in the trade may be masters of their own rates at which they should ply, and thus they will be happy and independent without in any way imperilling the interests of the general public.

The Honourable Mr. K. M. MUNSHI : Sir, however much Government might sympathise with the Bill of my honourable friend, it entirely ignores the public, the most important factor in the consideration as representing the Taxi Owners' Union. He has taken only a one-sided view, namely, that of the taxi drivers. That cannot be the attitude of Government, and if he presses his Bill to a division, very reluctantly Government will have to oppose him.

The Honourable the SPEAKER : There is no question of withdrawal, as I understand ?

Mr. S. H. JHABVALA : No, Sir.

Question, "That the Bill No. VIII of 1937 be read a first time," put, and negatived.

BUSINESS OF THE HOUSE.

The Honourable Mr. B. G. KHER : Sir, I have tried to ascertain the wishes of the members of the different Groups and I find that for one reason or the other it will be more convenient for the House to assemble on Tuesday instead of on Monday. There is an Agricultural Show to be opened in the Karnatak [*Mr. Jamnadas M. Mehta : Not a Cinema Show ?*] and many members are interested in the Agricultural Show. If the honourable member Mr. Jamnadas Mehta puts an agricultural show and a cinema show on the same footing, the next time he wants a holiday he may bring up the excuse of a cinema show. To-day, I restrict it only to the Agricultural Exhibition. Perhaps the word "show" was not

[Mr. B. G. Kher]

to his liking and that is why he put a cinema show and an agricultural show on the same footing. Sir, there is a fairly big Agricultural Exhibition to be opened in the Karnatak and I find, on consultation of the wishes of the principal members of the Opposition, amongst whom, if my information is correct, is also the honourable member Mr. Jamnadas Mehta, who is also agreeable that the House should re-assemble—

Mr. JAMNADAS M. MEHTA : My name should not be mentioned ; I did not say that.

The Honourable Mr. B. G. KHER : If my informant was in error, I will omit the honourable member's name from those who have agreed, and say that the other members are all, or most of them, of the view that the House should now assemble on Tuesday, and I therefore request that the House do stand adjourned till Tuesday morning, i.e., the 18th instant, and the order of business on that day will be as follows :

There will be Government Motion No. II, which has been part-heard and which will be continued ; and after that, Government Bills will be taken up, and in order that honourable members may know beforehand in case they leave Bombay immediately, I would like to mention the Bills which are to be taken up.

First will be Bill No. XXV of 1937 (Collection of Taxes Bill). There has been some amendment of the Bill in the Upper Chamber and that will have to be considered in this House. That is why it is placed first on the agenda. After that, there will be Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923). After that, there will be Bill No. III of 1938 (A Bill to provide for the release on probation of offenders). After that, there will be Bill No. IV of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888), and thereafter, Bill No. V of 1938 (A Bill to remove the disabilities of Harijans in regard to worship in temples).

This I submit, Sir, should be the Order of the Day on whichever day the House decides to meet after the adjournment.

6-30 p.m.

The Assembly then adjourned till 2 p.m. on Tuesday, the 18th January 1938.

Tuesday, the 18th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Tuesday, the 18th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DEANJISHAH B.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Sahab
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.

GILDER, the Honourable Dr. M. D. D.
 GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMED KASAM
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.

MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MORE, Mr. J. G.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU

SINGAPORI, Mr. A. E.
 SONGAYKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGE, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

SHORT NOTICE QUESTION AND ANSWER.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, there is a short notice question and the Honourable the Revenue Minister has intimated that he is going to reply to it today.

The Honourable the SPEAKER: It is with reference to it that the honourable member was requested to put his question.

FACILITIES IN PAYMENT OF LAND REVENUE TO SUPERIOR HOLDERS IN RATNAGIRI DISTRICT.

Mr. S. L. KARANDIKAR (Ratnagiri North): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that the people in the Ratnagiri district generally pay the land revenue regularly and fully;

(b) whether Government are aware that for the last 5 years, land revenue has been paid in full in the Ratnagiri district in spite of the low prices which agricultural produce has been fetching;

(c) whether Government have ascertained the amount of arrears which the superior holders have been forced to leave uncollected, during this period;

(d) whether Government have received complaints that tenants and inferior holders intend to make default this year in paying their dues;

(e) if so, whether Government propose to give any facilities to the superior holders who are directly responsible for the payment of land revenue?

The Honourable Mr. MORARJI R. DESAI: (a) Yes.

(b) Yes. The land revenue has been paid after deduction of the remissions of land revenue given on account of the fall in the prices of agricultural produce in several of the talukas of the district.

(c) No.

(d) No.

(e) Does not arise.

Mr. S. L. KARANDIKAR : In view of part (c) of the question, will Government undertake to make an enquiry ?

The Honourable Mr. MORARJI R. DESAI : If a representation is made, Government will certainly consider the question.

Mr. S. L. KARANDIKAR : With regard to part (d) of the question, may I know whether any complaint was made to the Honourable Minister when he toured the district ?

The Honourable Mr. MORARJI R. DESAI : No specific complaints were made to me while touring the district about this. There was a complaint made of a general apprehension. It does not mean there is a specific complaint.

MOTION REGARDING TITLES.

Question again proposed :

“ This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued.”

The Honourable the SPEAKER : The other day when we adjourned, the Honourable the Prime Minister moved a motion and stated what he had to say in support of it. We now take up the further discussion of it. There are three amendments which have already been moved— one by the honourable member Sir Ali Mahomed Khan Dehlavi to insert the word “ indiscriminately ” between “ person ” and “ in ” ; the second one by the honourable member Mr. Jhabvala ; and the third one by the honourable member Mr. Ali Bahadur Bahadur Khan.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities) : Mr. Speaker, Sir, in the first place, I am inclined to think that the form in which the motion has been brought is not the right one. I am sure that the Honourable the Prime Minister will say that he and his Ministers have given their best thought to the motion and therefore we might take it that it is the right form. But, if he would dispassionately consider the matter, he would be at one with me in the view that the motion encroaches upon the prerogative of the King, the privileges of the Viceroy and also the rights of the Governor. It might have taken the form of an address or any other form except the present one which says :

“ This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued.”

[Sir Ali Mahomed Khan Dehlavi]

It is neither a recommendation nor a prayer but it assumes to itself, if I understand the spirit underlying the motion, a sort of a right of Government to come to a conclusion in the matter. I think that, if Government is under that delusion, it is mistaken in taking that view.

Further, coming to the merits of the question, I must admit, as the Honourable Minister has pointed out, that in Canada, at a certain period after the war, titles were bestowed on people by the numbers. Similarly, as far as I can consider this question, I think that titles were bestowed on people indiscriminately during the period of dyarchy, by the various governments that came into power. I call it an indiscriminate method and I even felt it in those dyarchical days. I quite agree with the Honourable Prime Minister that such indiscriminate bestowal of titles had a demoralising effect on public life, particularly on political life, and hampered political progress. Dyarchy was condemned after giving it a trial for 15 years. The Simon Commission came to that conclusion and the British Government accepted it. The present Act, although unfortunately it upholds dyarchy in the Centre when the Federation comes in, confirms that view. I think that, during the dyarchical period, if the methods that were followed had not been followed, even dyarchy would have proved more useful. Well, that is now a matter of the past; let us forget it and bury it. I am in entire agreement with the Honourable the Prime Minister that titles should not be conferred indiscriminately. That is why I have moved an amendment which supports the motion that titles should be conferred with proper discrimination and *raison d'être* in order that we may continue that time-honoured institution which has its own utility. In the Western countries and also in Asiatic countries, titles have a value of their own. They are the appreciation of public services, particularly in the field of literature, science and so on. If a gentleman has done laudable work, either in science or literature or other public service, what is the method of appreciating his work? If I am not very much mistaken, the Congress has been bestowing titles in appreciation of services. My honourable friend Mr. Jhabvala gives titles by the shoals every day by addressing certain members as comrades, which I think is a title—like Shriyut which means Shrimant—

An Honourable MEMBER : It is only Mister.

Sir ALI MAHOMED KHAN DEHLAVI : It is something more than that. I will come to more important titles bestowed by the Congress such as Deshbandhu, Lokamanya and Mahatma. These are titles of honour. [Interruption.] Sardar is a title given by the Congress.

An Honourable MEMBER : By the people.

Sir ALI MAHOMED KHAN DEHLAVI : I do not know what "people" means. The vision of the Cabinet is always narrowed when it talks of public and people. It only looks around and sees that the people and the public are confined to Congress world. There is a huge public outside the Congress, much larger than the Congress.

[Sir Ali Mahomed Khan Dehlavi]

The Honourable the Prime Minister said that the public are at the back of this motion. I doubt that statement. In the alternative, they must find out some means to appreciate the laudable services of people and grant titles like Deshabandu, Lokamanya, Sardar, Veer and Mahatma which is well deserved by Mr. Gandhi. When you come into power and have the control of all the departments, which you have not at present, either in the centre or in the province, you will find that your diplomatic relations will compel you, as kings confer titles on kings, to confer title on the ruler of a neighbouring state in appreciation of a good turn or friendship of that ruler. Titles have a value of their own. I, therefore, think that titles should be conferred with discrimination, after mature thought. The method of conferring titles lies in the hands of Government and it is not the proper method for Government not to confer titles or not to recommend for titles. It is for the Honourable the Prime Minister and his Cabinet, who are asked, as a matter of courtesy, to recommend or not names for titles when they are called upon to do so by the Authority whose function it is to confer titles. They may refuse to suggest names. They may say that they have none to suggest. The remedy is in their hands, and it is of non-feasance. A story has filtered down to me—I think others must have heard it too, I do not know how far it is true—that the late Mr. Vithalbhai Patel, when he was the President of the Central Assembly, was asked similarly, officially, whether he had any one to recommend for a title. He said that he had his two chobdars and that one must be made a Khan Bahadur and the other a Rao Bahadur. I repeat the remedy lies in your hands. Do not recommend if it weighs on your conscience. To strike at the root of the institution is a mistaken policy; and a mistake from the administrative point of view. Sir, you must have possibly read of an incident of which I am reminded today. I hope the Honourable Minister does not take it amiss as coming from me. The Emperor Humayun was trying to ford a river and after a little distance he came to grief. A *bhisti* or waterman, who was filling his leather bag at the bank, saw the plight of the Emperor, jumped into the river and saved his life. The Emperor, unlike present Emperors, felt that the *bhisti* should be well rewarded. He gave the *bhisti* the Emperorship of India for 2½ days. The first thing that the *bhisti* did was to run and strike coins out of his leather bag so that he might hand down his memory to posterity. Similarly, unless the Congress Ministry thinks that they are a fixture *ad infinitum*, they seem to me to be running like the *bhisti* to do what they can possibly do, and strike their coins whenever they can, so that no time is lost in blighting out old and time-honoured institutions and that they might be remembered and applauded for their socialistic tendencies.

Mr. BABUBHAI PATEL : On a point of order, Sir. Is this amendment in order, because it is almost a negation of this resolution? The resolution is for discontinuance of titles and this amendment in fact says that titles should be continued in a particular manner.

The Honourable the SPEAKER : It is not a direct negation and therefore it is in order.

Mr. K. F. NARIMAN : On a point of information. Is it suggested that titles are given indiscriminately now ? [Laughter].

Sir ALI NAHOMED KHAN DEHLAVI : Very strongly and emphatically, yes, in many instances ; and that is why I agree and I stand together with the Honourable the Prime Minister in the matter of this resolution. I think he has done some good to the country by bringing the motion, but not in the form he has done by trying to obliterate and undo and strike out from the roots, an institution which has its value.

Sir, you cannot level up the country, you cannot level up the whole social structure like that. I am sure that the Honourable Prime Minister is gifted, like many of us, with a number of sons and if he distributes his property equally amongst his sons, he would find after a few years that they do not fare equally. One goes higher than the other, who possibly—if I may say so—goes to ruin. The attempts at levelling the social endeavours that are being made by the Congress and other communistic and socialistic parties in the country have some good in them, it may be admitted ; but on the whole, the ideology may remain a dream. Utopia has remained a dream for centuries. Rome was not built in a day. Take it easy. Accept my amendment which is a very wholesome amendment and if you can fix it at that, use your discrimination, do not take up your pen and recommend anybody and everybody, but appreciate merit and good work, encourage it by conferring the right and proper titles which individuals may deserve.

With these words, Sir, I need not take much more time of the House. I press my amendment.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move an amendment to the resolution moved by the Honourable the Prime Minister and my amendment reads as follows :—

After the word " discontinued ", add the words " and that any such titles of honour or titular distinction so far conferred on any person in the province by His Majesty or the Governor General be withdrawn ".

Sir, in associating myself with the idea presented by the Honourable the Prime Minister in connection with the resolution that he has moved, I desire to go a step further and that step is of very great urgency, and I am quite sure that honourable friends like the honourable member Sir A. M. K. Dehlavi will agree with me, ere I sit down, that just as it was very beneficent for him to move his amendment, it would be much more so for him to accept mine.

Mr. J. B. GREAVES : On a point of order, Sir. Is this amendment in order ? It seeks to abolish titles conferred by the King on recommendations made by the Government to the King. This amendment seeks to embody into law the abolition of those titles. Is the amendment in order ?

The Honourable the SPEAKER : It is only an expression of opinion, nothing else. I should lean in favour of the member who has moved it.

Mr. S. H. JHABVALA : What I was saying, Sir, is this that the honourable member Sir A. M. K. Dehlavi would feel glad at the time when I sat down that this amendment was moved for one particular reason that the existing title-holders should be terminated, who I hold, are a positive nuisance to the whole social organism. [*Laughter.*]

The Honourable the SPEAKER : Order, order.

Mr. S. H. JHABVALA : Not only are they a nuisance, but they are a living canker eating into the very vitals of the social fabric. In support of this, I have to advance a few arguments which are entirely different from those which were advanced by the Honourable Prime Minister. His were rather very ethical, whereas mine are positively economic based upon historical foundations—historic materialism. The main point is that the existing structure of society is based on capitalism and capitalism wants to keep itself in permanent power with the help of a certain gang of individuals who are always helpful in carrying out particular dictates of capitalism and in fulfilling the exploiting ideology of capitalism. This gang is the gang of title-holders. They are an easy company which His Majesty the King or His Excellency the Governor General always finds in his hands like so many dogs in the leash.

The Honourable the SPEAKER : Order, order.

Mr. S. H. JHABVALA : Pardon, Sir. They can be easily let loose on the working classes or upon other individuals whom they want to suppress. The existing capitalistic structure of society, instead of having one class, has introduced two classes and that particular class, the exploiter community, is the class which has always been endowed with a gift by capitalism as a reward for a number of services done in connection with the game of exploitation. Now, on account of that, this band of individuals as I said, are a positive danger to the existing social order and the sooner they are wiped out the better. The meaning and the object of the original resolution of the Honourable Prime Minister will not be fulfilled for as long a time as the whole progeny of these title-holders is not wiped out from the existing social order. So long as the last Khan Bahadur lives or the last Rao Sahab exists, will there be an inducement for others in the existing order to run after these people and to get some work of theirs done easily. How great and corruptive a force they are is not fully understood by many of our friends here. I can tell them that by the time the New Year comes to an end, there are a number of applications sent to the Police Commissioner, to the District Officers and similar other people in which requests are made that the titles of Rao Bahadur or Khan Bahadur and so on should be conferred on certain people for their numerous so-called services that are rendered by them to the State. In this way they actually beg for some of these titles. Now, Sir, this is indeed, morally speaking a great crime. But it is not only

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from this point of view that I want to attack the problem. There is another point of view still. We have all heard of the Devil quoting the Bible to serve his own ends. So, I would like to quote the Gita at this crucial stage. [Laughter.] The point is that in the Gita, if I mistake not and my Hindu comrades here will correct me if I am wrong, it seems that it is laid down that for services rendered there should be no expectation of reward. I think it was Lord Krishna who said to Arjuna on the field of Kurukshetra in that behalf and it will be remembered that Krishna said that for whatever services that are rendered nobody should expect any reward but that duty should be performed for duty's sake and not in anticipation of reward in any shape or form. Sir, this is a very sound fundamental theological fact, namely, that there should be no expectation of reward. If there were no expectation, no exploitation would be possible. In its very effect, expectation is fundamentally very vitiating and therefore the very fact that there should be existence any longer of titles is very dangerous to society. Now, Sir, as I said before, my amendment goes only a step further than the resolution of the Honourable Prime Minister and, therefore, I beg to suggest that at the earliest opportunity, practical measures should be taken by His Majesty or by His Excellency the Governor General, namely, that the titles so far given should be withdrawn and it would be in this way that the Congress Government will help society in purging it of one of its standing evils. In this way it will also be able to move as expeditiously in the direction of reforming the existing social order as it would be practicable for them to do. If this resolution only is accepted and my amendment is not carried, the effect will be that the original resolution also will be much delayed in its practical results.

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With these words, I desire that this amendment should be accepted by this House. I am quite sure the House will accept it.

Dr. J. A. COLLACO (Bombay City): Mr. Speaker, Sir, when I read the motion of the Honourable the Leader of the House, I was very anxious to know why Government were against the granting of titles. Was it perhaps because the title-holders as a class were trying to do something heinous—perhaps conspiring and trying to overthrow the Government? Or are they violating some provisions of the Indian Penal Code? What sins have they committed? The Honourable the Leader of the House said nothing about it. But if you study the amendments, it seems that they have committed some grievous offence or some heinous crime, because the movers want to deprive them of certain rights.

Sir, I really expected, before I heard the Honourable the Leader of the House, that he would fight against titles from a different standpoint. I expected him to say that India being a nation, the conferment of titles should lie with India itself and that all the titles should be given by India as a nation. He has done nothing of the sort. I thought he would devise some means of giving Indian or swadeshi titles, for example, "The Order of the Lotus", "The Order of Hind", and so on. Instead of providing a substitute, he is trying to demolish the system of titles altogether. The

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Leader of the House has given no cogent reasons in support of his resolution. I am disappointed with the reasons advanced by him for the abolition of titles. He seemed to me like an excellent lawyer who has a bad case, trying to defend it to the best of his ability. Instead of giving cogent reasons in support of his resolution, he has told us about equality and fraternity. I thought the question of equality was a special prerogative of my honourable comrade Jhabvala, who is all for levelling down. It may hearten him to see that he is making converts to his creed. Sir, inequality has been there since the creation of the world and will continue till the crack of doom. No Minister and no Government, be it the Congress Government or any other Government, can do away with that. There are a hundred kinds of inequalities : rich and poor, strong and weak, and so on. In fact we are born unequal.

What is the significance of giving titles ? Titles are generally given, or should be given, to individuals who have done some outstanding deed, who have done something for the good of humanity, as a mark of appreciation of Government and as an example and incentive to others to go and do likewise. For instance, in the field of medical science you have Ronald Ross, who has discovered the carrier of malaria and done so much for humanity. Then, you have Leonard Rogers who has discovered Emetine for dysentery and saved so many lives. Take scientists like Raman and Bose. These outstanding figures have done a lot for science and humanity. Should not Government recognise their merit not only as a mark of their appreciation, but also as an incentive to others to do likewise ?

I entirely agree with the Honourable the Leader of the House that the system of giving titles has deteriorated and become almost a scandal. I entirely agree. But that is no reason why the system itself should be abolished. There are many other things that have deteriorated and become a scandal. Take the Police service, for instance. Government themselves have issued orders which show that there is bribery, corruption and so on. Are they going to abolish the Police Department because there is bribery and corruption ? The Congress Government is surely able to devise some means by which the system of giving titles which has deteriorated can be raised higher so that titles are given only to those gentlemen who deserve them and are not distributed indiscriminately. The Honourable the Leader of the House has rightly pointed out—I entirely agree with him—that because a gentleman gets into Government service and rises higher and higher in it, he is given a title when the time for his retirement arrives ; he is given a title for doing nothing extraordinary. This practice should be stopped at once. If a Government servant has really done something, for instance, has shown how saving can be effected in Government expenditure, or has devised some machinery by which Government work can be improved, then certainly that man deserves a title. It is a strange irony of fate that Mr. Thomas of the Thomas Committee gets nothing, while others who did nothing get something. But it is for the Honourable the Leader of the House to

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devise some machinery by which this deterioration can be stopped. If you look around in this very city, what do you find? You find Hospitals, dispensaries, maternity homes, rescue homes, homes for the blind, homes for the deaf, homes for the dumb, infirmaries and so on. All these have been started as a result of munificent gifts of certain individuals. What does Government do? Government recommends such individuals for titles in recognition of their good deeds. Government as representing the will of the people thank them for the sufferings they have alleviated and good they have done by granting titles. That should continue. But this Government says, "No, abolish the whole system".

The honourable member Mr. Jhabvala referred to the Gita. I will also mention something from the Bible. I do not mind if it goes against me. I am going to tell you facts, and they go in favour of the Leader of the House. Charity must be done for the sake of charity. Let not your right hand know what your left hand does; it must not be done to get rewards. That is what the Bible says; in fact, that is what all religions teach. I understand that point. But I shall mention another instance from Hindu mythology—I do not know whether it occurs in the Gita or somewhere else. There was in heaven a gentleman who was allowed to occupy a high place there; he was radiating with happiness. When the people asked what that particular gentleman had done on earth that he should merit such a high place in heaven, they were told that he had dug a well and planted a banyan tree. Of course, this was in olden times when people had to walk long distances and were in need of water to quench their thirst and of shade. Our religion also tells us that charity must be done for the sake of charity. But I would not be so uncharitable as to say that all those gentlemen who build hospitals and do other charities do so with a view to get titles. What happened formerly was that the good deed preceded the title. But what is going on now is that instead of the deed preceding the title, there is a sort of bargaining going on, and the deed and the title come simultaneously. I entirely agree with the Leader of the House that this practice should stop.

Sir, my honourable friend Mr. Jhabvala further said that for any good work done in this world, a person must wait for his reward in heaven. My religion teaches me that. But in this materialistic world, some people may not like to wait so long, and they would rather have a reward from the benign Government in the shape of a title—a terrestrial honour from the Government rather than a celestial honour afterwards. That is the materialistic point of view.

After all, Sir, what will happen if this system of titles is allowed to continue? Will the heavens fall? I ask the Honourable the Leader of the House to look at this question from a different angle. Why not consider this as a form of taxation of the rich, a most equitable form of taxation which falls on broad shoulders, taxation which is accepted with smiles and congratulations from friends and which does good both for the giver as well as the receiver? Nobody will mind paying this form

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of taxation. They will give lakhs of rupees for the sake of a title. Of course I consider this motive a little base, but let the Honourable the Leader consider this as a form of taxation towards maintenance of hospitals and other social services. I am for that kind of taxation, although I am not aspiring for a title.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Mr. Speaker, Sir, I have heard very attentively the two speeches that preceded mine, and all the time that I was listening to those speeches, I was thinking that it was very difficult to make the opponents understand our viewpoint on this question. They have been bred and brought up in a different atmosphere, and they do not realise that this resolution, and more so the amendments, are really the outpourings of the lacerated hearts of those who have got bitter experience of title-holders in this country. The honourable member Dr. Collaco cannot understand why we should consider it a heinous crime to hold a title. The amendment that I have moved may not pass in this House, but I just want to give a foretaste of what is to happen in India when India really gets power. I have not the slightest doubt that if the present Congress Ministry had not been handicapped by the limitations of the Government of India Act, then certainly they would not have brought forward such a halting resolution. Circumstanced as they are in the present political condition, they could not go further. But we independents have an opportunity of moving these amendments, and I can safely say that in their heart of hearts even the Congressmen sitting on the Government benches agree with us.

They may not vote with us simply on account of certain political exigencies, but they certainly agree with us in the heart of their hearts. I was surprised to hear Sir Ali Mahomed Khan Dehlavi to say that this institution has come down to us from time immemorial. If he had only referred to the history of the Muslims he would have found that this was a cognisable offence in the Islamic days—I mean those days when the power of Islam had not deteriorated into a sort of an imperialistic power. But in the days of the four Khalifs it was a cognisable offence, and I would refer him to the history of Islam when a Governor was dismissed simply because he wanted to create a title for himself. No one was allowed to use any title except the head of the whole administration, who was simply called “Khaliph”. No other man, whatever be his position, was given any title. When the Khaliphate was occupied by the First Caliph Abu Baker, there were not only no titles but the most distinguished persons like Umar and Ali were addressed as O Umar and O Ali. During the days of four Caliphs same practice continued.

If the President of the United States of America can be called only Mr. Roosevelt and if that is enough for him, why should we introduce these titles in this country? Holding a title will certainly be declared a cognisable offence by those who assume full power, whenever that may be, because of the bitter experience that they have got of these title

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holders in their political life. Titles may be given sometimes discriminately, but generally they are given indiscriminately. The only basis on which they are given are the fidelity to the imperialistic power and infidelity to the motherland. These titles have created into India a band of persons who have worked as the honorary agents of the British imperialism, who have worked as a sort of an honorary intelligence department reporting all the national activities to high officials. Just as my honourable friend Mr. Jhabvala said, they are a sort of a canker eating into the very vitals of the body politic of India. There are potential title holders who go and make a *salaam* to the Collectors and Commissioners in the hope of getting titles on the 1st of January or on the occasion of the Birth Day Honours List. There are so many potential title holders who have made it their habit and their profession and the aim and object of their life to oppose all national movements and thereby get titles. They cannot become Khan Bahadurs or Rao Bahadurs if they participate in any of these activities. My honourable friend Dr. Collaco pointed out that so many title holders have constructed hospitals, but I submit that construction of hospitals has never been the basis of conferring titles; otherwise there would not have been so much objection to these titles. Congressmen and other people who have got anti-Government leanings have also constructed hospitals and have done other philanthropic acts, but they are not given any titles. Therefore, it is wrong to say that titles are given on the consideration of philanthropy. Titles are conferred on such people only who are always supposed to be pro-Government—by pro-Government, I mean pro-imperialistic. But the greatest evil is that if a man becomes a Khan Saheb or a Rao Saheb, he becomes a potential Khan Bahadur or Rao Bahadur. First of all, for his services—here, service means treachery to the country—he is made a Khan Saheb or a Rao Saheb. Then he thinks, “I am just on the first step of the ladder, and I must go up”. He becomes more active in the same sort of service, so that he might get a higher title, and when he becomes a Khan Bahadur, he becomes a potential C.I.E., and when the title of C.I.E. is conferred on him he aims at Knighthood. This is our experience, as evident as day light; no one can deny that. All those people, who are bringing these amendments that indiscriminate conferring of titles should be abolished, are simply deceiving the people. No one can be deceived by these amendments, because titles have been given indiscriminately; they have never been given discriminately. There is only one discrimination and it is this that the recipient of title must be traitor to motherland and loyal to the imperialistic power; this is the only discrimination. Titles are never given except to those who are apt to see things through the imperialistic glasses; and look to the records of all these title holders and more so, the record of the title hunters. The title hunters are greater in number than the title holders. Therefore, we should try to cut at the very root of this evil in order to put a stop to this rivalry, snobbery, and to this continuous effort for getting titles; it is necessary that this institution itself must be abolished, and my amendment and the amendment of

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my honourable friend Mr. Jhābvala are simply the logical corollaries of the motion that has been moved by the Honourable the Prime Minister. As I said, the Government may not, circumstanced as they are in the present political atmosphere, go further, but it is a fact that, if these titles are hated by so many, a remedy is there. If the Crown or the Governor General, whoever that power may be, is not prepared to withdraw the titles, then an alternative remedy is proposed that they should either renounce these titles, or some of their civic rights must be curtailed. I know that all the rights cannot be curtailed under the present constitution, but there must be some rights which the present Government, under the present limited authority, can curtail. There is not the slightest doubt, that whenever this party gets the real responsible self-government, the axe of retaliation will fall on the title holders, because they have been putting all sorts of obstacles in the progress of India towards its recognised goal of independence. I think he will be a bold man who stands up and says that the record of the title holders can ever be called patriotic. These are the men who have caused people to be sent to jail. They have worked as informants, though their information has never been correct. They have been more enthusiastic than the most imperialistic man from Great Britain. In these circumstances, my amendment is neither frivolous nor is it, as one of the honourable members called it, a tomfoolery, but I think it represents the voice of the people of India; it represents the sentiments that are being expressed everywhere. They may not be the sentiments of certain big capitalists or of some of those who have got hopes of getting these titles, but if you go to the masses, you will find that the masses are fed up with these title holders and they have realised that these people are the agents of the British Imperialism, and therefore this institution of titles must be abolished.

Mr. G. O. PIKE (Bombay Chamber of Commerce and Bombay Presidency Trades Association): Mr. Speaker, I am in favour of the amendment moved by the honourable member Sir Ali Mahomed Khan Dehlavi. The interest which I take in this resolution is only just sufficient to justify a few comments. It is rather difficult for me to emulate the solemnity with which my honourable friends on the other side of the House approach a matter of this kind. In fact, I am rather inclined to feel that the time of the House would be more profitably occupied in more pressing matters.

Since listening with interest and attention to the speech in favour of the resolution by the Honourable the Prime Minister, having duly envied him his flair for finding apposite quotations, I have been wondering whether I am a snob or a flunkey. I understand that an Englishman falls into one of these two categories. I have come to the conclusion that I must be a flunkey because my breast is so far innocent of any objectionable honour, nor (in parenthesis) do I fancy my chances of being converted into a snob. Speaking therefore, as a flunkey—as an English flunkey—I suppose I admit the horrid depths of flunkeyism

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in my nature by saying that I like to see merit rewarded by honour. In other words, I hold that a State or community which receives distinguished services from its citizens should show its gratitude in tangible form. The cynic is always with us and when a citizen renders notable services to the State, the cynic will tell you that he has his eye on the honours list. Even if the cynical view is correct, at the lowest computation the State still receives the services. But I say that the cynic is wrong and that honours are usually earned by those who have given service without ulterior motives and have received a just reward.

But trying to forget for a moment that I am an English flunkey, and speaking as a member of this legislature, I would have been reluctant to oppose the Honourable the Prime Minister's resolution if I had felt confident that the resolution did, in fact, reflect the wishes of the country. Since I have been in this legislature, I have been particularly struck by the frequency of one particular phrase from the Government Benches. That phrase is "consensus of opinion". There has been a consensus of opinion for prohibition; there has been a consensus of opinion for the Constituent Assembly; there has been a consensus of opinion against Federation; a little while ago, there was a consensus of opinion against Provincial Autonomy, which shows that a consensus of opinion can change rapidly. With admittedly less claims to judge, I am still free to doubt. Why, when there has been a consensus of opinion about all these subjects, is compulsion always necessary? Do not Congress give their countrymen the courage of their convictions? Why is compulsion necessary in order to enforce abstinence from alcohol? Why must honours cease to be awarded? Cannot people refuse them and regard with pity the poor snobs who accept them?

I say I doubt if any consensus of opinion does in fact exist. The Congress at times appears to be directing and not reflecting the wishes of the country and, therefore, they show themselves more akin to a dictatorship than to a democracy. I might say that they are sliding from the democratic hilltop down the slippery slope of dictatorship. Where does this opinion come from? From the agricultural worker or the industrial worker? I doubt it. To my mind, and in the light of my limited experience, it appears to me that the poor worker is in no way concerned to see that this motion is passed. Does this opinion come from the middle classes, from the potential Rao Bahadurs and Khan Bahadurs about whom the honourable member Mr. Jhabvala is pleased to be sarcastic? I do not think so. Does the opinion come from the rich? I should say that no country in the world has more philanthropic rich men than India, but does the Congress attribute such philanthropy to the desire for honours?

There is another danger confronting the Congress in their putting forward resolutions of this kind, that of making Government too drab. I hold to the view that the dignified side of Government is as important as the efficient side. They have already removed one incentive to

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a political career by fixing absurdly low salaries for the highest position in the land. They now wish to eliminate another way by which merit can be justly rewarded.

There is a Latin proverb "*Naturam furca expellas, tamea usque recurret*". The literal translation of this is: "You may expel nature with a pitchfork but it will always return". I think the Congress is trying to expel nature with a "*charkha*" but it will return. One strong characteristic of human nature all over the world is that people, just as they like to give thanks for services rendered, also like to receive thanks.

In conclusion, I hope all members, before voting for the resolution, will ask themselves sincerely whether they are satisfied that there is a genuine desire among their countrymen to abolish honours. There is just one further word of warning on that subject. It is a well-known psychological fact that men in a crowd or in an assembly are apt to talk contemptuously of honours; but individually, this is not so, in fact they feel more respect for those who have received honours than for those who have none. So, I would ask each honourable member to consider whether he himself objects to people getting honours and whether in supporting this resolution he is reflecting what his constituency thinks. For my part, parodying one of the English poets, I think I can sum up the theme of my remarks by saying: "I could not love thee Kher so much loved I not honours more".

Khan Bahadur SHAIKH JAN MAHOMED (Poona District): Sir, may I be permitted to address the House in Urdu?

The Honourable the SPEAKER: Is the honourable member prepared to make a declaration that he will not be able to address the House in English?

Khan Bahadur SHAIKH JAN MAHOMED: I feel that I will not be able to address the House in English on this subject.

The Honourable the SPEAKER: If the honourable member feels that he cannot address the House in English, he can speak in Urdu.

Khan Bahadur SHAIKH JAN MAHOMED (*Addressed the House in Urdu*): Mr. Speaker, Sir, I rise to support the amendment moved by my honourable friend Sir Ali Mahomed Khan Dehlavi. I agree with the Prime Minister that titles have not always been conferred discriminately in the past, but that is no reason why titles should be abolished altogether. There is no doubt that an indiscriminate conferment of titles has led some persons to hanker after titles and has led to some intrigues. However, it should not be forgotten that a title can be a source of solace or satisfaction to a person who has rendered honorary meritorious services to society, and who has not received any reward for it in any other form. Instances are not lacking when persons who have rendered meritorious services, irrespective of the hope of getting any title in recognition thereof, have been rewarded by titles. The example of Sir Pheroze Shah Mehta and patriots of that type will suffice to make my point clear. It will thus be seen that titles have a proper use also.

[Khan Bahadur Shaikh Jan Mahomed]

As I submitted before, I am against an indiscriminate conferment of titles. It may not be supposed that I take up this attitude as I am myself a Khan Bahadur. I may assure you that I shall be the first to give up my title, if my party of which I have the honour to be a member resolves to renounce titles, but I stand to support the amendment as I believe it to be a proper course.

I must here contradict the statements made by the honourable member Mr. Ali Bahadur Khan in ignorance of Islamic History. God has given titles as mentioned in the Koran. Adam was called "Khalifa". Musa was given the title "Kalimulla". Ibrahim was given the title of "Khalilulla". Isa was given the title of "Rub-ul-lah". Then again, titles were conferred in the time of Prophet. Abu Baker was called "Siddique"; Usman was called "Gani". Hazrat Ali was given the title of "Maula".

Then, I doubt whether the Congress will stick to this policy, when we get Swaraj. They have often said things in the past, which they have not put into practice. The Congress first said that they would wreck the Government of India Act, 1935, but they are working it now. The Congress condemned the Criminal Law Amendment Act and the use of section 144 in industrial disputes, but they have themselves used the same at Sholapur and Ahmedabad. They even now use titles such as "Mahatma", "Sardar", "Lokmanya", "Deshbandhu" and so on. This resolution has only been brought for propaganda. I, therefore, support the amendment of the honourable member Sir Ali Mahomed Khan Dehlavi.

Mr. V. V. DANDEKAR (Thana North): Sir, I rise to support the motion moved by the Honourable Prime Minister. As the Honourable Prime Minister pointed out, there are three classes of cases in which titles have been conferred. One class is the Government servants' class for rendering distinguished service to the State; the second is that of munificent donors; and the third is the private individuals who have rendered service to the then Government. So far as Government servants and the munificent donors are concerned, there are very few instances in my district; but I know many cases of the third class. Owing to the prevailing circumstances, Government were pleased to confer titles on individuals who rendered service to the State. A title-holder had a printed list of his deeds of benevolence. One such deed was that he distributed a few bags of rice on the Coronation Day. Another deed was that he distributed sweetmeats to the students on the Armistice Day. When I went through the list, I found that one deed was that he was supplying confidential information to the Government servants. The House can imagine for what good deeds the Government must have conferred a title on the gentleman.

I may quote another instance of my district. In the full swing of the non-co-operation movement of 1929, the forest contractors of our district were contemplating not bidding at the auctions. A breach was created

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in their ranks and their plan was frustrated. The Government was pleased to confer a title on the gentleman who proved useful to them. I may quote another instance. Government wanted to increase the licence fees of all *Sindi* trees. The *Sindi* tappers were forming themselves into a committee in order not to bid at the auctions. Some friend of the Government came forward and seduced some people among the tappers and got some toddy trees for himself. Because a strike was averted, the services of that gentleman were recognised by the bestowal of a title on him. I know the case of a title-holder who was prosecuted for theft, but happily he was ultimately discharged or acquitted. If it is the desire of the House to know what opinion the public hold about these title-holders, I may mention that there is a strong public opinion that title-holders have committed unpatriotic acts towards the country, unless they prove to the contrary.

Sir, the honourable member Sir Ali Mahomed Khan Dehlavi suggested that the word "indiscriminately" should be added. What a lot of discrimination is used in the conferment of titles can be seen from the history of the incidents that I have just given. Government always believe that they use discrimination in the conferment of titles. But it is absolutely necessary that His Majesty or the Viceroy should be informed in what light the public hold all these title-holders.

With these words, I support the original resolution moved by the Honourable the Prime Minister.

Mr. JAMNADAS M. MEHTA (Railway Unions): Mr. Speaker, Sir, it is not difficult to appreciate the spirit behind the resolution moved by the Honourable the Prime Minister, nor is it difficult to sympathise with his aspirations, namely, to discourage snobbery and to remove temptations from the way of citizens for doing something which is not in the interests of the public. But again I feel that this is merely a gesture and that it might well have been postponed till after something more substantial had been attempted and done by Government. It almost appears that all other good things having been done, Government find so much leisure that they think of starting such amiable stunts, which really is a waste of time and does not lead to any substantial results.

It is obvious, Sir, that the titles themselves ought not to be any attraction to any public servant or to anybody who wishes to serve the public; and it is equally clear that if you are dealing with a strong-minded person, a title is not going to make him weak-minded. At best, even if you remove the system of titles, you will not have removed the disease. A title is merely a symptom of a disease, the disease being snobbery; and until you remove snobbery from the world, you are not going to remove, merely by the abolition of titles, the disease that is behind those titles. Nor is it right to say that all title-holders are sneaks or flatterers or sycophants. The example of the late Sir Pheroze Shah Mehta was given. I would like to see in the whole body of this House a stouter champion

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of Indian swaraj than the late Sir Pheroza Shah Mehta. Sir Dinshaw Wacha was another. Sir Jagdish Chandra Bose was the third. The late Lord Morley was the fourth. Innumerable names can be given of savants, learned men and men of science who have rendered service not merely to country but to humanity. They deserved and have been given recognition on their merits.

Besides, even if you are not in favour of titles, you must realise that it is an amiable weakness. The desire for a title is not a very wicked crime; it is an amiable weakness. It leads to some very good results, like contributions to charity. We would not have got in the city of Bombay a college of commerce but for a simple title to an amiable, worthy gentleman. That aspect of the question should not be forgotten.

Then, Sir, as the honourable member Sir Ali Mahomed Khan Dehlavi pointed out, even the Congress Government cannot plead that they are not in favour of this mentality of some recognition of merit. He gave us the case of the title "Sardar". Perhaps the House does not know that the title of Sardar was conferred on Mr. Vallabhbhai, not by Government, but by the honourable member Mr. Nariman. It was during the Bardoli Satyagraha, when we were giving a purse to Mr. Vallabhbhai Patel, that the honourable member Mr. Nariman in the Excelsior Theatre called him the Sardar of Bardoli ryots. From that has originated the title "Sardar". It has continued, and if you do not call him Sardar on a public platform, your fate might be in doubt! (*Laughter.*) How tenaciously the people who are out to destroy titles hang on to the titles which they have created is obvious to me. The honourable member Mr. Nariman was a Vir yesterday; he is an ex-Vir today. Then, you have got for Mr. Rajagopalachari the title of Chakravarti. (*Interruptions.*)

The Honourable the SPEAKER: Order, order.

Mr. JAMNADAS M. MEHTA: I know it is his name. But his name is Rajagopalachari—[*Interruptions.*]

An Honourable MEMBER: No. [*Interruptions.*]

The Honourable the SPEAKER: Order, order. Let there be no cross-table talks. The honourable member will not reply to the interruptions.

Mr. JAMNADAS M. MEHTA: I submit with all respect that I have been interrupted and I am bound to defend myself.

The Honourable the SPEAKER: The honourable member will not reply to members interrupting him. If he wants protection, he must appeal to the Chair.

Mr. JAMNADAS M. MEHTA: May I know how I am to appeal to you, Sir? I want to be enlightened on this point, because the right of a member to defend himself against interruption must be vindicated.

The Honourable the SPEAKER: The Chair distinctly stated that there should be no interruptions; and the only effective way of stopping interruptions is to set an example and not to reply to interruptions but to ignore them. If the interruptions continue even after that, the honourable member should appeal to the Chair for protection against interruptions.

Mr. JAMNADAS M. MEHTA: I do not feel confident of being protected in that manner. I will try my best. But the right of a member to defend himself against interruptions is a right which I do not wish to surrender.

The Honourable the SPEAKER: I must express my disapproval of the manner in which the honourable member has been expressing himself.

Mr. JAMNADAS M. MEHTA: Sir, I am humbly trying and co-operating with you in doing your duty, and I plead that you will allow me to do mine. It is my duty to speak out my mind as a representative of the people; and if anybody interrupts me, it is also my humble right to defend myself. I cannot wait till a pandemonium has been created from all sides and you are pleased to interfere. If you wish to give a definite ruling, I will abide by it, much as I may disagree with it.

The Honourable the SPEAKER: What ruling does the honourable member want from me?

Mr. JAMNADAS M. MEHTA: Your desire is, Sir, that I should not reply to anybody who interrupts me. Is that also your ruling? I wish to be perfectly clear about that.

The Honourable the SPEAKER: I do not think there is any occasion for any ruling. If the occasion arises, I will give my ruling.

Mr. JAMNADAS M. MEHTA: I repeat, Sir, that although Mr. Rajagopalachari's name may be Chakravarti, it would have been enough if he had been called Mr. Rajagopalachari, because that is his name. But he is called Chakravarti Rajaji. All this is done out of fondness for the man who is a great national leader. What I was trying to show is the psychology, the human nature, which delights in honouring those whom it likes. A title is an expression of your approval of the person. You fondly call your near relations by big, good names; sometimes you give them very bad names. That is an expression of fondness. I am not unaware of the snobbery and the demoralisation which it creates.

I cannot agree with my honourable friend Sir Ali Mahomed Khan Dehlavi that there is such a thing as discrimination in giving titles; I do not think there is any discrimination. The origin of nobility in England dates back to the time when King John was defeated on the battle-field; and all the nobles who were bandits at the time have become the aristocracy of England. In the time of Charles the Second mediaeval bastards and in later times all the brewers became the aristocracy of England;

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that aristocracy, with a small percentage of capable men, consists of ancient bandits, mediaeval bastards and modern brewers. Therefore, let there be no mistake that aristocracy of birth has any origin except in this kind of snobbery. What is the origin of the Knight of the Garter? The garter of a mistress of the king got loose, and the gentleman who tied it became a Knight of the Garter. Therefore, the origin of these titles is in bastardy and in these kinds of favours at the feet of mistresses of kings and in the recognition of the other man's rowdyism—"He is as bad as you; therefore, he is a lord". Titles themselves are never given discriminately; they are given indiscriminately. It is their purpose to go to the wrong man; and to give a thin veneer of respectability, a title is sometimes given to people like my honourable friend Rao Bahadur Chitale. [Laughter.] As a matter of fact, titles are not always given to deserving men. For instance, in Bombay we had a Governor, Sir Frederick Sykes. Lady Sykes was, as is well known, a daughter or niece of Mr. Bonar Law. One of the big gentry of Bombay went to see Lady Sykes when she was here. In the course of conversation she asked him whether he knew Bonar Law. He said, "I know Hindu Law"—[Laughter]—"I know Mahomedan Law; but we have no Bonar Law in India". [Loud Laughter.] So, the title-holders are of this kind; about this I have no doubt. They do not know what ordinary common history is. In a large number of cases, titles are given to people who back up the existing regime.

I do not agree with my honourable friend Mr. Ali Bahadur Bahadur Khan when he says that all those who are title-holders are scoundrels and emissaries of scoundrels. But most of them would be nothing if they had no titles, and some of them would have remained something without titles, and others want it simply because it is a pastime, after having made their pile, to look for something which adorns them and entitles them to parties and entrance at the Government House. The late Mr. Vithalbhai Patel's example was given. I know more about it and, therefore, I wish to enlighten the House on the point. He had as much a hatred for titles as the Honourable the Prime Minister here or perhaps more. As the President of the Central Assembly, he had to recommend one man for some title. He called upon the office to submit to him the name of the most senior man in the department. The most senior man in the department happened to be a *Chaprasi*. Then Mr. Vithalbhai Patel asked, "Is he a good fellow"? The clerk had to admit that he was a good fellow. "Has he served loyally?" Yes, he has served loyally. "Is he good looking?" Yes, he was good looking. In fact, he was the Chobdar of Mr. Vithalbhai Patel himself; he knew him. He said, "All right, we shall make him a Khan Saheb". At these words, there was horror written on the face of the Chief Clerk, and all members of the staff were horrified to find that the occupant of the Chair, the President of the Assembly, was playing ducks and drakes with titles. Mr. Vithalbhai Patel then asked the clerk to send this *Chaprasi* to his place at night for dinner because the *Chaprasi* was going

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to enter society. The Chaprasi went to the house of the President, fearing all the while as to what was going to be his fate. What was coming on? Was his service doomed? Had he committed any offence? The poor fellow was trembling, when Mr. Vithalbhai Patel said to him: "*Aiye Janab, ap to bade admi honeke hai; Mai apku Khan Saheb karane chahata hu*". The man would not believe and said that the titles of Khan Saheb and Khan Bahadurs were meant for those people who did deserve them. He had, however, to dine with Mr. Vithalbhai Patel, and the next morning Mr. Vithalbhai Patel recommended that Chaprasi this and that should be made a Khan Saheb. Mr. Vithalbhai Patel told me what his object was in doing so; it did not matter to him whether this man was made a Khan Saheb or any other man was made a Khan Saheb, but if this Chaprasi got the title of Khan Saheb, the other Khan Sahebs would be equal to a Chaprasi. That was, Sir, the object of Mr. Vithalbhai Patel in suggesting the title of Khan Saheb for his Head Chaprasi. The recommendation did go to the proper quarters, but Lord Irwin turned it down.

Therefore, let us remember that titles are not always given on merits. Now, what is the use of merely abolishing the titles so long as we have not abolished the psychology behind the titles? Lord Macaulay said that people who have broken idols in the temples have not been able to demolish them from their hearts, and so long as people make distinction between man and man, mere abolition of titles will not help us much if we do not at the same time abolish the psychology. I am not particularly against the aspirations of the Honourable the Prime Minister. I know that the titles have a demoralising effect on society, but let us not forget that portion of the title holders who are men of real merit, who are men of distinction, who are men, who in the quiet of their home and in the quiet of their study, devote themselves to serious thinking, to serious experimenting; and to such people a public recognition of their merits is worth while. And remember that the abolition of titles does not abolish snobbery. There is more snobbery in America, where there are no titles, than in England. Their snobbery is based on wealth. You will find American women crossing the Atlantic to find a nobleman with a view to become a "lady". Even after the abolition of titles, the Americans are still hankering after social distinctions. Their distinction is based on wealth and power. Until you have abolished power, until real equalities are established, until class distinctions are abolished, until the principle of equality is fully realised, this abolition of title is merely a gesture and a thing which will lead us nowhere. I have no particular objection to titles. It is a relic of ancient times, and on the whole, it is not doing much mischief. Therefore, I am not particularly anxious to abolish these titles. If it came to voting, I cannot say that I will oppose the resolution, but I am not particularly in favour of this resolution.

The Honourable Mr. B. G. KHER: Mr. Speaker, Sir, I will not this time refer to any consensus of opinion or similar observations on the character of the debate. I have listened to the last speech of the honour-

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able member Mr. Jamnadas Mehta, and I thought it was a very conclusive and a very able denunciation of the practice of giving titles, and I agreed with him wholeheartedly when he said that the psychology, which is the cause of making these artificial distinctions, must be abolished. With that statement, Sir, I take the liberty of associating myself wholeheartedly. It is not, however, by a resolution of this House, however you may word it, that that psychology can be abolished; it is only the symptoms of that psychology that can be abolished, and for that reason I should have thought that, in conclusion of his very able speech, the honourable member would say that the unanswerable corollary to be drawn from his own remarks was that the proposition should be supported wholeheartedly. Unfortunately, however, he did not do so. This was perhaps because the resolution comes from a side of the House which does not today appeal to him, and therefore he drew quite another conclusion from his own speech. All the same, I am indebted to him for supplying to me some very cogent arguments in support of my proposition to abolish titles.

Sir, I shall now deal with the question dispassionately, as one honourable member appealed to me to do, and at the outset, may I say that the resolution proposes that titles should be abolished and not manners, and if that is borne in mind, much of the criticism of the honourable member Mr. Pike will, I think, not find response in the hearts of people. I do not wish in the least to convey that his speech did not conform to the best manners, but I do for the moment feel inclined to refer to his apprehension that a society, in which there were no titles, would lose in dignity. I think this is exactly what he said, "we are lowering salaries; now, the titles will be gone and the dignified style which lends some piquancy to society will disappear". It was then that I wished to interrupt him, but good manners prevented me from doing so and saying that my resolution was not for the abolition of good manners, but only of titles.

I shall now deal with the other arguments in a very brief compass.

The honourable member, the Leader of the Opposition, Sir Ali Mahomed Khan Dehlavi, seemed to take an objection to the form of the motion. He thought that it should be either a recommendation or an address. The motion, Sir, is quite in order, and if he will take the trouble to read our motion, he will see that it does not transgress the powers or the scope of our authority, nor does it lose sight of the fact that it is a prerogative of the Crown to confer the titles. Sir, the form of our resolution is that—

"This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued."

And whatever force that little part of his argument might have had was lost, because he did not oppose the resolution but sought to amend it by introducing a word "indiscriminately". On the face of it, this looks to be an amendment, but, as one honourable member remarked, although

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it may be not opposed to the rules as ruled by you, Sir, on the point of order which was raised, it has in fact negatived the whole of the proposition, because what Government is there which is going to admit that it confers titles indiscriminately, and what is the force of the resolution which says, "please do not do what is wrong; please do not confer titles indiscriminately"? It will be a proposition with which everybody will agree, and everybody will maintain that what has been done in the past has been done with the utmost scrutiny and quite discriminately. I am, therefore, rather reluctantly compelled to oppose his amendment and I must also say that there were some remarks in his speech with which I cannot see eye to eye. I quite agree with the honourable member Mr. Jamnadas Mehta that there is too much snobbery in the country and it does not cease to be snobbery if it is in the Congress ranks or if it is on the part of people who put on white clothes or who do not put on any clothes at all; we know even among the ascetics there is snobbery—they are proud of their renunciation, they think they are great, they are flamboyant. If he had listened carefully to my remarks he would remember that what I had said was that this will be a right beginning in ushering an era of equality, liberty and fraternity, which it is the aim of our Government to usher. There were only three points which I had advanced, and I may remind the House that it was on a very modest plea that I based my resolution. I said that conferring of titles was incompatible with the principle of equality which is the very essence and the very basis of democracy. I further said that it creates an artificial distinction in society, where it is truly out of place. Titles are particularly objectionable in a country like ours where already so many castes, so many creeds, so many other distinctions exist, and of which our country is so full. My last ground was that titles are not conferred on considerations of merit, but on some other considerations with the result that they encourage and promote snobbery and corruption and have a very demoralising effect on society. In this opinion, I have, Sir, the highest opinion on my side, because in the United Kingdom, where the practice is obtaining for such a long time, what is the experience of distinguished authors, distinguished political workers, distinguished servants of society? Sir, I am now quoting from Keith on "Responsible Government in the Dominions":

"Honours have proved in the United Kingdom a deplorable source of corruption and injury to public life. . . . The theory that they emanate from the Sovereign personally is an idle farce, save in the case of the Royal Victorian Order, which is awarded to members of the Royal household who render services of a personal character which a Dominion statesman neither can nor wishes to render. Honours are usually conferred on the advice and responsibility of the Imperial Government and they have only such value as attaches to the recipients' own merits."

I was referring to "Keith On Responsible Government in the Dominions". Sir, I thought that the reasons which I gave would find favour particularly in the benches opposite, because, as the honourable member Mr. Ali Bahadur Khan rightly pointed out, if there is one feature of Islam for which people admire the tenets of the Prophet, it is the tenets of democracy, the tenets of equality which find so much favour in the eyes of Islam that even in these snobbish days

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the highest Count or the highest Duke does not think it beneath his honour to share his food with his own servants, with any class of guests, with any people of his fraternity who arrive in his house at the time of taking his meals. Sir, I should have thought that an attempt like ours would certainly evoke no opposition of Muslims at any rate and I do believe that the honourable member Mr. Ali Bahadur Khan was properly expounding the principles of Islam which ought to govern any democratic society. The Leader of the Opposition was pleased to draw the attention of the House to the very fine story of Humayun and the Bhisti. I was wondering what I would have done in his place and Humayun has now risen very highly in my esteem. If for saving his life he had conferred on that bhisti the title of "Life-saver" or "Bahadur" and then gone his own way, I should have thought of him as a very useless, a very unkind, a very churlish man. What did he do? He gave to the Bhisti what was the highest possession in his hands, he gave the whole empire maybe for 2½ days as the story goes, but he did give something of value, he gave the right of ruling the whole province which he was then ruling, he did not confer mere titles; and that is where we may these days learn a great lesson from the story of Humayun, not from the bhisti striking coins out of his leather bag. There again, I am highly indebted to the Leader of the Opposition for trying to inform the House that maybe in our 2½ days' regime (for it is on the knees of the gods how long our regime will last but certainly whatever it is), we are trying to rush through what he described as socialistic legislation, measures which savour of socialism and equality. Alas! that he should have said so and not the Honourable Comrade Jhabvala, because a tribute from that side to this effect would have been of very great value to us indeed and, if, as the honourable member Sir Ali Mahomed Khan Dehlavi thinks, we are trying now to introduce measures which are for introducing more socialism, more equality, after all, we are not afraid of socialism because there is so much in it that is noble. The whole world, as is now being rightly said by so many politicians, is drifting to socialism and the quarrel is as to by which method it is going to do so. There are two schools of thought about this, but, Sir, on this issue of titles I will not digress on methods by which socialism is to be brought into being in the world of the future. I only wish to observe that merely conferring of this or that title neither rewards the services nor is it a proper motive for rendering those services, and I must with very great respect differ there from the honourable member Sir Ali Mahomed Khan Dehlavi in his wanting to request either the Viceroy or His Majesty the King in a way which is tantamount to rebuking them, by saying that they have not been so far conferring titles discriminately and that in future they may go on conferring titles but they should not do so indiscriminately.

Then, Sir, I may also refer to the amendment that was moved by the honourable member Mr. Jhabvala and by Mr. Ali Bahadur Khan. Titles, which have been once conferred, can only be taken away for disgraceful conduct. I do not think it will be a proper thing to do now to accuse

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people who have been the recipients of titles of such conduct without any enquiry to accuse them and to condemn them for any such conduct and take away the titles that have already been bestowed upon them. I, therefore, find myself entirely unable to accept the amendment that has been moved by the honourable member Mr. Jhabvala and also by the honourable member Mr. Ali Bahadur Khan.

And now, Sir, I come to the next speech, namely, that of the honourable member D. Collaco. I must say I had expected much better assistance to arrive at a correct opinion on this point from the honourable member. Really, his speech was in a way a bundle of contradictions. He began by saying that we should have opposed the conferment or bestowal of titles by His Majesty the King and taken the right to ourselves and that the Indian Nation of the future should go on, instead of conferring the Order of the Garter, bestowing the Order of the Lotus or the Order of any other type, but his objection was not to the grant of titles alone. He admitted what is of material importance to me that the practice itself does degenerate. He said that "he quite agreed with the Prime Minister that it deteriorates and becomes a scandal," and it is precisely for this reason that it is inherent in the practice that it does deteriorate and it does become a scandal that we want to stop it. That is the lesson of history. That is what has happened in the past so long, and it is because of this that now after years of experience we must learn not to make use of this expedient. I fully agree that there have been honourable men in the ranks of the title-holders. Who can, for example, challenge the claim of the honourable member Mr. Jamnadas Mehta that Sir Pheroza Shah Mehta, in spite of the knighthood conferred upon him, was a valiant champion of democracy and a very independent-minded man? But, Sir, the temptation or the inducement that a Pheroza Shah could withstand cannot be equally withstood by humbler men, because even my honourable friend Mr. Jamnadas will have to admit that men like Pheroza Shah Mehta are born only once in a lifetime. There are very few people who can claim to have the strength of character necessary to withstand this kind of temptation, this kind of blandishment, this kind of inducement. Then the honourable member quoted the Gita, he quoted the Bible, and he fully agreed with the sentiments which are at the root of this problem of action and reward, and then he said ultimately that it is much better to utilise these little weaknesses of human nature and offer titles to people and get them to serve society. He himself characterised it as rather a base use of the power of bestowing titles, and I must say I was rather shocked when he ended by advocating it, because I should have thought that after all his noble arguments he would have at least condemned the practice of offering titles by way of bargaining, because we know that it is utterly opposed to all principles of public policy, not merely on the ethical ground to which the honourable member Mr. Jhabvala referred, but on legal grounds. This is not a place where generally law reports are quoted, but for once I may be permitted to quote the case of Parkinson against the College of Ambulances, Limited, which is reported in (1925) 2 King's Bench Division and that case lays down

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particularly that any kind of offer, any kind of blandishment or inducement for the purpose either of procuring a title or giving of a title is absolutely forbidden, it is against public policy. Honours cannot be the subject of negotiation or purchase or procuracy in the manner in which it is suggested, they should be, so that ultimately, I do feel, Sir, that even his speech was more or less in support of what I said.

I think, Sir, that the honourable member Mr. Ali Bahadur Khan did a great service to the House by bringing to our minds the great regard that Islam has for principles of democracy and equality and also by pointing out to us that in the old days of Muslim power it was considered improper to confer any titles.

And now I come to the honourable member Mr. Pike. I have dealt with his argument about dignity. It is exactly that kind of dignity that one dislikes and I think he did himself an injustice by classifying himself in the latter of the two categories of Snob and Flunkey, because it is hardly correct to say that Mr. Gardiner divides all Englishmen into Snobs and Flunkies. He gave me a quotation which only pointed out what Mr. Gardiner thought was the result of this improper practice of conferring titles, so that he was really doing himself an injustice. But by the way in which he argued and by his insistence on maintaining that kind of dignity and pomp and show, I do not think I will be doing him an injustice if I say that he is very near the danger point of qualifying himself for the first of those two categories. I quite agree that we cannot expel honour by pitchforking and it is bound to return. He ended by warning the House that members should vote according to their conscience, and after that he described what is happening now viz., that members are deferential, in spite of themselves, to those who are the recipients of honours. I think he supplied me with a very good argument indeed, because there is no reason why simply because Government considers a man worthy of having three or four letters behind his name, I should be inclined to be ashamed of myself before him or to give respect where respect is not due on its own merits.

And now I come to the honourable member Mr. Jamnadas Mehta. I do not think it is necessary for me to deal with his arguments except perhaps to correct him if he will permit me to correct him. I believe I am right in saying that Chakravarti is neither a title conferred nor a distinction bestowed on Rajagopalachari, but it is simply an indication of the family from which he comes. It is not a part of his own name, so that Chakravarti is never used either in the way as Sardar is used or Mahatma or Vir is used or any other title is used. It simply happens to be part of a name, but I do not think it is necessary for me to go into this matter in detail. And now I beg to submit to the House that nothing has been said in this House which goes against the three principles which I put before them. I do not think that in the society which we are now trying to reconstruct, we should give any place at all to further distinctions to be conferred, as it happens now, on the recommendations of the Provincial Governments, by His Majesty or by the Viceroy. I do not

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wish to put the 'consensus' argument again, but I do feel and we have all along felt that this has been a source of exploiting human weakness and creating artificial values particularly in a society like ours, because, Sir, what happens? The Collector of a place or the Commissioner of a place or going higher still, the Governor, these high officials do not know our people in the intimate manner in which it is only possible to know them if you live, move and have your being amongst them. All these officers have to rely for forming their opinion, for their information, upon people who go and take reports to them, and what is the class of people on whom they most frequently depend for information? It is either their butlers or their retainers or sibirastedars or their servants or people who know that their whole life and their whole career depends upon the goodwill of their masters, and we often and often see that these titles are bestowed, I should say in a very large percentage of cases, on grounds which would not find favour in any genuinely free and democratic society at all. It is not genuine human values which get distinction. I am now talking of the present regime. I am myself opposed to the practice of creating these distinctions in this or in any other regime and wholeheartedly approve of the aim of removing the psychology which encourages this type of snobbery, but it is particularly wicked and particularly bad in our country in these times when these values are bound to be artificial and where genuine human merit which always goes on doing its work in silence goes unnoticed. Was it not, if I am not wrong, Carlyle who said that virtue can only operate in secrecy? It might perhaps be said of vice also, but surely a man who really does good and whose action can really be characterised as good, does not do it either for publicity or for honour, and in the measure in which it is done either with a view to that honour or with a view to that recognition, or with a view to publicity, to that extent the goodness of that act does deteriorate. So that I think we can say that if we want genuine merit to be recognised, it is not necessary to bolster it up with any kind of artificial props, viz., titles of either Rao Bahadurs or Knighthoods, and in the society of the future which we would like to see in our own country, is it not much better to follow the footsteps of the Dominions I mentioned? Take for example Ireland. I will not tire you with quotations because I did tell you when I began what is happening throughout these Dominions. My honourable friend opposite or those who may not share the ideal of the Congress for complete independence, those who want Dominion Status, even those might ponder and take thought that in such a Dominion as Australia, in South Africa, in the Irish Free State which is now independent, in New South Wales, we now find that the practice of conferring titles has been condemned. The Irish Free State, for example, has always avoided making recommendation for the grant of titles in the past. That is also the practice in Canada. If, as a result of centuries of trial, it has now been known that it has a corrupting influence, are we to continue this kind of practice, in spite of 100 years of experience we have had in this country? There can be only one emphatic answer to this. You must discontinue that practice. We cannot do it ourselves. We do not

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recommend names for honours, because we cannot. But we must record our protest against it. We must say that this practice must be discontinued. Therefore, I commend this resolution for the whole-hearted acceptance of this House.

The Honourable the SPEAKER : We shall proceed with the voting after we re-assemble after tea.

Khan Bahadur ABDUL LATIF-HAJI HAJRAT KHAN : Is it not the practice, Sir, that the voting is taken up immediately after the final reply is given ?

The Honourable the SPEAKER : It will take ten minutes. What difference does it make if we proceed with the voting at 4-30 ?

An Honourable MEMBER : It would be better if we take up the voting now.

The Honourable the SPEAKER : If that is the desire of the House, we will proceed with the voting now.

Mr. JAMNADAS M. MEHTA : We will get all the same half an hour for tea.

The Honourable the SPEAKER : I will now put the first amendment of the honourable member Sir Ali Mahomed Khan Dehlavi, which is as follows :

Insert the word " indiscriminately " between the words " person " and " in ".

Amendment put, and negatived.

The Honourable the SPEAKER : I shall now put the second amendment of the honourable member Mr. Jhabvala to the following effect :

After the word " discontinued " add the following :—

" and that any such title of honour or titular distinction so far conferred on any person in the Province by His Majesty or the Governor General be withdrawn."

Amendment put, and negatived.

The Honourable the SPEAKER : I shall put the third amendment by the honourable member Mr. Ali Bahādur Bahadur Khan, which runs thus :

After the word " discontinued " add the following :—

" and all the titles conferred in the past be withdrawn. This Assembly is of opinion that if the titles are not withdrawn the title-holders should be deprived of the rights of citizenship—like voting, being members of elective bodies, possessing arms, etc."

Amendment put, and negatived.

The Honourable the SPEAKER : I shall now put the original motion :

" This Assembly is of opinion that the conferring of any titles of honour or titular distinction on any person in the Province by His Majesty or the Governor General be discontinued."

Question put. The House divided : Ayes, 98 ; Noes, Nil.

Division No. 1.

Ayes.

<p>AIDALE, Mr. J. S. ALI BAHADUR BAHADUR KHAN, Mr. ANTOBKAR, Dr. K. B. ARADHYE, Mr. D. T. BHARTIYA, Mr. S. R. BHATANKAR, Mr. R. G. BHOLE, Mr. R. R. CHITRE, Mr. A. V. CHAWDHARI, Mr. D. N. CHAWHAN, Mr. P. L. DABHI, Mr. FULSINJI B. DANDEKAR, Mr. V. V. DESAI, Mr. DINKERRAO N. DESAI, Mr. KHANDUBHAI K. DESAI, the Honourable Mr. MORARJI R. DESAI, Mr. RANDHIR P. DESHMUKH, Mr. K. B. DESHMUKH, Mrs. ANNAPURNA GOPAL DESHPANDE, Mr. G. H. DODMETI, Mr. A. D. FIRODEA, Mr. K. S. GANDHI, Mr. M. M. GHATGE, Mr. G. R. GHIA, Dr. C. J. GILDER, the Honourable Dr. M. D. D. GIRASEY, Mr. G. B. GIRME, Mr. R. B. GOKHALE, Mr. K. G. GOPI, Mr. M. G. GUPTA, Mr. B. M. HALLIKERI, Mr. N. F. JADHAV, Mr. D. G. JADHAV, Mr. T. S. JAKATY, Mr. P. C. JHABVALA, Mr. S. H. JOSHI, Mr. JINABHAI P. JOSHI, Mr. N. G. JOG, Mr. V. N. KALE, Mr. R. S. KANUGA, Mrs. VIJAYAGAURI BALVANTRI KARANDIKAR, Mr. S. L. KARAVADE, Mr. R. K. KARGUDRI, Mr. S. S. KATE, Mr. APPAJI YESHWANTRAO <i>alias</i> BAPUSAHEB KESHWAN, Mr. S. N. KHEDGIKAR, Mr. R. A. KHEE, the Honourable Mr. B. G. KHMJI, Mr. BHAWANJI A. KUNTE, Mr. D. K. LALA, Mr. BHOGILAL D.</p>	<p>LALCHAND HIRACHAND, Mr. MAGANLAL NAGINDAS, Mr. MASTER, Mr. NAGINDAS T. MEHTA, Mr. H. P. MORARBHAI KASANJI, Mr. MUKADAM, Mr. W. S. MUNSHI, the Honourable Mr. K. M. MUNSHI, Mrs. LILAVATI K. NAIK, Mr. V. N. NALAVADI, Mr. G. R. NANDA, Mr. GULZARI LAL NARIMAN, Mr. K. F. NESVI, Mr. T. R. NIMANEE, Mr. P. A. NURIE, the Honourable Mr. M. Y. PARULEKAR, Mr. S. V. PATASKAR, Mr. H. V. PATEL, Mr. BABUBHAI J. PATEL, Mr. BHAILALBHAI B. PATEL, Mr. MANGESH B. PATIL, Mr. ATMARAM N. PATIL, Mr. GAMBHIRRAO A. PATIL, Mr. LAXMAN G. PATIL, the Honourable Mr. L. M. PATIL, Mr. MALGOUDA P. PATIL, Mrs. NAGAMMA PATIL, Mr. NARHAR R. PATIL, Mr. S. K. PATIL, Mr. SHANKARGOUDA T. PRADAKE, Mr. G. K. PURANI, Mr. C. B. RAJMAL LAKHICHAND, Mr. RANE, Mr. B. R. RAUT, Mr. D. W. SATHE, Mr. S. H. SAVANT, Mr. K. S. SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB JAGDEORAO SHIRALKAR, Mr. P. K. SHRIKANT, Mr. L. M. SONGAVKAR, Mr. S. G. SUGANDHI, Mr. M. S. TALKAR, Mr. K. R. THAKOR, Mr. B. P. THUSE, Mrs. LAXMIBAI GANESH TULPULE, Mr. H. V. VAGHELA, Mr. B. U. VYAS, Mr. ISHVARLAL K. WADEKAR, Mr. R. B. WALVEKAR, Mr. B. B. WANDREKAR, Mr. D. N.</p>
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Tellers for the Ayes : Mr. C. B. PURANI and Mr. ALI BAHADUR BAHADUR KHAN.

Noes.

No member voted for the Noes.

Tellers for the Noes : Mr. ISMAIL L. CHUNDRIGAR and Khan Bahadur SHAIKH JAN MAHOMED.

The Honourable the SPEAKER: The motion is carried.

Sir ALI MAHOMED KHAN DEHLAVI: Before we disperse, Sir, I want to ask you to consider one point. An honourable member takes a different view to that of the mover of the motion and submits an amendment also. The whole question is discussed threadbare. Then, when you put the question, he calls for a division and takes up more than half an hour; but he does not vote against the motion: in fact, if I mistake not, he has voted with the Congress. Is that practice to be allowed? In my time, if there were only a few members against any motion, we attempted to introduce the practice of asking honourable members who opposed the motion to stand in their places; but objection was raised to that practice on the ground that there might be some members outside and therefore the bell must be rung; and so a division was called. Then we began giving divisions. But in this case, it is overstepping that practice a little too far. It is for you to rule in any way you like.

Mr. ALI BAHADUR BAHADUR KHAN: On a point of personal explanation, Sir—

The Honourable the SPEAKER: Order, order. I have not exactly understood the point on which the honourable member wants my decision or ruling. Do I understand it correctly if I say that the point is that a person who has not voted against the resolution is not entitled to ask for a division?

Sir ALI MAHOMED KHAN DEHLAVI: The point that is troubling me is this. An honourable member calls for and insists upon a division when he wishes that the votes on both sides should be recorded. But why should he call for a division when he knows that there is no one opposing the motion and when he himself is not going to oppose it? He calls for a division before the House rises, and then he goes and joins the mover of the motion. There is none on the opposite side. Why was the division called for?

The Honourable the SPEAKER: I find a little difficulty in following the honourable member's point. During the course of the debate there were members who spoke against the proposition. That being so, I really find it difficult why any member who wants to call for a division must assume that those who spoke against the motion will not vote against it. That is the difficulty I have been feeling. The question of legality is entirely different from that of propriety. The procedure may be assailed on the ground of propriety, but not on the ground of legality.

The Honourable Mr. B. G. KHER: May I on this question enquire whether it is not open to an honourable member who is for the proposition to ask for a division? I think you have once given a ruling that any one is entitled to ask for a division, irrespective of whether he is for or against the motion. Again, Sir, one does not know when one asks for a division whether some honourable members are going to vote or not and whether there will or will not be anybody in the opposition.

Sir ALI MAHOMED KHAN DEHLAVI : The member who asks for a division knows at least his own mind.

The Honourable the SPEAKER : That is why I said that something may be said against it on the ground of propriety, but not on the ground of legality. And I do not think I should give a ruling as regards the propriety of a certain action.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I think I am entitled to say a few words on a point of personal explanation. I do not want to keep it a secret that I asked for a division in order to know whether those who were opposing the motion had the courage of their conviction to record their votes accordingly so that their names might be published and so that the public might know that those were the people who, even though the times had changed, still hunted for titles.

Sir ALI MAHOMED KHAN DEHLAVI : He was gathering material for an article for his paper, perhaps !

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

BILL No. XXV OF 1937 (AN ACT TO PROVIDE FOR IMMEDIATE EFFECT BEING GIVEN FOR A LIMITED PERIOD TO PROVISIONS IN BILLS RELATING TO THE IMPOSITION OR INCREASE OF TAXES).

(As Amended by the Legislative Council.)

The Honourable Mr. A. B. LATTHE : Sir, I move that the amendment made by the Legislative Council in clause 4 (1) of Bill No. XXV of 1937 (An Act to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes) be taken into consideration.

Sir ALI MAHOMED KHAN DEHLAVI : What is the amendment ?

The Honourable Mr. A. B. LATTHE : The amendment is :

In clause 4 (1), after the words " the force of law ", insert the words, figure and brackets " from 5 p.m. (Standard time)."

Question proposed.

The Honourable Mr. A. B. LATTHE : Sir, as the clause stood, it was possible to interpret it to mean that the collection of taxation might begin at any time on the day the declaration was made under this Act. The effect would have been that even before the declaration was made, even before the declaration was published, it might have been possible to say that the transactions which took place earlier could also be taxed. Suppose, for instance, the declaration was made at 4 o'clock in the afternoon, and some transactions had taken place earlier in the day. It might have been possible, under the wording which was used in the clause as it stood before this amendment was made, to say that those transactions which had taken place earlier on that day could be taxed. In order to remove that difficulty a fixed time on the day of the declaration was proposed in the Legislative Council, and that amendment was passed.

[Mr. A. B. Latthe]

It was accepted by me on behalf of Government. I hope this House also will agree to the amendment, as it does not go against the intention with which this Bill has been moved.

Mr. J. B. GREAVES: On a point of information, Sir. At what time will such a declaration be made?

The Honourable Mr. A. B. LATTHE: I could not quite follow the honourable member, but I take it that the honourable member wants that Government should not make a declaration after 5 p.m.

Mr. J. B. GREAVES: My suggestion is that Government should not make a declaration in the morning; but they should make a declaration after 3 p.m.

The Honourable Mr. A. B. LATTHE: I entirely agree with the honourable member. That will be the desire of the Government, and as far as possible that is what will be done by Government.

Mr. I. I. CHUNDRIGAR: I take it that no Bill of this kind shall be published after 5 p.m.; if it is introduced after 5 p.m. then it would create an anomaly. Would it not be desirable either to mention that the Bill shall be introduced before 5 p.m., or if it is introduced after 5 p.m., say, at 6 p.m., that it will have effect only from the next morning?

The Honourable the SPEAKER: I am afraid there is some misunderstanding. The amendment refers to the publication of the Bill; introduction takes place after the publication. Clause 3 of the Bill runs thus:

"3. Where a Bill to be introduced in the Bombay Legislative Assembly on behalf of the Provincial Government provides for the imposition or increase of tax, the Provincial Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act."

Then clause 4 says:

"4. (1) A declared provision shall have the force of law on the day on which the Bill containing it is introduced or published whichever day is earlier."

Now, clause 4 is sought to be amended by inserting the words "from 5 p.m. (Standard time)" after the words "the force of law", and the amended clause runs thus:

"4. (1) A declared provision shall have the force of law from 5 p.m. (Standard time) on the day on which the Bill containing it is introduced or published whichever day is earlier."

Mr. I. I. CHUNDRIGAR: Supposing the Bill is introduced at 6 p.m., then the Bill will give effect to the taxation from 5 p.m. on that very day. Unless there is any prohibition from introducing a Bill after 5 p.m.—

The Honourable Mr. A. B. LATTHE: May I explain, Sir? It is absolutely clear that no taxation can be given effect to unless the Bill is published or introduced in the Assembly. Therefore, the possibility of Government beginning to collect taxation before introducing the Bill

[Mr. A. B. Latthe]

is really ruled out. There is no reason for the House to entertain any fears that the Government of the day will make the publication at a later hour and say that the proposed taxation should be given effect to from an earlier hour. It is impossible, because the Bill presumes that a declaration is made and as a result of that declaration collection of the tax will begin, and not before the declaration is made. The fear which is in the mind of the honourable member really need not exist. What the Upper House has done is to say that instead of leaving the question of hour indefinite—some time after the declaration is made—the Upper House desire that the tax should be collected from 5 p.m. onwards on the day on which the declaration is made which makes it absolutely necessary that the declaration should be made before 5 p.m. That goes without saying. Therefore, there is no danger of the kind mentioned by the honourable member.

Mr. I. I. CHUNDRIGAR : My doubt still remains. If the Honourable the Finance Minister assures the House that no Bill shall be introduced after 5 p.m., then that assurance will remove my doubt. But there is nothing in this Bill to debar the Finance Minister from introducing any Bill at 6 p.m., on any day, and if any Bill is introduced at 6 p.m., on any day then there will be an anomaly. I think if a provision is introduced in the Bill that a Finance Bill of this type shall be introduced only between 4 and 5 p.m., the whole difficulty will be solved.

The Honourable Mr. A. B. LATTHE : I think, under the Bill as it is, it is impossible for any Finance Minister to introduce a Bill of this kind after 5 p.m.

Mr. I. I. CHUNDRIGAR : But there is nothing to debar you from doing so.

The Honourable Mr. A. B. LATTHE : I will explain how it is impossible. The Bill requires that the collection of taxation should begin at 5 p.m. and it also requires that no taxation will be collected before the declaration is made; so that, the declaration must be made before 5 p.m. I think it is absolutely clear that even if the Finance Minister wanted to make a declaration after 5 p.m., taking the whole Bill into consideration, it is impossible for him to do so; and if an assurance were needed, of course it is obvious that no Government would think of making a declaration after the tax has begun to be collected.

Mr. D. J. FERREIRA (Thana *cum* Bombay Suburban District): Sir, my difficulty is this. Suppose a Bill is introduced or published at 4 p.m. on the 15th of January 1938; then under this provision imposition of taxation will begin from 5 p.m. on that day on all transactions taking place at 5 p.m.

The Honourable Mr. A. B. LATTHE : The same difficulty is being expressed. One thing which is made clear in this Bill is that the collection of taxation should not begin before the declaration is made and the second thing is that taxation should be collected from 5 p.m. onwards; so that,

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taking these two things together, it is clear that declaration must be made before 5 p.m. in order that the provisions of this Act may be adhered to properly.

The Honourable the SPEAKER: Shall I now put the amendment to the House? [*Honourable Members indicated assent.*]

Amendment put, and agreed to.

BILL No. I OF 1938 (A BILL TO AMEND THE BOMBAY LOCAL BOARDS ACT, 1923).

The Honourable Mr. L. M. PATIL: Sir, I beg to introduce Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923)*.

The Honourable the SPEAKER: The Bill is introduced.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923) be read a first time.

Question proposed.

The Honourable Mr. L. M. PATIL: Sir, there are two main principles which are enunciated in the present Bill. One is the abolition of nominations and the other is the introduction of joint electorates in the local bodies. These two problems form a part of the questionnaire which was issued some months back by the Government for eliciting public opinion. The local bodies and important leaders holding different views and belonging to different communities have expressed their views. The questionnaire was published and there was a lot of discussion in the press and on the platform. I am glad to note that the analysis of the non-official opinions shows a majority in favour of these reforms. The press is also not behind others in according its support to these reforms. The system of nomination is not only incompatible with the principle of democracy but it is pernicious. It is not fitting with the present times when everywhere there is a cry for democracy and for complete elective representation in the local bodies; it is not in tune with the changing circumstances. Nominations have been abolished in the provincial legislatures, and I do not know why this system should be continued in the local bodies. There are various defects in the system of nominations; one is that this system unnecessarily causes delay in the functioning of the newly elected local bodies. The local body cannot function unless the full number of nominated members is filled up. There is such a great scramble on the part of minorities and others in order to get the nominated seats that various claims have to be assessed in the light of statistics of population, various enquiries have to be made regarding the character, the merits, the abilities and services of persons who are to be nominated. This all means a great delay and considerable correspondence. If we

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abolish nominations, I am certain that matters will be smooth and the administration will be simplified. Moreover, there is a great deal of lobbying and intriguing on the part of those who seek nominations. They try all kinds of means to influence those in whom the power to nominate vests. Their very existence depends on the goodwill of others and, therefore, they cannot hold independent and strong views. They have got a slavish mentality, and these two elements, the element of nominated members and the element of elected members, are inconsistent in local bodies and they often conflict. That is one of the reasons why the affairs of local bodies are not running smoothly. In spite of these defects, the system of nomination has been followed, up to this time, and that is for three reasons. One is to give representation to the minorities who are backward educationally and economically. The other is to have officers and experts on local bodies in order to improve the tone of the administration and the third is to enable competent persons to be on the local bodies who are unable or unwilling to bear the expenses of election.

Sir, as regards the representation of the minorities, we have provided in the Bill to give them sufficient representation by allotting to them reserved seats. Up to this time, the minorities were getting only one or two nominations, but now they will get a sufficient number of reserved seats having regard to their population. They will not have to look to Government for patronage. They will have to rely on the confidence of the people.

Sir, as regards the representation of officers and experts on the local bodies, I would like to mention that during the last fifteen years people are sufficiently trained in the subject of local self-government and in every district there is a sufficient number of people who take intelligent interest, who are educated and who can be relied upon to carry on the administration of the local bodies properly. Moreover, in order to improve the administration, there are other means by which we can do it. One of the means is to have a cadre of the important services of the local bodies and this proposal is under the consideration of Government at present.

Sir, as regards the competent persons and the educated persons, who do not want to undergo the bother of elections and who do not want to spend money for the elections, I do admit that up to this time it has been really difficult for these people to get themselves elected. But now the people are sufficiently alive and educated. Though a majority of them are illiterate, politically they have become conscious, they know that their lot will be improved if they elect proper and honest people. It would not be hazardous to say that they have learnt to vote for the candidates on their merits and their programmes. So, I do not think it will be impossible for persons who are competent and who are educated to get themselves elected if they put before their eyes the motto of service.

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Sir, I have already said that the nominations have been abolished in the provincial legislature and it is high time to remove them from the local bodies also. Some people have suggested to try the system of co-option in the place of nominations. This system was tried in the Bombay Municipal Corporation and it has miserably failed there and I am afraid that all the evils which it is proposed to eradicate by means of abolition of nominations will be ushered in in these local bodies by the backdoor, if we introduce the system of co-option in the local bodies. This system of nomination is really a great obstacle in the growth of democracy and the sooner we end it the better for us and the Bill intends to achieve this object.

Sir, I now deal with the principle of the joint electorates. The majority of the non-official opinions received shows that they favour this system of joint electorates. The system of separate electorates, however it may appeal to certain communities, is really a great evil. It has divided the Indian nation, it has weakened our strength and it has disabled us in our efforts to achieve our goal of complete independence. So it would be in the best interests of the public at large if we do not delay any longer the removal of this pernicious and vicious system of separate electorates. The system of joint electorates will create a solidarity and unity amongst us. It will foster and conduce to the growth of democracy. It will remove the communal canker which is eating into the very vitals of our national life and I hope those, who still want to hug to this system, will soon realise the evils of separate electorates and will agree to the system of joint electorates.

Sir, there are various arguments put forward in favour of separate electorates but they are all illogical, and unsound except one. The minorities fear that in joint electorates they will not get "real" representation. I do not understand the meaning of "real representation". In the first place, the local bodies on the whole affect all alike and their interests are the same. Even taking it for granted that the interests of different communities are different in local bodies, I do not know how two or three Muhammadan members who are elected on the separate electorate are going to safeguard the interests of the Mahomedans without the co-operation and the assistance of the members who belong to the major communities. The minorities are minorities and they must realise that they can serve their communities only by throwing in their lot with the majority communities, by working with them and not by remaining outside the majority communities. Moreover, the interests of the masses, whether they are Europeans or Hindus or Mussalmans or Harijans, are the same, and all the communities must realise this. I do not understand how only the Hindus can safeguard the interests of the Hindus, how only the Mussalmans are going to safeguard the interests of the Mussalmans and how only the Harijans are going to safeguard the interests of Harijans. It is fallacious. It gives rise to hypocrisy and it really undermines the sincerity, the honesty of human endeavour. A very unhealthy feeling is created by the separate electorates in the communities concerned that

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the people belonging to their own communities only can safeguard their interests and that people belonging to other communities or other religions will never be able to safeguard their interests even if they are self-sacrificing, honest and sincere and have devoted their life to public service. Thus, by the system of separate electorates, the masses are kept in darkness, they are kept ignorant. Really speaking, those who care for the system of separate electorates are doing harm not only to the community to which they belong but they also are doing great harm to the nation as a whole. So, I hope that the honourable members of the Muslim League will also realise the evils of this system of separate electorates and I will earnestly appeal to them that they should, in the interests of national good and the good of the communities concerned, agree to joint electorates.

Sir, I have pressed on the minds of honourable members the importance and the urgency of the problem of joint electorates. You will naturally ask me : why is it that the joint electorates have not been made compulsory by legislation as regards the Muhammadans and why are they given an option ? Though we are convinced that the system of joint electorates is in the best interests of the public at large, still we do not want to force this reform on any community which is unwilling to accept it. We are eager and we will try our level best, we will carry on negotiations with them and I hope a time will come when they will also be convinced of our *bona fides* and of the importance of joint electorates. The door is kept open even as regards the Muhammadans for having joint electorates and whenever they desire, whenever they feel that their interests will be served by joint electorates, they are able to accept that system at any time. I hope a time will come soon when they will realise this and all the people, whether they belong to different religions or communities, will come together and will fight for our common goal of complete independence. Sir, with these words, I earnestly request the honourable House to accept this Bill unanimously, and I again fervently request the honourable members of the Muslim League, and if they agree, I hope we can still remove the option-clauses and we can introduce joint electorates in respect of the Muhammadans also. [*Applause.*]

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities) : Sir, apart from the merits of the Bill in many other respects which are indicated by the various clauses introduced by the Honourable Minister, the one particular thing I should like to address myself on is the question, the thorny question, of separate electorates which the Honourable Minister has chosen to refer to in his speech. Greater men than himself have tackled that question and have tackled it for years and the Round Table Conferences have also dealt with that question ; the Parliament, while framing the constitution, have considered the question and all of them, even including the Honourable Minister himself today, had to come to the conclusion that until certain circumstances come into being and are well understood by both communities and understood mutually, mutually agreed upon, separate electorates must exist. The Honourable Minister himself, in the end, said that with all his speech and fears about

[Sir Ali Mahomed Khan Dehlavi]

joint electorates and the national object underlying it, he in this very Bill had to leave it to option and not make it compulsory. That itself is an indication that the subject of joint electorates is thorny. What I object to in this particular Bill under that particular clause in which this option is given is an attempt to get at the question, to get at the thing which they cannot get at straight and on defined lines which had been spoken of all over, namely, what they cannot get directly now they are trying to get indirectly. If this option is given, the option given there in that clause is an invitation of the spider to the fly to come into its parlour and if some individual falls into the trap and enters the parlour, he would find his fate to be the same as that of the fly at the hands of the spider. We are totally opposed to that. Every one has said, from England down to India, that separate electorates are not the real thing from the national point of view. The Muslims have stood against joint electorates. Circumstances which stare us in the face are however real and do not allow joint electorates. It need not be reiterated here, for it will be opening a question which has been debated upon, and which will be debated upon until the moment we come to a mutual understanding. Until that is done, these are side-ways which are questionable and aim at an objective. That will not be agreed to either by the Muslim League or the Muslim community. The question bristles with many important points. The relationship between the two communities is such that, until it is bridged over, joint electorates cannot be accepted. As I said, I am intentionally avoiding going into the details, in order to show to my honourable friend the Minister that the two communities as they are situated at present look upon each other with want of confidence. Joint electorates cannot come in until both sides, Muslims and Hindus, come to a settlement and until the people representing both the communities and having the sanction behind them come to an amicable settlement. Till then, joint electorates will have to stand. One object of this Bill is to abolish nomination and that object may be good; but I object to the choice being given to the Muslims to have joint electorates. The Muslim community should stand firm on the question of separate electorates and no argument, until a mutual settlement is reached, will convince the Muslim League or the Muslim community that they could come into joint electorate by this indirect method. Therefore, I oppose the first reading of the Bill on that ground. The details and amendments will be taken up by some members of my party. If the Honourable the Speaker decides that any of them are amendments of principle, they will be taken up and referred to now. If he holds them as matters of details, they will be taken up at the second reading. But on this one point, I cannot, with all the authority I have at my back of the Muslim community, accept any deviation from the position that separate electorates and the Award must stand, until there is mutual understanding.

*Dr. B. R. AMBEDKAR (Bombay City): Mr. Speaker, having signed the Poona Pact, I am, of course, entirely out of court in discussing the

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subject of separate electorates. Therefore, I am not going into that part of the Bill which deals with the method of representation to be devised for the different minorities for which provision is made in this Bill. Perhaps, it will be justifiable for me if I mention from what angle of vision I look at this very thorny question of joint *versus* separate electorates. Sir, the way I look at it is this. What is to be the effect of joint electorates, supposing that it was introduced for the different minorities? What will happen, as I see, is this. One day in five years when the elections will come, a Hindu and a Mahomedan may go together to a common polling booth. I do not see what else can happen as a result of joint electorates. [Interruption]. Please allow me to go into the rest of the five years. When there are no elections, the Mahomedan community—I am taking that as an illustration—will be living a separate life, a compartmental life to itself. I do not see that, as a result of joint electorates, the Mahomedans and the Hindus will come to live together in the same chawl. I do not see, as a result of joint electorates, that Mahomedans and Hindus will begin to inter-marry. I do not see, as a result of joint electorates, Hindus and Mahomedans will inter-dine. Sir, I take this opportunity to say deliberately that, if we want to build up unity, it is not by devising a day, however sacred that day may be, when both Hindus and Mahomedans will come to the same polling booth. If we want really to devise some means to build up unity, what we should do is to break up the social barrier. I say that in this matter the lead has to be taken up by the Hindu community, because they are a very exclusive community. If other communities live a separate life, it is because the Hindu community regards certain interests as its own interests and the fault is entirely due to the Hindu community. I say, therefore, deliberately that there is no use playing with this problem by putting forth a scheme which is ineffectual and which will have no operation except for one day which may come in the course of five years or three years. There is no use; and nothing will happen as a result of this. You may try it. I request my Mahomedan friends to grant them this opportunity and see if any particular protection will give an opportunity for the two communities not to remain apart. I cannot hold a brief for separate electorates having signed the Poona Pact.

I will turn now to the other aspects of the Bill and begin by saying that the Bill, so far as it goes, certainly marks a stage in advance from where we are standing. But there is nothing which I find in the Bill itself. It is an empty shell. It contains nothing. But for the speech of the Honourable Minister giving what he proposed to do with regard to the reorganisation of local bodies, we would certainly have known nothing from the Bill as it is. All that the Bill says is that the Government will be given the power to make rules for this and for that. Beyond that, what is there in the Bill? If the statement of objects and reasons were not attached to this Bill, we would not have even known what was the principle Government were going to adopt in providing for representation of the different minorities. I say it deliberately that the questions are constitutional questions. It is not a question of

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carrying ordinary legislation into effect where it has been the practice now, almost sanctified, that Government should be allowed to carry out the policy by rules. We are delegating part of our authority to Government to do something. We are delegating part of our taxing power to them. We are delegating to them the authority of making elective representation. I submit most deliberately that it is a constitutional question and as such ought to be settled in all its details in this House and ought not to be left to the sweet will of the executive. Take the example of the Government of India Act. What does this Bill deal with? This Bill deals with franchise, deals with the communities that are to get representation, deals with constituencies and deals with the method of voting. Look at the Government of India Act. What does it do? Has it left the number of seats to the minorities to the sweet will of the executive? Has it left the question of dividing constituencies to the sweet will of the executive? Has it left the method of voting to the sweet will of the executive? Nothing of the kind. All that has been done by Orders in Council which are as much part of the Government of India Act as the Government of India Act itself. It is necessary that we should do things in the way in which constitutional things are required to be done. This is my first submission with regard to this Bill.

As regards other matters, the first thing I should like to know from the Honourable Minister in charge of the Bill is this. He has very graciously said in the statement of objects and reasons that the principle which he wishes to follow in allotting seats for the different minorities is the principle of population. I am grateful to him for that. But I do want to ask him that, if that is the principle on which he proposes to allot seats for the different minorities, why he should not embody the principle in the section itself. What guarantee is there that we will get the benefit of the principle stated in the statement of objects and reasons? We do not want charity. We want our rights which we do not want to leave to the sweet will of the executive. We want it to be definitely laid down by law. The second thing with which we are materially concerned is the question of system of constituency. I am most concerned about my honourable friend who could not come in as an M.L.A. I want to know what the system of constituency is in the matter of constitution of these boards. Is it to be a single member constituency or is it to be a plural member constituency? Nothing is stated even in the statement of objects and reasons. Why is that? If the executive wishes that hereafter they should adopt the system of single member constituency, then we ought to know, because that would decide whether we are to vote for this Bill or vote against it. That has not been done.

The third thing with which I am most concerned is the question of voting system. Is the voting system to be cumulative system of voting or is it to be distributive system of voting? That again has not been made clear. I like all these matters to be made clear and definite on the floor of the House. I hope the Honourable Minister will reply to all the queries I have made, and embody those principles I have mentioned.

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in the Bill itself, so that we may know what our rights are. In this Bill everything is sought to be done by rules, but the Honourable Minister does not even propose to place these rules on the floor of the House, so that the House may know what exactly the executive has done. That is the least bit that can be done with regard to this Bill. I do not want to repeat what I have already stated. I regard it as solely and purely a constitutional question. It is a question of according a constitution for the local authority which is endowed with legal authority to do certain things, even to penalise the people by tax. Surely, before we can give these powers to the executive, the executive should agree to place on the floor of this House what they have done by way of using the powers which they ask us to confer upon them. I content myself with these remarks at this stage.

Mr. D. W. RAUT (Thana North): (Addressed the House in Marathi):

अध्यक्षमहाराज, आपणांपुढें आतां जें बील लोकलबोर्डाबाबत विचाराकरितां आलें आहे त्या बिलांत लोकलबोर्डाच्या निवडणुकीचे मतदारसंघ हे एक मेंबराला निवडून देणारे असावे किंवा अनेक मेंबर निवडून देणारे असावे याबद्दल कोणत्याहि प्रकारचा उल्लेख नाही. त्याचप्रमाणें शेड्यूल क्लास, वॅकवर्ड ट्राईबज वगैरे लोकांच्या जागा त्यांचे लोकसंख्येच्या प्रमाणांत त्यांच्याकरितां राखून ठेवाव्या किंवा कसे याबद्दल स्पष्ट उल्लेख नाही. मात्र पूर्वीच्या वक्त्यांनीं याबाबत स्पष्टीकरण होणें जरूर असल्याचें जाहीर केलें आहे. सुमारे १॥ महिन्यापूर्वी जिल्हा-लोकलबोर्डाकडे सरकारचें जें सक्च्युलर गेलें होतें त्यामध्ये बोर्डाच्या निवडणुकीचे मतदारसंघ हे एक मेंबर निवडून देणारे असतील व शेड्यूल क्लास व वॅकवर्ड ट्राईबज यांना त्यांचे लोकसंख्येच्या प्रमाणांत जागा दिल्या जातील असें स्पष्ट म्हटलें होतें. मग या बिलांत त्याबद्दल उल्लेख कां नाही? व त्यावरून संशयाला जागा उरते व म्हणून या बाबतींत स्पष्टीकरण होणें जरूरीचें आहे. मला असं समजलें आहे कीं या बाबतींत सरकारनें आपलं मत बदललें आहे. तें जर खरें असेल तर अशा बदलास काय कारण झालें हेंहि स्पष्ट व्हावयास पाहिजे. याबाबत मी उपमूचना दिल्या असल्यामुळें जास्त विवरण या वेळीं न करतां फक्त सरकारनें स्पष्टीकरण करणेविषयीं विनंती करतो.

दुसरा मुद्दा असा आहे कीं या बिलाचे क्लॉज ४ (१) (ब)नें शेड्यूल क्लास, व वॅकवर्ड ट्राईबज यांना दावयाच्या जागा सरकारला दावयाच्या वाटल्यास दिल्या जातील व म्हणून हें क्लॉज काढून टाकलें पाहिजे.

लोकलबोर्डाच्या या बिलामध्ये वयांत आलेल्या प्रत्येक व्यक्तीस मतदानाचा हक्क दिला जाईल असें वाटत होतें परंतु या बिलांत त्याबद्दल कोणत्याहि प्रकारें

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उल्लेख नाही ही अतिशय दुःखाची गोष्ट आहे. हें बिल पास होण्याकरितां इलाख्यांतील सर्व लोकलबोर्डांच्या निवडणूका थांबविल्या गेल्या आहेत व बील मतदानाच्या अधिकाराशिवाय पास होईल व नंतर निवडणूका होतील म्हणजे या निवडणुकांकरितां वयांत आलेल्या प्रत्येक व्यक्तीस मत देण्याचा अधिकार मिळणार नाही. पुण्याचे गेल्या अधिवेशनांत कॉन्स्टिच्युयंट असेंब्लीच्या निवडणुकीकरितां वयांत आलेल्या प्रत्येक व्यक्तीनें मत द्यावें असें ठरलें म्हणजे हिंदुस्थानची राज्यघटना टरविण्यासारख्या अत्यंत महत्त्वाचे प्रश्नाकरितां जे प्रतिनिधी निवडावयाचे त्यांची निवड वयांत आलेल्या प्रत्येक व्यक्तीच्या मतानें व्हावी असें स्पष्ट होते. मग लोकलबोर्डांचे प्रतिनिधी निवडण्याचा अधिकार वयांत आलेल्या प्रत्येक व्यक्तीस ताबडतोब कां देऊं नये याबद्दलहि खुलासा होणें जरूर आहे.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Mr. Speaker, Sir, if I am to describe my feelings about this Bill very briefly, I shall say that a mountain in labour has brought forth a mouse. The Government, when it faced the Legislature at Poona during the last session, made so many declarations ; and after those declarations suggestions were invited and correspondence was going on between the Government and all the local bodies in the Province. It was expected, naturally, that by the time this session was called, Government would be ready with a full-fledged scheme of local self-government in all its phases. But what we find here is a piece-meal legislation that avoids doing much and tries to do very little.

As I started by saying that it is a mountain that has brought forth a mouse, I am going to describe the good points of the mouse, so that I should not be accused of being partial. There are two good points in the Bill, and for them I am ready to give full credit to the Minister in charge of the Bill. First of all, he had done away with nominations. That was a suggestion which was made practically unanimously by all the local bodies in the Province, and I have to congratulate the Minister on the readiness with which he has responded to the suggestions that were made. The second good point that I find is that the Communal Award has been at least partly attacked in this Bill so far as separate electorates for women are concerned. And, so far as the double-election difficulty in the case of the Harijans is concerned, that difficulty at least has been faced and faced well, as I see. For these two good points, I have praise to offer ; but for the rest I have nothing but condemnation.

This Ministry, in spite of its election pledges, yet wants to continue the Communal Award in the remaining of its aspects ; while doing away with separate electorates in the case of women, they are going to continue separate electorates in the case of Mahomedans. And this in spite of the

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insistent wording of the election pledges. What is it that they have provided for the Mahomedans? If Mahomedans who have attained majority in a particular area—[*Interruption.*]

The Honourable the SPEAKER: Order, order. The honourable member may proceed.

Mr. S. L. KARANDIKAR: If Mahomedans who have attained majority in a particular area agree, either unanimously or by a majority, that separate electorates should be done away with, then alone that part of the Communal Award is to go; and so far as this aspect of the question is concerned, I believe we shall have to wait till doomsday before such a declaration is made by the Mahomedan community. If you want the Mahomedans brought into the joint electorate system, you have to do it whether they wish it or not. All this cry that Mahomedans want protection from the majority community in this Province is a cry that has been raised often but for which no justification has ever been given. If anybody wants protection here, it is not Mahomedans; it is the major community that wants protection. [*Interruption.*] And history is here to support what I am saying. All through the course of history, it is the major community that has suffered at the hands of the Mahomedan community; the Mahomedan community has never suffered at the hands of the major community. Still that community comes forth every now and then raising the cry that it stands in danger and it must have protection at the hands of the Government against the major community. And this Government, with this majority behind it, is going to yield to the cry of the Mahomedan community. That is the pity of the situation.

The Congress has promised in its election manifesto that as a non-communal party it is pledged to break through the Communal Award with all its pernicious principles. Now that you have come into power as a Government, it is your bounden duty to try and tackle that problem; and if you do not face it squarely, you will have the deserved condemnation of the whole Province. Therefore, my second point of attack as regards this piecemeal legislation is that, while Government have done something to tackle the problem of the Communal Award, so far as separate electorates for women and the Scheduled Castes are concerned, they have left this serious problem of separate Mahomedan representation unhandled. If you in this way shelve that problem from time to time, there is no hope either for the Hindus or for the Mahomedans. The Mahomedans are in a fool's paradise. They think that by having separate electorates they are going to have all that they want. As a Government, it is your bounden duty to take them out of that fool's paradise and keep them on the path of wisdom. You have failed in your duty. If you want to stand by the promises that you have given, it is up to you now at least to correct that mistake.

Another omission deserves to be pointed out. In the Budget speech of the Honourable the Finance Minister a promise was held out that in

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this Province there would be a network of village panchayats. So many other achievements were promised through the help of the machinery of village panchayats. It was rumoured in the meanwhile that owing to the expensive nature of elections to local bodies, very probably village panchayats would become the primary bodies and elections to the local boards would be on an indirect basis so that much of the expense at present incurred in respect of elections would be saved. It was suggested that the real basis of the foundation of local self-government would be laid right from the bottom, namely, in the village. Nothing of that sort is to be found in this Bill. Therefore, my impression after reading the Bill as a whole has been that even after these six or seven months Government is unprepared. If you are really unprepared today, you can openly say it rather than tackle the problem piecemeal in this fashion. Defer it, and when you do take it up, take it up seriously and as a whole. If you take up the Local Boards Act for amendment every now and then, it will be rendered so threadbare that perhaps the whole scheme of the Act will be thrown overboard and we will not know where we will be. Therefore, my suggestion is come to certain conclusions that you want the local boards to run in a particular fashion. You have got certain power under the Government of India Act. Whether you are going to decentralise that power or not, whether you are going to arm even the village panchayats with some power or not—all these questions are very important from the point of view of local self-government, and they should be seriously thought out. After that, you have to come to certain conclusions, and then draft Bills. It is no use coming forward every now and then with such measures which are only half digested.

For these reasons, my humble suggestion to the Honourable Minister in charge would be this. If he wants that this Bill must pass for the sake of elections and for certain other reasons, of course it will pass. But when the problem is taken up, it should be taken up as a whole. All the allied problems should be taken up and faced boldly. Do not take up the case of the Harijans and leave the Mahomedans alone. You have to face that problem boldly, and it will disappear for ever. If you take courage in both hands, you will succeed; otherwise there is no hope of local self-government being established on a sure foundation.

This is the criticism that I have to offer. If I have pointed out more defects than good points in the Bill, it is due to the faulty nature of the Bill. Had there been any good points in the Bill, I would have been very glad to point them out. But, unfortunately, there are none; and, therefore, I had to devote a greater part of my speech to criticising this Bill. But I believe my criticism will be taken in the spirit in which it is offered, and earnest efforts will be made to bring a better Bill next time.

The Honourable Mr. K. M. MUNSHI: With reference to the remarks last made by the honourable member Mr. Karandikar, I feel that if he was inclined to be so charitable to what he described as a mouse, he could equally have been charitable towards Government. Why does he think

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that the Village Panchayat Bill is not on the anvil? Why does he think that this Government, which, I can assure the honourable members, is working as hard as any other Government, is not devoting all its time and energy to redeeming whatever pledges it gave in the last session? He must not forget that since this Government came into power it is straining every nerve to do as much as is humanly possible to do, and that the Government has not slept over any question. It is rather difficult to answer the charge, while discussing a Bill relating to the District Local Boards, why Government have not yet brought out their Village Panchayat Bill, and I can assure the honourable member and other honourable members of the House that it will come in the fulness of time and then the honourable member Mr. Karandikar will have the fullest opportunity to describe it in any graphic language that he thinks appropriate.

Then my honourable friend, in trying to say something about the good points in this Bill, said about the pledges on which the party in power has been returned, and he said something about the communal award and various other matters which, I wish, had not been drawn into discussion on a small matter like this. The Bill, if it had a voice, could rightly say, "Save me from friends like Mr. Karandikar".

Sir ALI MAHOMED KHAN DEHLAVI: The Honourable Minister introduced the subject first.

The Honourable Mr. K. M. MUNSHI: What has this Bill got to do with the election manifesto of the Congress? He either misread or misunderstood the Bill completely when he thought that the Congress had pledged itself to drive a coach and pair through the communal award by all means and at all costs. What the Congress has said, and again and again said, is that the communal award will stand till the two communities are in a position to evolve a new formula by consent, and the Congress—and also the party in power or the Government here—will not do anything with regard to the communal award unless the Hindus and Mahomedans both are in a position to come to an understanding with regard to the questions involved in it. And, therefore, when my honourable friend (Mr. Karandikar) attributes to Government the motive to circumvent the communal award in this manner, he is not only doing us injustice, but something worse than injustice. I can assure the honourable member that there is no intention in this matter to go behind the communal award or to do anything which the Muslim community does not want, or to do anything of the kind which my honourable friend described. It is a very simple Bill. It only affects the question of nominations and such incidental questions which arise from their removal. It adds, as the Leader of the Opposition said, a provision to give an option to the Mussalmans to decide in favour of joint electorates, if they like. That is a new element, I admit. With this exception it does, really speaking, nothing beyond changing the constitution of the local board by removing the nominations. Members

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of no party, I respectfully submit, are justified in reading into the Bill any sinister motive of doing something which in fact we do not propose to do, do not intend to do and have decided not to do. What does this Bill propose to do? Why did the Government not bring in a Bill to overhaul the Local Boards Act? Today, the local boards are functioning with nominated members; it is compulsory under the Act to nominate members. This Government, pledged as it is not to nominate members, would be in a difficulty with regard to these nominated members. Even if we want to overhaul the Local Boards Act, it would be much better to have wholly elected local boards first, then seek their advice, and then in consultation with the new boards take up the question of revising the whole Act; but at the present moment to take upon ourselves the task of overhauling the whole Act would mean that the nominated members, whom we want to remove, will have an effective voice in these deliberations. Therefore, this Bill is nothing else, if I may inform the honourable member Mr. Karandikar, but a step towards a proper consultation between Government on one side and the elected members of the local boards on the other to find out how the whole Act can be adjusted to the present needs of the times and the country. That is the sole object of this Bill, and it is not, therefore, fair to charge the Government with not having brought the whole Bill and having brought only a portion of it.

Then, as regards what the Leader of the Opposition was pleased to say, I have already allayed whatever fears he might have had, that we are going to short-circuit the communal award in any manner whatsoever. There is no intention. I can assure the House, to do anything of the kind. The communal award is not for small parocnial bodies like Local Boards, to consider or for the Provincial Legislature to decide. It is an All-India question; it is a question which is to be settled on an all-India basis; it is a political question. But the local bodies and the small municipalities or the village panchayats are not political but only local bodies with limited powers. They have nothing to do with politics or with anything else except the economic adjustment of the people of a particular city or town or a village. They are not affected by the large political considerations which weigh in the matter of legislatures. As a matter of fact, in law they cannot even touch political questions at all. In the few questions relating to the development of their own little area, what would be the difference between a Hindu and a Muslim? Whether a street should be laid in one way or another, whether a light should be lit at one place or another, are not questions on which there is a Hindu outlook or a Muslim outlook. They are no political rights of communities to be considered. No concern with cultural rights or even with languages and scripts. They are not concerned with their ways of life. Both the Hindus and Muslims in their own respective areas will, it is expected, bring together a common outlook on the little development of the village or a taluka or district as the case may be. I respectfully submit that we should do our best to segregate political questions in their proper sphere and look to the large number of economic and

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other fields in which Hindus and Mussalmans can sit together without consideration of the religion or community to which they belong.

Sir ALI MAHOMED KHAN DEHLAVI : May I request the Honourable Minister to answer a query of mine in his speech ? Why should Government be so very over-anxious to bring in even the optional question ? If they came in by separate electorates and sat together in these local bodies, could they not serve the whole body ? Why should there be a separate optional question introduced here ?

The Honourable Mr. K. M. MUNSHI : I am just going to answer that.

Sir ALI MAHOMED KHAN DEHLAVI : I thought you might not.

The Honourable Mr. K. M. MUNSHI : The reason is this. My honourable friend Dr. Ambedkar asked Government as to what extraordinary things would happen if all Hindus and Muslims went in one polling booth, and what would it matter if they went through separate electorates and came in and sat down on the same board ? All persons familiar with the ways of elections can answer these questions. The constitution of an electorate weighs considerably on the minds of every candidate when he is out to seek votes, and if there is a composite electorate, each member will think in terms of his village or taluka ; persons will come to feel that the economic development of the taluka or city or village does not depend upon the fact that the candidate is a Hindu or a Muslim ; and as a result it would induce both Hindus and Muslims to think in terms of common problems, and in terms of candidates who would be Muslims but at the same time acceptable to Hindus and Hindus who would be acceptable to Muslims.

Sir ALI MAHOMED KHAN DEHLAVI : Have the local boards suffered by the present system ?

The Honourable Mr. K. M. MUNSHI : It is not a question of suffering. If the Leader of the Opposition will permit me to complete what I have to say, I would say that the fact remains that today each candidate for the local board thinks in terms of his community, in terms of his political prejudices in relation to a board which would have to deal purely with local questions, with economic questions, with non-political questions.

The object of this Bill is to leave it to the free will of the Muslims. There is no compulsion in it. If the Mussalmans of a particular locality feel that in matters which fall within the scope of the local board, which are non-political, they want to have Hindus and Muslims electing common candidates who would be able to agree, it would be one step in the right direction. You will then get a local body which will think in terms of the locality and not in terms of each different community.

But, after all, what is it that my honourable friend fears that he loses ? It is left entirely to the option of that locality, whether the members of that locality think that this is purely a non-political sphere in which from the bottom upwards they should think in terms of the locality and not

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think in terms of the communities. If they do not want it, if the party to which the honourable member the Leader of the Opposition belongs wants that even in local matters, even in the matter of roads and pipes and lights, the communal spirit must remain, it is possible for that party to go and tell the Muslims of the locality to vote only on the communal spirit; then they need not accept the option, they would be at perfect liberty to continue to do what they are doing. It is only if the members of a local area say that they do want to have representatives who will not come on Hindu or Muslim ticket but on a common ticket, why should this House or any other House preclude them from having their own way? Why should we not encourage them to think in terms of the little town or of the little village? Why should this House or any other House interfere in matters which do not relate to them at all? That, Sir, is the real question.

After all, does it take away any right? It is purely an enabling section. It all depends on this question whether those who think with my honourable friend here are able to influence the local people. I am sure that for some time to come, perhaps you will find few people or perhaps none at all who will be prepared to take the benefit of this option, but assuming that within a short time we do find a new change coming over the communal spirit which would allow people to think of local questions in the non-communal way, why should we debar them from doing so? That is the only object of putting this provision in, nothing more, nothing less, and it would not be fair to Government to attribute to it any motive of doing something which they would be ashamed of doing or which they ought not to do.

Sir, then my honourable friend Dr. Ambedkar raised a few constitutional questions. His first question was with regard to—

The Honourable the SPEAKER: Is the Honourable Minister likely to take some time? If so, it would be better to adjourn now.

The Honourable Mr. K. M. MUNSHI: Yes, Sir, I will require some time.

The Honourable the SPEAKER: In that case, the House will now adjourn till tomorrow.

The House then adjourned till 2 p.m. on Wednesday the 19th January 1938.

Wednesday, the 19th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Wednesday, the 19th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 DABHI, Mr. FULSINHJI B.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, Mr. KHANDUBHAI K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.

GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR.
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.

MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MORE, Mr. J. G.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. B.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K. B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO

SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, M. B. U.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WANDREKAR, Mr. D. N.

GOVERNOR-GENERAL'S ASSENT TO ACT.

The Honourable the SPEAKER: I have to announce to the House that His Excellency the Governor-General has been pleased to accord his assent to Bombay Act No. VI of 1937—An Act to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay.

BILLS PASSED BY THE LEGISLATIVE COUNCIL.

The Honourable the SPEAKER: The second announcement I have to make is that the Bombay Legislative Council has passed Bill No. XXVI of 1937 (A Bill to amend the City of Bombay Municipal Act, 1888) and Bill No. XXVII of 1937 (A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation).

LEAVE OF ABSENCE—Mr. C. F. GOLDING.

The Honourable the SPEAKER: Then, there is an application for leave of absence from Mr. C. F. Golding. I will read it to the House:

"On the 11th February next I am proceeding to England on leave and all being well I shall return by a steamer due in Bombay at the end of July or early in August 1938.

For this reason I shall be obliged if the Assembly may be requested to grant me leave of absence for the necessary period."

I take it that the honourable member has the permission of the House. [After a pause.] Leave is granted.

ADJOURNMENT MOTIONS.

The Honourable the SPEAKER: Before we proceed further, I wish to give my ruling in connection with a point raised the other day by the honourable member Mr. Jamnadas Mehta. I have considered the matter, and I will read my ruling.

The point raised by the honourable member Mr. Jamnadas Mehta is that the test hitherto applied in the Bombay Legislature for determining urgency within the meaning of the phrase "definite matter of urgent public importance" occurring in rule 11 has not been accepted anywhere else, and that it is restrictive of the freedom of private members to move adjournment motions on subjects which they believe to be of public importance. He urges, therefore, that I should reconsider the matter and see if I can induce myself to revise the course of rulings of my predecessors laying down the test of urgency.

The honourable member has advanced a few considerations for which he urges that the urgency of a matter should be tested differently from what has been done up to now. I believe it is and will be conceded that it is difficult, if not impossible, to define exactly the scope of the word "urgent". Every case will have to be judged on its own merits; and all that is possible, is to lay down a general rule which can be only a guide in deciding whether a particular motion is urgent or otherwise. There can be no inelastic, rule-bound interpretation of the word "urgent" as there can be none in respect of the words "definite" or "importance" with reference to a public matter, for the discussion of which an adjournment motion is sought to be moved. The test of urgency hitherto applied by my predecessors is to consider whether the subject-matter of the urgent motion occurred at a period which did not give the member moving the adjournment motion an opportunity of tabling a resolution and thereby bringing the matter up for discussion before the House.

The honourable member's three main submissions are:—

(1) That the right to move an adjournment motion is a definite (he perhaps means "absolute") right; while, in the case of a resolution, the right consists of only tabling it while the actual right of moving it is only problematic. The test of urgency, therefore, as hitherto applied, substitutes a definite right by a problematic one, and, in this sense, deprives the member of a right which he enjoys under Rule 11;

(2) That the practice in the Central Legislature at Delhi is different;

(3) That if a member is deprived of his right to move an adjournment motion, he has no course open to him to bring the matter up for discussion except that of moving a motion of no confidence in the Ministry, if he thinks the matter to be of sufficient importance. Such a course is not desirable.

He also further urged that "a private member should have a point stretched in his favour as he is powerless against the majority."

[The Speaker]

At the outset, I should point out that the right to move an adjournment motion is not such an absolute right as the first submission of the honourable member assumes. A perusal of the relevant rules will show that that right is a more restricted and restrained one than the right of tabling resolutions. A reference to the history of the origin of the practice of moving adjournment motions for discussing a definite matter of urgent public importance will enable us to appreciate the true principle underlying the practice with reference to and the proper scope of such motions. According to the past usage of the House of Commons, it was in the power of any two members of the House to move and second a motion for the adjournment of the House, either whilst questions to members were being asked or at any moment before the commencement of public business, and to raise thereon a general debate. Though the right to move an adjournment of the House at any time was considered one of the fundamental rights of a representative assembly, essential to its life and never called in question, experience impressed upon the House the necessity of placing upon that power some restrictions.

The formal moving of the adjournment of the House was a tactical method of introducing a new matter into the day's work and has been gradually but steadily discouraged by the rules of the House. The principle of *fixity in the day's programme* was considered to be at least as important as, if not more important than, the right to move an adjournment of the House to introduce some new matter into the day's work. Though this principle of "*fixity in the day's programme*" is diametrically opposite to the old principle of "*freedom of debate*" secured by motions for adjournment, the more modern principle has proved the stronger, and more and more restrictions have been placed on the scope of and the occasions for adjournment motions. A standing order was passed so early as 1882 by the House of Commons, and the tendency has been to restrict further and further any departure from the principle of "*fixity in the day's programme*". It will be both interesting and instructive to know that the number of adjournment motions for which permission is sought in the House of Commons hardly exceeds, on an average, about half a dozen or so per year, the highest number being 20 in 1893-94. These statistics at once indicate as to how this right of moving an adjournment motion is understood, interpreted and exercised. In contrast, it will be interesting to know that the number of adjournment motions submitted to me for my consent during the first session of this House was 11 and that during the current sessions comes to 9 up to date.

As to the objective of such motions, I cannot do better than quote here the observations of the Honourable the President of the Central Legislative Assembly, made during the course of his ruling disallowing a motion for adjournment by Dr. Nand Lal on 16th July 1930 :—

"Motions for adjournment are meant for obtaining an immediate debate on *grave and serious* matters which cannot otherwise be immediately and effectively dealt with, and the very object of such motions will be lost if they are permitted to assume the character of an ordinary course of action of every day occurrence."

I am in entire agreement with what has been stated there.

[The Speaker]

What then should be the nature of the test of urgency? Should it be a very strict one, or should it be a liberal one leaning in favour of a private member? While every individual member of the House ought to have the fullest liberty to ventilate whatever he feels to be necessary and essential to enable him to discharge his obligations to his constituency and to the House, it is equally important that there must be some limitations to that freedom, to secure an equal freedom to every other member of the House and to the House as a whole. In this view, the right to move an adjournment motion is not an absolute right of an individual member which he is entitled to exercise irrespective of and without reference to the rights and convenience of the whole House, but it is a qualified right with the corresponding obligation of seeing that a mere desire to discuss a subject on the floor of the House, however important and far-reaching in consequences it may be, does not interfere, as far as possible, with the fixity of the day's programme. It is thus a question of rights and convenience of other members too. It is possible that members relying upon the "order of the day" may prefer to be present or absent and are entitled to expect that no business is put before them or taken from them by surprise. In my view, therefore, the various conditions governing the admission of an adjournment motion should be interpreted neither very liberally nor with undue strictness. The practice in the Mother of Parliaments has been to interpret strictly the requisite of "definiteness" and also to require a *prima facie* case of urgency or "special" urgency, as it is stated by some text-writers.

To my mind, the test adopted in Bombay is reasonable and is such as would be the best and reliable guide in broadly meeting the generality of cases. Further, the test hitherto applied has, on the whole, worked satisfactorily and is not known to have resulted in the curtailment of any legitimate right of having a discussion on matters of urgent public importance.

I may now shortly refer to the various points urged by the honourable member Mr. Jammadas Mehta. I have already shown that it is incorrect to believe that the right to move an adjournment motion is an unqualified, absolute right. There is, therefore, no question of one definite right being exchanged for another problematic one. I may, however, point out here that under the provisions of Standing Order IV, proviso to paragraph 2, a remedy is provided to enable a member to obtain priority for any of his resolutions, irrespective of the place allotted to it in the ballot. If, therefore, the subject-matter of the resolution is of sufficient importance and of an urgency as compared with the other resolutions on the agenda, it is always possible for a member to have a discussion on the subject. Neither the argument about the exchange of a definite right for a problematic one nor the apprehension of being deprived of an opportunity of a discussion over a truly urgent matter of public importance, have, therefore, any foundation in fact. This also disposes of the other plea about a member

[The Speaker]

being driven to a more drastic remedy, such as a no-confidence motion, by being deprived of a lesser remedy in the form of an adjournment motion for the purposes of discussion of a particular subject. I may add that if the right to move an adjournment of the House to discuss a definite matter of urgent public importance is understood in its proper perspective and conception as in the British House of Commons, there would be no scope for an argument of this type.

I carefully looked into precedents on the subject not only in the proceedings of the Central Assembly, but also in the proceedings of the Provincial Councils of the United Provinces, the Central Provinces and Madras. I find that in other Provincial Councils too the same test as in Bombay has been recognised as one of the tests to decide the question of urgency (*vide* C. P. Legislative Council Proceedings, 25th January 1936, pp. 163-164, and a press report of the U. P. Assembly, dated Lucknow, 2nd September 1937).

The reasons advanced by the honourable member for a revision of the rulings are not new and I find that they were present in the minds of my predecessors.

For these reasons, I am of the view that no case has been made out which would justify me in revising the previous rulings and departing from the practice followed for a long number of years by my distinguished predecessors.

The Honourable Mr. B. G. KHER: Mr. Speaker, I do not know whether, in view of the ruling which you have read to the House, I may again remind you of the request that I made, when this subject was broached by the honourable member Mr. Jamnadas Mehta on the last occasion, that in view of what was said and referred to while raising the adjournment motion, I might be permitted to make a statement. Obviously, as it may not be possible for other members to put questions or to make speeches, I will, if permitted, only make a statement on the subject that was referred to in the argument of the honourable member who moved the motion.

The Honourable the SPEAKER: As I stated the other day, the sole ground on which I wanted to permit the Honourable the Prime Minister to make a statement was the fact that a reference had been made to the subject by the honourable member moving the motion. It had nothing to do with my ruling. The Honourable the Prime Minister has, therefore, my permission to make his statement on the subject referred to.

Mr. JAMNADAS M. MEHTA: May I make a submission before you permit the Honourable the Prime Minister to speak? My submission is that it was I who gave notice of the adjournment motion for ventilating this question. I am getting no permission to address the House on it, while the Honourable the Prime Minister has got it. The result will be that I will have no voice, and a reply will be given without in the first instance the charge being heard.

The Honourable the SPEAKER : I am not inclined to agree with that view. But even assuming that that view is possible, the honourable member must thank himself for that situation—as it was his creation by a reference that he made to the particular subject of the adjournment motion. Had he restricted himself only to arguing as to whether the particular test as it had been laid down in the previous rulings was a proper one or not, there would have been no occasion for me to give any permission to the Honourable the Prime Minister to make a statement. But I have felt that, the subject matter having been referred to, it would be unfair if the other side were not to be given an opportunity of having, not a discussion, but a bare statement on the subject. And I trust the Honourable the Prime Minister will do nothing more than make a short statement of facts.

The Honourable Mr. B. G. KHER : I may assure the honourable member that I am not at all anxious to make that statement.

Mr. JAMNADAS M. MEHTA : And I am not anxious to hear it.

The Honourable Mr. B. G. KHER : I craved your permission, Sir, because, unfortunately, the subject was referred to in the House by the mover of the adjournment as the "notorious Lokashakti circular". Otherwise I should not have taken the time of the House. And now, in strict accordance with your instructions, without saying a word more I will make my statement and resume my seat.

Mr. S. L. KARANDIKAR : On a point of order, Sir. After the ruling which you have given, there is nothing before the House to which this statement is relevant, and if a statement is to be made simply because you have said that the statement should be made, we must accept it. But I must in all humility submit to the House that the question of relevancy is an important one and this intrusion into the business of the House is a matter for very serious consideration. If because you have allowed the statement to be made, it is to be made, it is another matter ; we must submit to it. But so far as the question of relevancy goes, the procedure is of a very doubtful character.

The Honourable the SPEAKER : The House will remember that during the course of discussion as to whether there should be a revision of the previous rulings or not, reference was made to this particular subject and immediately permission was asked for and granted. The only question was as to whether that statement should be made then or should be deferred till my ruling was given, and I do not think any question of relevancy really arises.

STATEMENT RE : "LOKASHAKTI CIRCULAR".

The Honourable Mr. B. G. KHER : Sir, the statement I propose to make is as follows :—

Government regret that the circular dated the 30th November 1937 issued by the Secretary of the Home Department should have been unfortunately so worded as to lead to any impression that Government intended to cast a reflection on all Marathi Newspapers or that they

[Mr. B. G. Kher]

singled out the *Loka Shakti* as the only exception thereto. The circular clearly refers to a number of Newspapers and not Marathi Newspapers generally, and refers to *Loka Shakti* as a notable exception and not the only exception. Government have no intention, and had none, to make any such charge against all Marathi Newspapers generally, or even the bulk of them, and regret that hostile critics should have read into the circular any such sweeping generalisations.

**BILL No. I OF 1938 (A BILL TO AMEND THE BOMBAY
LOCAL BOARDS ACT, 1923).**

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, yesterday when the House rose I was addressing it on the remarks made by my honourable and learned friend (Dr. Ambedkar) who does not happen to be in his seat this morning. I was trying to point out that some of the remarks that he had made were scarcely relevant and that others did not apply to the Bill before the House. My honourable and learned friend with his characteristic emphasis laid down certain *obiter dicta* about the Hindu society. I do not want to go into that matter except only to state that the great work which the honourable member is doing for his community will certainly bear greater fruit and would be more welcome—I say so in all humility—if he introduces in his attitude towards the Hindu community a little more charity, a little more sense of historic perspective and a little more sociological insight. With these remarks—I do not want to reply to that point any further—I will go to the points that he has made. His points have been these. He says that this Bill does not contain all the details about the basis on which the constituencies have to be carved out, a list of constituencies ; that the voting system has not been properly defined ; that rules have not to be placed before this House. And also in a vague manner he tried to suggest, though he was not very clear about it, that in some way this Bill will hurt the interests of the Harijans.

Sir, I take the last point first. Up to now, the Scheduled Castes were represented on the Local Boards by nominees of Government. Is it an advance or a retrograde step now to give them the right to elect their own representatives on the Local Boards ? This is the first time when the Local Boards are being purged of an evil which has been universally denounced, namely, nominated members, and for the first time in Local Boards the Harijans are entitled to elect their own representatives irrespective of the favours or the frowns of the Minister of the Local Self-Government. Is it not an advance, a distinct advance, in the interests of the community ? And I certainly could not understand my honourable friend when he tried to make out that this Bill was intended in some unknown and undefinable manner to hurt the interests of his community.

Then, Sir, he dealt with other technical matters, with a solemnity which does require very careful consideration. With great emphasis he upbraided my honourable colleague by saying that this Bill should have dealt with all the various matters which he referred to. Not

[Mr. K. M. Munshi]

content with this, he even referred to the Government of India Act. He said that the Government of India Act says this, that and the other. Sir, the eye of my honourable friend, trained as it is to the glammers of the Round Table Conferences, generally looks up to the imperial heights of the Government of India Act, but if it had come down upon the lowly and vulgar reality of the Local Boards Act, he would have found that this is not a Constitution Bill, this is not a Bill which is going to reframe the Local Boards and there is the Local Boards Act of 1923. That Act consists of 137 sections. There are numerous rules under it. All those remain intact, and all that this little Bill seeks to do is to amend sections 5 and 6. Sir, should this Bill be compared with the Government of India Act? Should it be compared, as I said, with an important constitutional Bill which changes the whole political structure of India? I do not think he was fair to this Bill, and I am sure this House will bring to bear its sense of proportion and see that in a small matter like this all that could be done is what has been done in this Bill, namely, to take away from section 5 and another section the reference to the nominations and add an option clause with regard to separate constituencies for Muhammadans. These are only small points. Now, let us look at the actual position. Under the Act of 1923, these constituencies and the franchise and the manner of voting has to be determined by rules under section 133 of that Act and by certain orders. That system has continued from 1923 up to 1937, and those remain undisturbed except to the extent to which they are qualified by this Bill. It is not the desire of the Government to amend those rules which

2-30 p.m.

are not necessary for this purpose. Why should these matters not be governed by the rules and orders as it has hitherto been done? The Bill was passed in 1923 and my honourable friend, for a number of years, when I was on the other side of the House, had an honoured seat on this side, as the favourite ally of the then Government. He did not see at that time any necessity for asking the then Government to say, "Why do you not put all this in the Act? Why do you leave it to rules and orders? Why do you not draw up a Government of India Act for the Local Boards?" He did not say that. It is only when this little change is made which gives people the right to elect representatives that he says: "Oh, but why have you not brought everything in it?" The complaint made by him is really unjustified.

But I will take his favourite Government of India Act. What did it do? Did it, by the Act itself, settle all the matters which he wants to be settled by an Act? Is it possible to settle all these matters by an Act? The Government of India Act itself will be the reply. Section 291 of the Government of India Act left all these things to Standing Orders. Section 291 of the Government of India Act says:

"In so far as provision with respect to the matters hereinafter mentioned is not made by this Act, His Majesty in Council may from time to time make provision with respect to those matters or any of them, that is to say—

(a) the delimitation of territorial constituencies for the purpose of elections under this Act:

[Mr. K. M. Munshi]

- (b) the qualifications entitling persons to vote in territorial or other constituencies at such elections, and the preparation of electoral rolls ;
- (c) the qualifications for being elected at such elections as a member of a legislative body ;
- (d) the filling of casual vacancies in any such body ;
- (e) the conduct of elections under this Act and the methods of voting thereat ;
- (f) the expenses of candidates at such elections ;
- (g) corrupt practices, etc."

And if you look at the dates, Sir, the Government of India Act came into force on the 2nd of August 1935 ; after that, in view of the provisions of the Act, the Hammond Committee investigated into all these matters. Their report was published on the 23rd January 1936 and the Order-in-Council was passed on the 30th of April 1936. This Act, therefore, is perfectly consistent with precedent and, therefore, his complaint is really of no substance. As has hitherto been done, the rules will be framed to carry out the new provisions of the Bill. Such orders as are provided for by the Act will be passed to carry out these provisions. There is no reason to apprehend that something will be done which will not be justified by the Act which we are passing now. Therefore, there is no need to be apprehensive that by not bringing detailed provisions in this Act the Government is going to do something very extraordinary.

Then, his last point was about the rules. The Local Boards Act, section 133, has been standing since 1923 and it has not been alleged either in the old Legislature or this, that up to now the power has not been working satisfactorily. Under that section 133, rules will be made after previous publication, and the General Clauses Act, section 24, makes it perfectly clear as to what should be done in such cases. It prescribes the formalities necessary for publishing rules and they provide sufficient safeguards. Section 24 of the General Clauses Act runs in this way :

"Where, by any Bombay Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made"

That is the kind of rule which is to be made under section 133 :

"then the following provisions shall apply, namely—

- (a) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby ;
- (b) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes ;
- (c) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (d) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified ;
- (e) the publication in the *Bombay Government Gazette* of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made."

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Therefore, this section fully safeguards the rights of persons who are interested in the rules. As regards his desire that they should be put on the table of this House, at the Poona session, I made my respectful submission to the House, on the authority of Laski, as to what, in a modern parliament or legislature, should be the limitations of the rule-making power, and as I pointed out there—of course, my honourable friend was not then in the House and he is not now, so I need not repeat them—but they have been considered salutary by the highest authority on the subject and have worked with success in the other legislatures. There is no meaning in placing the rules before the House; it is always open to any member of the House to raise a discussion on these rules if he feels that the rules are not satisfactory. That is a sufficient safeguard and I think there is no reason why, with a fully elected legislature, we should not follow the precedents of fully representative Houses in other parts of the world. Therefore, his complaint about the rules is far from valid.

Sir, there is no validity in the arguments of my honourable friend. The fact remains that by this Act, all that you do is to keep the structure of the Local Boards exactly as it is; you keep their powers and functions and duties exactly as they are; you only remove all the nominated members, re-arrange the constituencies on a popular basis; those seats which are reserved for the Muslims will continue to be filled by separate electorates as heretofore, unless in the event, which I pointed out yesterday, that the Mussalmans of that locality come to a conclusion by unanimity or by majority that they want in the interests of the local body to vote together. Those are the only two things and there is no reason why these few principles which are distinctly in advance of the existing structure of local boards should not be welcome to any section of the House.

Sir, I have done.

Mr. S. H. JHABVALA (Railway Unions): Sir, on a point of information. I have given notice of two amendments, one of which, I understand, is an amendment of principle. If you agree, Sir, that this is an amendment of principle, then at this stage I can move that amendment.

The Honourable the SPEAKER: I find that notices of nearly 23 amendments have been given and some of them seem to me to be amendments of principle. I would draw the attention of the House and particularly of the members tabling these amendments, to this aspect. There is one amendment by the honourable member Mr. Jhabvala. There are some amendments by the honourable member Mr. Phadake and some by the honourable member Mr. Chundrigar. These appear to me to be amendments of principle. If the honourable members would refer to the consolidated list of amendments circulated to them, they would find that amendment No. 4, which stands in the name of Mr. Jhabvala, is one of principle. So is amendment No. 5 by Mr. Phadake. Nos. 12 and 16 tabled by Mr. Phadake are identical with Nos. 13 and 17 tabled by Mr. Chundrigar. Nos. 12 and 16

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can as well be treated to be consequential to No. 5 and can also be treated to be independent amendments. Anyway, they seem to me to be amendments of principle. No. 9 seems to be an amendment consequential to No. 5, but that seems to be purely a consequential one. Similarly, Nos. 18 and 19 are amendments tabled by Mr. Phadake and Mr. Chundrigar and are identical, and they seem to be consequential.

So, to my mind, these are amendments which honourable members desirous of moving them have to move during the course of the first reading. The other amendments will be amendments of detail which can only be moved during the course of the second reading.

Mr. G. K. PHADAKE : Sir, of the amendments Nos. 5, 9, 12, 16 and 19, Nos. 9, 12, 16 and 19 are consequential amendments. These are parts of the whole amendment. Shall I be allowed to move them together or separately ?

The Honourable the SPEAKER : They will have to be taken separately.

Sir A. M. K. DEHLAVI : There is an amendment by the honourable member Mr. Greaves and also by the honourable member Mr. Bramble as regards the deletion of the words " 21 years " and substitution by the words " are qualified electors ". Would it be permissible to discuss that at the first reading ?

The Honourable the SPEAKER : I think it would be an amendment of detail. I will make the position clear. The principles of the Bill are the abolition of nominations, reservation of seats for Harijans and Backward classes, and joint electorates on population basis, with the option to the Muhammadans to abolish separate electorates. These matters are matters of principle. All other matters such as qualifications or whether there should be adult franchise or 21 years etc. will be matters of detail. The main principles seem to be three, as I have just indicated, and on that assumption, I have classified these amendments into amendments of principle and amendments of detail.

Mr. I. I. CHUNDRIGAR : As my amendments Nos. 13 and 17 are treated as amendments of principle, I submit that my amendment No. 18, which is a part of the same scheme, may also be treated as an amendment of principle, because if the principle of option is rejected, the case of prescribing the manner in which it is to be exercised cannot survive at all. May I, therefore, submit that amendment No. 18 may also be taken along with the others as an amendment of principle ?

The Honourable the SPEAKER : I will just explain the situation. I stated that amendment No. 19 is consequential to amendments Nos. 13 and 17. So, they are all amendments of principle, but they will have to be taken one by one. They all cannot be taken at the same time and I take it that if one of the principal amendments falls through or is carried, there will not be much of debate or discussion on the consequential amendments. This will shorten the length of the debate.

Mr. S. H. JHABVALA (Railway Unions): Sir, I am thankful to you that you have considered my amendment No. 4 as an amendment of principle and, accordingly, I beg to move that amendment at this stage. My amendment reads as follows:—

In section 6 (1) after "general" take the following:

"Constituencies which shall consist of peasants and workers either intellectual or manual."

Delete everything else besides.

I have asked for the deletion of everything else besides. But by that I do not mean that the whole of it should be deleted, but I mean the clauses on page 2 of the printed Bill ending with "Muhammadan constituency".

The Honourable the SPEAKER: May I invite the attention of the honourable member to the wording of his amendment? Perhaps it will require a little alteration, and I will amend it accordingly. The honourable member says "in section 6 (1) after 'general' take the following". He refers only to clause (1) and then he ends up by saying "delete everything else besides". Obviously, he refers to everything else in clause (1). I understand that it is reasonable to suppose that what the honourable member requires is that clause (1) should be amended and everything else in section 6 be deleted, including clauses 2 and 3.

Mr. S. H. JHABVALA: By "everything else besides" I meant all the rest of the whole clause ending with sub-clause 3 which concludes with the words "Muhammadan constituency"; the whole of it because, Sir, if that wording were adopted, then naturally and automatically the whole expression would vanish. That is why I said "everything else besides", and your understanding that only clause (1) was to be omitted up to a particular point, namely, up to the words "general constituency" of clause (1) appearing on page 2 shall be dropped, is not quite correct. I mean to say, up till sub-section (3) ending with the words "Muhammadan constituency" on page 2, line 42.

The Honourable the SPEAKER: The honourable member perhaps did not understand me clearly. My understanding of the amendment was the same as the honourable member now explains. Therefore, I suggested that the amendment might perhaps require a little verbal alteration, which can be done in the course of the debate. The honourable member may proceed on the assumption that the whole of sub-sections (2) and (3) are to be deleted as also that part of section 6 (1) which the honourable member says should be deleted.

Mr. S. H. JHABVALA: In moving my amendment, I beg to make a few observations, and at the outset I have to state that the whole policy adopted by the Congress Government in the matter of changing the original Act in its present form is rather pernicious. The mentality that has prompted the submission of a Bill like this in its present form is nothing but the one that prompted the passing of the new Government of India Act. If the Government of India Act landed the country in a quagmire of confusion, a Bill like this carries the quagmire far into the countryside and lands us into confusion worse confounded. The

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whole principle is that the Honourable Minister in charge understands, and unfortunately he is supported by another Minister, the Home Minister, that the country means so many temples, so many mosques and Muslims and Hindus. Sir, the country does not mean that. The whole trend of economic activity that is sweeping all over the country, practically all over the world and our country is a very important part of this world, is the demolition of these various houses of worship that have brought about the present unfortunate state of things in our midst.

The Honourable the SPEAKER: I should not be prepared to say that any such general observation is absolutely, cent. per cent. irrelevant. But if it is the earnest desire of the House to put through its work efficiently, as also with dispatch, then it is essential that members should kindly restrict themselves to what is strictly relevant to the subject-matter and not go into general principles and propositions.

Mr. S. H. JHABVALA: No one is more keen than myself to do so, and you must have always noticed, Sir, that I have been very brief in my observations. I have never taken long hours like the Home Minister who sat down just now, nor also like the Prime Minister himself.

Sir, my suggestion was that the Bill perpetuates the present mentality that governs the whole of the Indian population, namely, religion and communalism. These are the factors which hold a predominant sway. Now I want to protest against that, and that is the reason why I propose to lop off everything, and put in only a few brief words, namely, peasants and workers, intellectual and manual. The country does not mean so many temples and mosques. The country means the field, the forest and the factory. If something is produced, then we can live. If something is produced, then we can have our very existence. Things that are produced fill our stomach, things that are produced provide clothing for our bodies, and the very persons who prepare this food and who prepare the clothing are not given a proper consideration so far as this Bill is concerned, but so many Hindus are brought up, and so many Mussalmans are brought up, so many Harijans are brought up and so many minorities are brought up. These are considerations that have certainly depleted the social mechanism of our country. What are we to do? [Interruptions.] Any kind of noise on my left side is not going to deter me.

The Honourable the SPEAKER: The honourable member may proceed without minding the interruptions.

Mr. S. H. JHABVALA: I do not want any protection from you, Sir. I can demolish them.

The point is that similar conditions existed in a backward country like Russia also. In the days of the Czar, the same conditions existed. No less than 140 nationalities lived there, no one Russian-speaking. Some were Turcomans, some were Tartars, Uzbegs, Ukrainians and so forth. They individually numbered 2 to 3 crores, and all of them fought with one another in the days of the Czar for the assertion of what are just now only known as cultural rights, and the result was

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that there arose a clash of interests, a conflict of interests, and the Czar, to his own advantage, always found it very necessary and convenient to pit one nationality against another in the name of culture. Sir, culture is such a vague term that there is no knowing as to where it will begin and where it will end. If culture means on the part of the Mussalmans the eating of meat and culture means on the part of the Hindus the non-eating of meat, then I do not know where we can meet. I know that in between the two a new culture has risen, that some of the Hindus eat meat and some of the Mussalmans have been giving up meat. Under such circumstances, the Russians found it a very hard thing to settle their differences. It was in the year 1915, when the great revolution came that these differences were smoothly levelled up, by the State itself accepting the principle of economism. For it was thought that unless these different classifications of cultures, this imaginary ideology was smashed and a correct principle was visualised and the correct ideology was substituted, it would be impossible for the country to have any kind of progress whatsoever. That is exactly what is happening just now. At that time a conference was held of the Bolsheviks and the Mensheviks, and they evolved a common plan, and I imagine that the present Congress Party is passing through that particular political evolution. They evolved a plan, and the plan was based upon the fact of acceptance that the country consisted of so many factories, fields and forests that produced the actual wealth of the country, produced the actual wealth of the nation. Here, now that the Congress Party are in power, unfortunately that principle is not accepted and a divergent creed is enforced by a Bill like this upon this House, so that what we are doing just now in the towns, the squabbles that we are having in the towns and cities where there are different communities existing the Bill tries to send the same quarrels, the same hubbub and the same noise into the countryside as well, and there divides the whole community of interest into two factors, namely, that the Mussalmans should have so many seats and the Hindus should have so many seats reserved for them. Naturally that will be a very calamitous day for the country.

The point is, Sir, that the whole history of the Local Boards Act requires to be thoroughly grasped. Captain Davidson in 1839, when he thought that the people of the country side must get something like a local right by which they could manage their local fund, so that they could build roads, introduce education and conduct their own local affairs, did not imagine that a time would come in 1938 when our own people would be in power, there would be so many principles of community, principles of religion and principles of these factious splits inaugurated by alteration in the law of the land whose preliminaries he had with a vision laid down. This founder of Local Boards was assisted later on by one J. D. Inverarity. Even in his remarks we do not find similar principles being adumbrated. As the whole system further developed, it was

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laid down that particular rights should be granted to the Indian masses and that a board should be constituted by which people could manage their own affairs in their own villages. Even then, this idea of communal representation was not present there. The only principle that was known then was the one known as the principle of self-government, but this principle of communal representation was not visualised at any stage. This is a pernicious principle splitting the country into two parts as Hindus and Muslims.

Sir, in the days of the Tsar, what happened? Those persons who followed a particular religion or followed a particular kind of education were given high administrative positions in the country. Similarly, in the year 1840 and onwards, there was the terror of Christian missionaries in our country. Those persons who adopted Christian religion and who followed the British principle of education, as laid down in the despatch of Sir Charles Wood in 1854, were given higher rights and easy entrance into high administrative posts in public service. It is only one community in our country that struggled against this position. It is the Parsi community who struggled against the inroads of Christian missionaries and tried to establish a kind of belief in the people that everything Indian should be maintained and preserved. That is why we find in our midst a new social evolution. Why should not the Hindus and Muslims follow this new social evolution and take advantage of it, without splitting themselves into so many communities as Harijans, Hindus, Mahomedans and so on which is a very obnoxious situation?

I will once again take the example of Russia and point out that they have built up a soviet system which corresponds to our panchayat system by nullifying these nugatory principles of communalism, races and religions. They are advancing very well as a result of that system. Their foundation is an economic one; and yet they have left untouched the culture of the different peoples of their country. The autonomous province of Ukraine has its own culture and the autonomous province of Turco Tartars has its own culture. These various autonomous provinces have their federal institutions and every one of them has its own culture and its own land for a particular culture. They do not quarrel among themselves, because the produce, the land and the yield of the country is equally distributed among them. It is the peasant worker that is given the primary right. I too want to amend the section in such a way that only the man who actually works can get representation. Being in the initial stage of reforms, I have given to intellectual labourer also some rights. A measure according to my principles *viz.*, vote for manual workers only, may be looked upon as revolutionary and may not be accepted by my honourable friends. Therefore, I have given a privilege to intellectual workers also. The real worker is the man who actually toils and produces wealth; but he is not a worker according to the modern conception of the word. Let our constitution and organisation be born out of the real life of the country and not out of our mere inner consciousness. I use the words inner consciousness because rights

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have been conceded by Government on that basis to the Muslims who think that, because they can combine in overawing others, they want certain rights to be allotted to them. For that reason, it is said "give them a few crumbs." That policy is not a sound one. We must follow the policy of recognising only one community, the actual worker, and then alone the day will come when imperialism will leave this country for ever. It is due to the fact that the country is thus being split up by disastrous efforts of Government that you have a part of the land known as Hindustan. Perhaps you might have a part of land known as Muslimstan some time in history. [*An Honourable Member* : Parsistan.] Parsis do not want any separate rights for themselves. They can hold their own against anybody socially, economically and politically. If the same principle is adopted, the problem of representation of minorities will disappear. Because Government have not been sufficiently reasonable, it has given room for suspicion and fear. All this fear and suspicion will be demolished by the revolutionary method of giving the right of representation to the man who works and not to the man who is the capitalist, whether he be a Hindu or he be a Mussalman. Let not the Muslim capitalist stand up and say that that right should not be given to the Muslim worker. Let not the Hindu capitalist say that that right should not be given to the Hindu worker. Ultimately, there is going to be a fight between the capitalists and the labourers at one stage in the country's history. I think that fight can be avoided, if my amendment is accepted by the House. I think that the right of representation must vest in the hands of those who actually toil and produce the wealth of the country and not in the hands of people because they worship in a mosque or worship in a temple. If matters were allowed to drift in this way, there will be continuous struggle and fight. With these words, I commend my amendment for the acceptance of the House. Sir, you will agree and I hope I have been very brief in my remarks. (*Laughter.*)

Mr. G. K. PHADAKE (Thana South): Sir, in my amendment, I propose to substitute joint electorates for separate electorates for Mahomedans on a population basis. I am glad that my task has become lighter on account of the speeches that we have heard yesterday from the two Honourable Ministers. The Honourable Mover of this Bill has ably advocated joint electorates, and the Honourable Minister for Law and Order has explained to us that local board administration admits of no communal feelings. There is no question of politics and there is no question of religions in the working of these administrations, and there is going to be a change over the communal parties. Exactly for these reasons, I propose my amendment. I am glad to tell you that the president of my district local board, a Mahomedan gentleman himself, elected by a Mahomedan constituency, has given opinion that there should be joint electorates for the local boards. [*Hear, hear.*]

Khan Saheb FAIZ MOHAMED KHAN: On a point of order, Sir. Is it relevant?

The Honourable the SPEAKER: It is relevant.

Mr. G. K. PHADAKE : There are many Mahomedan gentlemen of this opinion in the mofussil. They do not know how these separate electorates were introduced. The relations between the communities in the mofussil are more cordial than we imagine. They have to come into contact in various walks of life, and, therefore, they believe that their interests are common as far as public questions are concerned. And that is why I propose this amendment.

Apart from these considerations, I put some practical points in favour of this amendment.

My first point is that separate electorates are more expensive and more troublesome to manage. Separate electorates cover a wide area and the voters are diffused in distant localities. So, a candidate in a separate electorate has to undergo more expense and trouble than a candidate in a joint electorate with an equal number of voters.

My second point is that the Mahomedans are going to lose their proportion of strength if they do not accept joint electorates. There was the system of nominations, and on account of that system they used to get more representation than was strictly allowable to them. I shall illustrate my point by citing the example of my board, the Thana district local board. This board consists of 36 members, out of which 27 are elected and 9 are nominated. Out of the 27 elected, one goes to the Mahomedans. Now that the nominations are to go, there will be 36 members on the board and the Mahomedans will only get one seat. Formerly, there were three Mahomedan members on the board, one elected and two nominated; so that, the proportion was 1 : 12. Now, that proportion will be reduced to 1 : 36, and the reduced proportion is going to be constant and it is not going to be changed. So, I think in their own interests the Mahomedans should accept my amendment. There are many Mahomedan gentlemen who would be returned by general constituencies. In that case, they would get the reserved seat, and in addition some more seats. For these reasons, Sir, I have put forward this amendment, and I hope that on account of the abolition of nominations Mahomedans will give due consideration to my amendment.

The Honourable the SPEAKER : The honourable member has not moved his amendment. Will he move it ?

Mr. G. K. PHADAKE : Sir, I move that in section 4 of this Bill, the word "Muhammadan" should be dropped. If the amendment is accepted, the amended section 6 (1) will read thus :

"The elective members of local boards shall be elected by general constituencies...."

The Honourable the SPEAKER : The honourable member's first amendment is :

Delete the words "and Muhammadan" after the word "general" in the second line of section 4, sub-section 6 (1).

That is one. Now, the other one will be No. 9.

Mr. G. K. PHADAKE: No. 9 and the others are consequential amendments. If this amendment is accepted, then there will be reserved seats for Mahomedans. So, in section 6 (1) to be introduced by clause 4, after “(i) Harijans”, “(ii) Muhammadans” will be added.

The Honourable the SPEAKER: That will be moved now.

Mr. G. K. PHADAKE: Sir, I move—

Add “(ii) Mohamedans” after “(i) Harijans” and renumber the following clauses accordingly in clause 4, sub-section 6 (1) (a).

The Honourable the SPEAKER: The honourable member has moved No. 9. All the other amendments that he has may be moved now.

Mr. G. K. PHADAKE: Amendment No. 12 is:

Delete sub-clause (2) of proposed section 6.

Amendment No. 16 is:

Delete sub-clause (3) of proposed section 6.

These are consequential amendments. I move them.

The Honourable the SPEAKER: Then, amendment No. 19.

Mr. G. K. PHADAKE: Sir, I move—

Delete (a¹) and (a²) of sub-section 2 of section 7.

These, Sir, are consequential amendments. If my first amendment is accepted, then all these will be consequential amendments.

Mr. ISMAIL I. CHUNDRIGAR (Ahmedabad District): Sir, I move amendment No. 13, which stands in my name:

Delete sub-clause (2) of the new section 6 proposed to be substituted for the original section 6 by clause 4.

The Honourable the SPEAKER: The honourable member's amendments Nos. 13 and 17 are identical with the amendments Nos. 12 and 16 formally moved by the honourable member Mr. Phadake.

Mr. ISMAIL I. CHUNDRIGAR: Sir, the honourable member Mr. Phadake has moved his amendments with a view to have a result, directly opposite to the one that I have in view. He wants to have joint electorates for all including Mussalmans; while I want to provide separate electorates for Mussalmans without even an option to the Mussalmans of any particular constituency to abolish separate electorates and have joint electorates. Therefore, my submission is that my amendments may be considered as a batch by themselves and I may be allowed to move them separately.

The Honourable the SPEAKER: The amendments will be voted on separately. The object with which a particular amendment is moved will be of no consequence. I am going to place each of the amendments separately for the vote of the House, and whatever be the object of the mover in moving a particular amendment, it is open to the House to accept or reject any or all of them. So, the difficulty pointed out by the honourable member will not arise.

Mr. I. I. CHUNDRIGAR : Mr. Speaker, Sir, I sent in notice of the three amendments which stand in my name for the purpose of deleting the provisions which propose to give an option to the Mussalmans of any particular constituency in the Province to determine whether they will have separate electorates or not. Sir, it has been a great surprise to me that such a provision should have been introduced in this Bill by the Honourable Minister in charge and that the same principle should have been supported by the Honourable the Home Minister when both of them made certain admissions which, as I shall show hereafter, conclusively prove that the incorporation of the option clause in the Bill will have a very mischievous effect. It was conceded by the Honourable Minister Mr. Patil that we will have to wait till doomsday before the Mussalmans themselves give up separate electorates and desire to have joint electorates. That was his opinion.

The Honourable Mr. L. M. PATIL : I have not said so. Those were not my words.

Mr. I. I. CHUNDRIGAR : If it is so, I stand corrected. I now remember that it was said by the honourable member Mr. Karandikar. But it was distinctly stated by the Honourable the Home Minister that this was a clause which very few people or none at all would take advantage of.

The Honourable Mr. K. M. MUNSHI : For some time to come.

Mr. I. I. CHUNDRIGAR : Yes ; and so for some time to come there is no need of this option clause. By making provisions in the Bill, which ensure separate electorates for the Mussalmans, I think an admission is made by the mover of the Bill that under the present circumstances separate electorates for them are a necessity.

Separate electorates give the right to a minority community to select its own counsel or advocate who will place its case before the House. It is but natural that so long as a feeling of mutual trust and goodwill does not exist, the counsel should be selected by the party whose case is to be represented. It was stated by the Honourable the Home Minister that we should put in such a clause in order to see that Mussalmans have a voice in the selection of Hindu representatives and Hindus have a voice in the selection of Mussalman representatives. As a matter of fact, with a population of nearly 9 per cent. in the Province, the Muslim voice in the selection of Hindu representatives will be almost negligible, while the voice of the Hindus in the selection of Muslim representatives, with such a huge majority behind them, will be so powerful and decisive that it is possible that in certain contingencies mere puppets or men of straw may be put up by them, who will support their own case, and not represent the Muslim case at all. It is to guard against a policy of that type that separate electorates are regarded as a necessity at the present time. That is why the Bill provides for separate electorates for Mussalmans. In view of this, I expected that this question will not be referred to at all and that the option clause will not be moved at this stage.

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Sir, as the Honourable the Home Minister candidly admitted, this is not a small question. It is a great political question. It is not even a provincial question; it is an all-India question. I entirely agree with him when he says that it can only be tackled by mutual understanding and by mutual settlement. I submit that the introduction of such a clause is likely to postpone the day of settlement rather than bring it nearer. Let us remain where we are at present. Let us rather strive, as the honourable member Dr. Ambedkar put it, to create a better feeling between the two communities by our conduct, let us behave in such a manner that each community may trust the other so that the necessity of having separate electorates may vanish. But so long as we find that even attempts are being made, as my leader put it yesterday, surreptitiously to introduce an option clause of this nature, I am afraid the day of understanding is put off. As the Honourable the Home Minister himself said, for some time to come very few people or none at all will take advantage of this option clause. If that is the position, I put it to the House whether this is an opportune moment when a clause of this type should be introduced in a Bill. I venture to say that it will open up an avenue for a lot of intrigue. In a particular constituency Muslims may be induced—by persuasion, threats, or certain baits, as was done in some other cases—to agree to abolish separate electorates in their own constituency. But that is not the way in which a major problem of this type can be solved. The only way in which it can be solved is, as the Honourable the Home Minister suggested,—although he did not want to put it into practice—for us to arrive at a settlement of an all-India character. The mover of the Bill also said that if the minority wanted to protect its rights, it must join the party which was in the majority. I differ from him. So long as the majority party does not treat the minority party with the fairness with which it should treat it, the only way in which the minority party can protect itself is to have its own representatives, who will at least have the satisfaction of presenting the case of the minority party in a proper manner and exposing the manner in which the majority party wants to take undue advantage over the minority.

The Honourable the Home Minister also said, in reply to the remarks of the honourable member Mr. Karandikar, that the Congress attitude towards the Communal Award was well known. He rightly said that the Communal Award should not be touched except by mutual understanding. I submit that the option clause which is introduced into this Bill goes against that attitude and policy of non-interference with the Communal Award until the substitute is mutually agreed upon. Unless there is mutual agreement, the introduction of this option clause into the Bill will amount to a violation of the principle on which the Communal Award is based, and with which the Congress has agreed not to interfere.

I would, therefore, suggest to the Honourable Minister in charge of the Bill to drop the option clause. As the honourable mover and the

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Honourable the Home Minister are both agreed that for some time to come at least this clause is not likely to be made use of, there is no reason why it should be incorporated in the Bill at this stage and an unnecessary suspicion created in the minds of the minority that undue advantage may be taken of the existence of such a clause to induce a particular constituency to exercise the option by unfair means. Sir, I will give

3-30 p.m. the very instance which was cited by my honourable friend Mr. Phadake when he proposed his amendment. He said there was a Mussalman President of his own Local Board who had recommended that joint electorates should be introduced. Now, we can understand the position of a Mussalman President of a Board, 33 members of which belong to the other community and only 3 members belong to his own community. In order to get the Presidentship, it is possible that he had been induced to take that view.

Mr. G. K. PHADAKE: Sir, the opinion of the President was individual and the Board consists of 3 Mahomedans and 33 non-Mahomedan members.

Mr. I. I. CHUNDRIGAR: Sir, that is exacty what I said. In a Board of 36 members in which there are only 3 Mussalmans, the President has to rely on the support of the 33 non-Mussalman members. Otherwise, he has to sacrifice his Presidentship and give his candid opinion. It is possible, I say—

The Honourable the SPEAKER: The President of the Board is absent.

Mr. I. I. CHUNDRIGAR: Sir, I only said it is possible. Those are the words I used, and I took the case as a hypothetical instance. In fact, there may be several instances where methods of this type may be adopted, and what I submit is that we should not open out an avenue for the use of such temptations or any other methods in order to induce any particular constituency to abolish separate electorates. Then there is another important thing. Supposing that one constituency is induced to agree to abolish separate electorates, and to have joint electorates instead today, but after 2 or 3 years that very constituency gets a bitter experience of the working of joint electorates, finds out its mistake and feels that they were misled in agreeing to have joint electorates, is there any provision in the Bill which gives a right to that very constituency to revert to separate electorates? I find none. This shows that the option clause has not been framed in a manner fair to the minority. I therefore oppose the option clause especially as it is not likely to be made use of for some time according to the Honourable the Home Minister. I therefore submit that the option clause should be omitted and that is my amendment.

Mr. K. S. FIRODEA: Sir, on the point of order with regard to the amendment moved by my honourable friend Mr. Jhabvala. Sir, you will find that this amendment wants to introduce constituencies which shall consist of peasants and workers, either intellectual or manual. What this constituency will consist of is not determined by section 6. It is

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determined by section 15 and as long as section 15 remains the same, and as we are not going to take away the rights of those persons who get the right of voting under section 15, this amendment, I submit, will not be in order.

Mr. D. W. RAUT: Sir, I have a point of order. The definition of the word "peasant" is not given in the amendment, and supposing the House passes this amendment, whom are we to call a peasant?

The Honourable the SPEAKER: Difficulties of interpretation and difficulties of classification or qualifications as mentioned by the honourable member Mr. Firodea are of a different nature altogether, and they will not cover the consideration as to whether a particular amendment is or is not in order. It is possible to assume, for the sake of argument, that the peasants and workers who are mentioned there may have the necessary qualifications described in section 15. Whether it will be workable in practice or not is quite a different matter.

Mr. K. S. FIRODEA: Sir, my submission is that if this amendment "Constituencies which shall consist of peasants and workers either intellectual or manual" is accepted, then those who have a right to vote under section 15 will be excluded.

The Honourable the SPEAKER: That does not seem to be the real significance of the amendment. It says that the constituency shall consist of peasants and workers, either intellectual or manual, and I suppose every one of us would even be included under the amendment.

Mr. K. S. FIRODEA: Sir, if it were to include everybody, then the qualifications mentioned in section 15 will be unnecessary.

The Honourable the SPEAKER: The amendment does not say that everybody will be included. It says: "Constituencies which shall consist of peasants and workers, either intellectual or manual."

Sir ALI MAHOMED KHAN DEHLAVI: And none other.

The Honourable the SPEAKER: It does not say so.

*Rao Bahadur G. K. CHITALE (Ahmednagar South): Sir, I rise to support the amending Bill and to reject the amendment of my honourable friend Mr. Jhabvala. I also rise to support the amendment that is moved by Mr. Phadke. I claim certain indulgence from this House because when this District Local Boards Act of 1923 was on the anvil it was debated and one of the clauses which caused us an amount of anguish was this clause about the separate electorates then given to my honourable friends, the Mahomedans. It was then hoped, and you will find that in the debates, that within a period of 5 or 10 years or even 15 years a contingency would be reached by which it would be found by actual experience that there was no necessity in this small measure or rural administration to insist upon the qualification and the separation of these different castes. As it is, we have found that then there was no mention in the Round Table Conference of any inkling of the new Act because we had just then begun the dyarchical form

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of Government. Sir, I wish to state on the floor of this House that all these years have rolled by and we had a flickering hope of joining together at the basis of the local self-Government which wields powers before vanishing into the thin air for some reason or another. I wish to state that several attempts have been made by introducing the Village Panchayats Act, by introducing the Village Sanitation Act, by which at least this quarrel would not be carried to the villages which is going to be the unit of administration in the present Government. It was only in the year 1936 that my honourable leader was in charge of this portfolio, the honourable member Sir Ali Mahomed Khan Dehlavi, who is the leader of the Opposition and when he carried his amendment and brought the franchise on the same basis as that of our present electorate for the Assembly, we know what difficulties he had to contend with and after all wisdom prevailed and we were able to carry that little reform which raised the platform a little more, because it enfranchised the population from 3 to 9 per cent. in the District Local Board area. After that, we had this Government of India Act and I had then stated in my speech, when I supported that amending Bill of my honourable friend, the honourable leader of the Opposition, that when under the new Government of India Act, instead of a few members sitting in this House, we would have 175 members chosen by the people themselves, things would move much better and the pace of reform would be accelerated in the right spirit. I know we are right in stating here that the better minds of the Congress Ministry, who have been now installed in the seven good provinces, thought that the patent ground was to insist at the lower rung of the ladder of this administration, to insist upon joint electorates and in case my Congress friends will search their hearts, they will find that at one time that was undoubtedly their ambition and I think that was the right ambition and the hope that was expressed in 1926 that after we come here in such a large number of 175, our hopes would be encouraged and the Ministry that would come into power would give us back our joint electorates and accord whatever was absolutely necessary in the lower rung of the ladder of this civil administration. I am really pained to find that even here, in such a small measure of local option, which has dealt to such a degree with very practical points of view, as my friend Mr. Chundrigar said, I do not think he rightly read the mind of the Honourable the Minister for Home Department that the instances will be very few if this local option is given. I have sat on these Boards, I have sat on these municipal boroughs for a number of years and I can claim to state with all the authority that I can command that the Muslims and those who want that particular water-tight compartment to be kept separate are doing a lot of injustice to their own community which is scattered and which is in a very small minority. As my honourable friend, Mr. Chundrigar, himself stated that even if we agree to give the Muslims all the weightage that they want, disproportionate to the population, where will they be in a Council of the Board wherein they

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will be 1 : 12 or 1 : 15 or 1 : 20 ? Unless and until—I wish that my argument is appreciated—unless and until you cast your lot with the majority population in the rural areas, your economic interest and my economic interest are one and identical. Just to give you an idea of what Sir Henry Lawrence said when this Bill was in the Council and was being discussed, he said : What are the matters that are being discussed and what are the matters that are to be decided upon by these Local Boards ? Roads and buildings, sanitation, village uplift, water supply, school education and so on and so forth. It may be, and I do say, that it may be that the interest of the Muslims, so far as the education in their own mother tongue is concerned, may be little divergent from the view which we would like to take. A long experience of so many years however has convinced me, that ought to convince them at least, that as a matter of fact, the larger majority community in no Board of which I can take cognisance has done the least injustice so far as this question of education in the mother tongue is concerned. I stand here to contradict him in that particular statement and I am sure that so far as I was concerned, even though the Muslim members were fewer than what they are now, I have done my best to advance the interests of the Muslims even to a larger extent than I could, even with the restricted powers that I had. Let it be granted, therefore, that with a minority which is too insignificant to have the slightest pressure on the major community in a Board, I think you are doing a lot of injustice to your fellows. Your Muslim population in the district is scattered and, under no circumstances, I must say, the desired objects which you have in view will be achieved. I wish also to present another picture of the electorate when the Muslim constituency is delimited, you will find that it is all over the district and I know, and everybody knows, what it means. How to travel, how to get hold of your voters, at what expense and at what mental anguish ? And is it or is it not desirable from a practical point of view to have a reservation and a weightage in order to make your voice felt on the whole and see that even in a single constituency your members are returned so that you may be able to obtain your voice ? Can it be said by the honourable member Mr. Chundrigar that if he had moved in his district with the members that have been returned, if they had not the power of the purse they could have been returned ? If so, where are the poor people to come from, if they are not able to have all the tactics of the electorate ? May I give him one instance that we have one M.A., LL.B., a practising pleader at Sangamner, who has been trying to get in these Local Boards for a number of years ? You cannot say that he is incompetent. You cannot say that he cannot do justice to the various interests which will come before the Board for consideration, but such a man cannot find a place. He is a true Islamic fellow. He prays to God four times every day, but even that man is not able to find a place in the local board. Why ? There are a thousand and one difficulties in getting a man of that type, a very desirable addition to the board's administration from every point of view, and I believe, Sir, that with the joint

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electorates introduced even in this optional manner, I am quite sure that in the taluka wherein he has made a name it will be possible to have that optional electorate and they will get a much better man, who will be able to represent the interests of the Muslims much better, much stronger and from the real nationalist point of view.

An Honourable MEMBER : Question.

Rao Bahadur G. K. CHITALE : You may go on questioning, but I know that you have been able to make quite a good thing of it all these many years and that you have been fed upon the power that has been growing every year from the year 1906 and I am quite sure that unless a stop is put in somewhere, I know that you will go on asking, like Oliver Twist, for more and more and be never satisfied.

Mr. MUSAJI PATEL : We demand it.

Rao Bahadur G. K. CHITALE : I do say, therefore, "Do not look at this alternative or optional clause which has been put into the Bill from that narrow point of view." I am really sorry that my honourable friend seems to have succumbed to this narrower vision and is not looking at the matter from the larger national standpoint which we all expect from the honourable member the Leader of the Opposition, but that is always the fate of all men, that when they enter a party they become slaves of that party. I am not surprised. I myself have become a slave to my party. But I do say that after all, Sir Ali Mahomed Khan Dehlavi, when he was with us in that higher spirit, has lost or is likely to lose that higher spirit, and, therefore, I am appealing to his instinct having regard to the actualities, the practical side of it, whether he will not open a little door by this option, this local option, to allow people to come in. It may mean that in that process he may not succeed in having his type of men, and I am perhaps afraid that he feels—I must say what I do feel—that this Muslim Mass contact business of the Congress is going to be the ruin of all and naturally, therefore, he is afraid even to have a little door ajar so that the right kind of the Muslims could slip in. I do beg of him, I do beg of him, I do beg of him, Sir, and say that he might look at it from that point of view as far as he could and I would take his own simile and beseech him to look at the bear in the light of that simile, viz., one brother of his was caught in the floods while the other brother was shrieking from the bank of the shore and he was asking him to come out. He says "well, I am in possession of the bear, and how can I?" I will present him the same simile which he presented to us when he wound up the debate in 1936. It is a bear, a black bear, and I am quite sure both brothers, Hindus and Muslims, who are now trying to be on the opposite banks, will do well soon to make up their minds to leave that bear altogether and come together, and the sooner they do this the better it will be for the administration.

Then, to come to the next point, Sir. The Honourable the Minister in charge of this Bill deserves some small practical sympathy from this side of the House. Why? Every one of us from the year 1922 onwards has been against this nomination, and you know very well how this

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power of nomination was being abused to turn a majority into a minority and a minority into a majority, and, therefore, you cannot come against this power being taken away so that really good persons who are interested in the electorate might be elected. To that there could be no objection.

Then, there could be nothing said so far as we can see against the present Bill being only a piecemeal legislation. That objection raised on the floor of this House has no substance. A big Act, after a long debate of 15 to 20 days, was enacted in the year 1922-23. Not only this one Act but several Acts of this legislature have been amended by small, smaller and smallest Bills of this nature whenever it was necessary that an enabling Bill or an amending Bill should be introduced. The Government made up its mind to abolish the policy of nominations. As soon as they made up their mind about the abolition of nominations, that could only be done by an amending Bill to achieve that one particular object. That does not mean that all the rules, that all the other sections, all the other administrative measures were generally to be read along with it, and from that point of view, you will find that the arguments of the Honourable the Home Minister were right and should be appreciated by the whole House. It was said that this measure is a half-hearted, halting measure, that it does not as a matter of fact give us the whole picture. I agree there. So far as this particular amending Bill is concerned, we have not got the whole picture as to how and what the present Congress Ministry is going to do and to start a measure of rural uplift which will build up the village administration upwards, but we have been told by the Honourable the Home Minister that he has got all his Bills which will come up in the fulness of time, and I think surely we should have some patience. I am sure that if you look at it from that point of view, you would expect me to support the first reading of the Bill which I am going to do. I must add in conclusion that I am not speaking on behalf of my Party but I am speaking for myself. I have held very strong views on this point of joint electorates from the very beginning. I am not prepared to give them up for the sake of any Party or any Party connection.

The Honourable the SPEAKER: There are only one and a half minutes now. I think it is better that the House should adjourn now and resume at 4-30 p.m.

(The House re-assembled after tea at 4-30 p.m.)

Mr. A. E. SINGAPORI (Surat District) (*Addressed the House in Urdu*): Sir, the discussion about the relative merits of joint and separate electorates for the Hindus and Mahomedans has been going on for two days, and many amendments have been sent in on the question. I do not quite understand why joint electorates are so much insisted upon in preference to separate electorates. Sir, the Mussalmans in this Presidency are in a minority. This right of separate electorates was gained

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by the Mahomedans after their representatives went to the Round Table Conference in London and discussed this question of vital importance. Today, when we are enjoying this right, attempts are being made to deprive us of it. Up to now the Mahomedans have been getting representation through separate electorates. I do not see why the same privilege should not be continued to them now. Sir, the Congress have said that they attach equal importance to the rights and privileges of all communities, and the rights of no community will be in danger under their administration. If that is so, why should they insist so much upon having joint electorates? Sir, the minority will always be a minority, and therefore there is all the more reason to see that the rights of minorities are protected, and if any minority community is enjoying any particular right or privilege, it is necessary to see that that is continued to them.

Sir, there is enough evidence to prove that joint electorates do not always give the minorities the representation which they are entitled to. It has been found by experience that in Bihar in municipal elections where they had the system of joint electorates, not a single Mohomedan was returned. I cannot just at the moment recollect where this fact is to be found published, but there is no doubt that it is a fact. If the Mahomedans do not want joint electorates, why should they be forced on them with the help of the majority that the Government possess? I think it will not be right to do so. If due to joint electorates the Mahomedans do not find proper representation in the local bodies, their rights will be in danger. On the other hand, if there are separate electorates, the minority community will be satisfied that they have been able to send representatives of their own choice to support their cause. I therefore hope that the Congress Government will be generous enough to look to the interest of the Mahomedans and reject the principle of joint electorates.

Mr. MIRZA AKHTAR HASAN (Seamen's and Dock Workers' Trade Unions): Sir, I rise to support the amendment of the honourable member Mr. Chundrigar, and I wish to make a few observations. In the first place, the whole basis of the argument seems to be fallacious. The very principle underlying the local boards and municipalities, what we call local self-governing institutions, is foreign. It is a principle which has been forced upon us, and it has been borrowed from the Continent or from other parts of the British Empire. We find that these principles have been introduced from time to time from 1863 right up to 1915, till we had the Montagu-Chelmsford Reforms. From time to time we had been imbibing these principles, and in the smallest possible means these dribblets had been coming to us. Certain powers had been delegated to the Indian people, however negligible they may have been, so that they may have some share in the administration. Therefore, the guiding principle in such matters will be Government of India Act. And so long as the communal award stands, we cannot change the principle in working details.

[Mr. Mirza Akhtar Hasan]

Now, Sir, once the principle of the communal award has been admitted if we were indirectly or directly to contravene the provisions of the communal award, then it would amount to this, that we are going to have a structure without a foundation. I am much indebted to the Honourable Home Minister for candidly saying that there is no sinister motive behind the Bill. He said that they were going to give the most ordinary common thing to the people in the local bodies. Allow me to say that I am equally indebted, even more indebted, to my honourable friend Mr. Karandikar. It is unfortunate that, so long a gentleman of that view exists in India, the Mussalmans will have no confidence in their sister community. My statement requires no further proof. Such people have unfortunately thrown us into despair and we feel that we cannot repose confidence in any other community except in ourselves. Now, Government have stated that they have no sinister motives and I appeal to them to translate their intention into action in the interest of Muslims by embodying in the measure the principle of separate electorates. Why should they give a thing which we ourselves do not want? I appeal to the Congress Government that this will be the most opportune time for them to prove by their action that they do not want to force anything against our wishes. This will be the most practical proof on the part of the Congress Government that they have no sinister motive in moving this Bill.

Then, Sir, I do not want to go into the details of what has been stated both in favour and against this Bill. For one thing I congratulate the Honourable Minister on his doing away with nomination in local bodies. This reform was really long overdue and the credit goes to the Honourable Minister. So far as that part of the Bill is concerned, we are at one with him. The second thing is this. Though this will not be the proper time to say that, let me tell you, although I do not associate myself with people who hold that view, the fact remains that Mussalmans have no confidence in such people who give out such things and the proof for it we have seen to day. This morning, when I took out the papers from the pigeon hole, I saw a press note stating that Mr. Aziz Laljee has been appointed a member of the Primary Teachers Training Advisory Committee. Is it because that he is a young man who has just returned from England? Has he any views on the question of training primary teachers? I can challenge that gentleman. He knows neither Urdu nor Hindi. There are well-known gentlemen like Mr. Killedar, Mr. Bawla who is a member of the school committee, Shafi Tyebji and Mr. Ali Bahadur Bahadur Khan. They have all been ignored and Mr. Aziz Laljee comes in. Is it a reward for presiding over presentation of address to Congress Minister? That is how honour and high distinction is distributed. I may tell you that these are the matters which call for an immediate attention of the Government, because people feel that places of honour and distinction can be had by resigning from Mu lim League.

The honourable member Rao Bahadur Chitale and the honourable member Phadake were prepared to give us a certain number of seats

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with weightage. We do not want the number as we have known what it is. We have to live in India and we have to rely not on the number, but on the genuine type of people to represent us. If in the House consisting of 175 there is one of our men, he must be our man only in voicing our views. That is the type of people we want. We do not want representatives who accidentally happen to be Mahomedans. We want Mahomedan representatives who really enjoy the confidence of the Muslim public. This is the most opportune time for Government to show their good-will and win the Muslims to their side. The communal question has to be decided by both the communities and until the question is amicably settled by both the communities the communal award must stand. In the interest of both the communities, I think that it is better not to disturb the arrangement made until we come to a final settlement on the question once for all.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District) : Mr. Speaker, Sir, I rise to support the Bill as moved by the Honourable Minister in charge of Local Self-Government. I had no intention to take part in this debate at this stage, but I am forced to say a few words by some remarks that were made in the course of the debate by some honourable members. Sir, the point at issue is not one of separate or joint electorates in all its bearings. Therefore, I shall make only a passing reference to this question. Unfortunately, this question of separate electorates in our Indian politics was introduced, not because of any genuine demand from the Muslim public, but it was introduced by what I may call the result of a "Command performance" staged before Lord Minto by those who were set up by the Imperial power. From that time onwards, India has been politically divided into water tight compartments with the result that it has hampered the political progress of the country as a whole and of Mahomedans in particular. This is a pernicious principle which should be condemned not only from an Indian national point of view but more so from a purely Muslim point of view. My honourable friend Mr. Chundrigar and again my honourable friend Mr. Mirza Akhtar have just now pointed out that in all local bodies we want those who can speak for "us" and who can voice "our" sentiments. May I ask these honourable members what they mean by "us" and "ours"? In these local bodies, what will be the purpose of the candidates for which they will go to these boards? Will they go there to fight for Islam? Will they go there to decide the question of prayers and mosques and such other religious things? They will go there to decide the question of lighting roads, primary education and such other subjects in which there cannot be any division of interests on communal basis. I beg to submit that the very premises of opposition argument are wrong and faulty, because those people who go there do not go there to decide any religious issue, because there are no issues involving religion coming up for discussion in those bodies. I do admit that once in a way, once or twice a year, some questions may arise involving religious principles, but that is only once in a way. From

[Mr. Ali Bahadur Bahadur Khan]

my experience, I might say that it is only one in one hundred. Out of the thirty days that you sit there, perhaps only on one day you discuss questions in which you can never introduce communal considerations, on which you can never utter the word "Mussalmans" or "Hindus". Supposing there is a question of slum clearance; supposing there is a question of lighting; supposing there is a question of roads, dispensaries or water supply; on these questions, will you say that we should have separate dispensaries for Muslims, separate roads for Muslims? Will you say, on a question of road making, that roads approaching a village should be separate for Mussalmans and for Hindus? The whole question of separate electorates is an artificially created one. Although, after Lord Minto's days, it has come to stay in the politics of India, fortunately we all recognise and admit that it has come to stay not for all time but only temporarily. I think even those who are enamoured of the communal award and talk of the communal award in place and out of place and in season and out of season, even they admit—they have admitted times without number—that there would be a settlement and the communal award is only a temporary decision. And what does the Bill say? Giving an option as it does, I think the Bill satisfies the conditions underlying the communal award. The Congress policy on the question of the communal award is the only practicable and right policy. However much we might differ on the question of the communal award, however much we might dislike its provisions, we say that it is a matter of negotiation between the two communities. Now, do not extend this pernicious principle even to the local boards and other departments of life. Do not extend it, because religious questions do not arise in local boards—at least they do not arise frequently. Once or twice a year if a question arises, you should not mind that. Again, it is not, I submit, an all-India question, as has been made out by other members of this House—

Mr. MIRZA AKHTAR HASAN: It was admitted to be so by the Honourable Minister himself.

Mr. ALI BAHADUR BAHADUR KHAN: If it had been an all-India question, we would not have had joint electorates in the Bombay Municipal Corporation. [*Interruption.*] Give me an instance where the Mahomedans have protested against the system of joint electorates prevailing in the Bombay Municipal Corporation. I have never heard a protest; I have been a member of the Bombay Municipal Corporation, and I have never come across Mahomedan Councillors who have protested against the system of joint electorates prevailing in the Bombay Municipal Corporation. In fact, the experience of this very city shows that the Mahomedans have gained by the system of joint electorates; they have always gone to the Corporation in greater numbers than are warranted by the basis of their population.

Mr. MIRZA AKHTAR HASAN: Your second election!

Mr. ALI BAHADUR BAHADUR KHAN: I do not follow what you mean.

Mr. MIRZA AKHTAR HASAN: Your second election to the Municipal Corporation.

Mr. ALI BAHADUR BAHADUR KHAN: What about the second election?

Mr. JAMNADAS M. MEHTA: You failed there; that is what he implies.

Mr. ALI BAHADUR BAHADUR KHAN: I failed? But I passed in the Assembly elections. I failed in the second election because it had taken a communal turn. But, when I had succeeded in the first Municipal election I had the support of many non-Mahomedans; the whole community of Sikhs had supported me.

What I want to emphasize is this: that so far as the local boards are concerned, you cannot bring in the question of the communal award. If you go on extending this pernicious principle even to local boards and municipalities, then certainly the situation that has been pointed out by some members will arise, namely, that you will have to wait till doomsday. But if you proceed on diplomatic lines, as is done in this Bill,—

Mr. SHAIKH MOHAMAD HASAN: Mr. Speaker, Sir, may I know what the honourable member means by “diplomatic”?

The Honourable the SPEAKER: The honourable member will proceed with his speech.

Mr. ALI BAHADUR BAHADUR KHAN: Might I inform my honourable friend that by “diplomatic” I mean that we have to solve the question in the manner it deserves; if you admit that the communal award on the question of separate electorates is a temporary one, then you have to consider the lines on which the problem can be solved. Diplomacy demands that the doors of settlement should not be banged. The diplomacy should result in joint electorates, because that is our goal. You cannot allow this pernicious principle to be there for all time. I do not think even the Moslem League has that point of view. People’s views change; and therefore the principle of separate electorate cannot be a principle recognised for all time. The instance of the president of the Thana District Local Board, that was quoted by some honourable member, is one to the point. I might enlighten this House that that gentleman, the president of the Thana District Local Board, who has sent his opinion in favour of joint electorates, was a candidate on behalf of the Moslem League on the Moslem League ticket in the last general elections. Evidently opinions are changing, and they may change in some particular locality.—

Mr. MIRZA AKHTAR HASAN: Sir, on a point of information. May I know whether that opinion was sent in after the result of the election was known, or before that?

The Honourable the SPEAKER: I would request the honourable member speaking not to enter into these details, but confine himself to the principle of the Bill.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I beg to submit that I am entitled to answer these attacks. I would say that Khan Sahab Divkar—that is the name of the president—must have believed in separate electorates, otherwise he would not have got the Moslem League ticket. What I want to stress is this that opinions are changing in these days, and it is possible that the Mussalmans of a particular locality may decide, say, after 6 months, one year or 10 years, that it is to their advantage, and in their interests, to change from separate electorates to joint electorates. Why do you not give them an option ? Why do you compel them against their wish, against their best interests, they are the best judges to decide what is in their interests and what is against their interests—why do you compel them to continue to run elections on the system of separate electorates ? I think I might inform the House why some of the so-called leaders of the Muslim community are so keen for separate electorates. The fact is that they are afraid in a system of joint electorates they might lose their seats, and they might lose their leadership, because their leadership is based on the fact that the election campaigns are carried on on communal lines. I have never heard politics on communal platforms [*Interruption.*] They never talk politics, and why should they ? Just conceive of people, enlightened people, saying that in a local board we want a representative who will voice our feelings, the feelings of Islam ! I am a Muslim, and I shall fight where it is a question of Islam. I have shown that I can fight, and I still have got that spirit. But where is the question of Islam in these bodies ? Where is the question of Islam even in this Assembly ?

Mr. JAMNADAS M. MEHTA : That is the point.

Mr. ALI BAHADUR BAHADUR KHAN : For thirty days we assemble and discuss questions of common interest. Of course, for one or two days in a month a discussion is raised more often artificially, in order that some people may justify their representative character as Muslims. Only sometimes, of course, the question does arise in its natural course, because there are certain differences.

Mr. MIRZA AKHTAR HASAN : So kind of you !

Mr. ALI BAHADUR BAHADUR KHAN : Sir, both of my honourable friends—Mr. Chundrigar and Mr. Mirza Akhtar Hasan—are lawyers. They say that they want some one who will fight their case in these bodies. Suppose there is a case entrusted to them in a law court and it is a question of some money being lent to some other party, and these honourable members have to appear in a court of law to recover that money on behalf of their clients, will they bring in the question of Muslims and Hindus there ? [*Interruption.*] The questions that will arise in local boards also do not admit of advocacy of religion. There you cannot say that you want a representative who will represent religious feelings. My honourable friend Mr. Jhabvala has advanced a point of view ; it is that point of view that must in the long run prevail. If you are not trained to appreciate that point of view, it is most unfortunate for India. But I hope we all agree that by and by we must develop

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that mentality ; and we can develop that mentality only by having the optional clause in the Act. It is a most moderately drafted Bill that should satisfy even a communalist point of view. What else do the communalists want ?

Sir, I may enlighten the House on the reason why separate electorates are advocated by communalists. I have fought elections. Being a poor man, I have had to adopt—

Mr. MUSAJI E. PATEL : Tactics.

Mr. ALI BAHADUR BAHADUR KHAN : Tactics which were based on teaching the electorates on right lines, because it was only by this method that I could get votes against those whose only tactics were to say on the platform, "I have got this mosque painted ; I have given so much money to this Jamatkhana ; I have given so much for this Idgha ; I have given this donation for this and that religious institution." These were their arguments, and they want that those elections should continue to be fought on the basis of such arguments. Such a state of affairs can be continued only if there are separate electorates ; because if there are joint electorates, they shall have to make an appeal which will have a bearing on issues of common interest. They shall have to put a programme before the electorates. When I fought the municipal elections I fought on the Congress Socialist ticket. We had to place a programme before the public. But they cannot, because their only slogan is, "We are Mahomedans ; therefore, we shall protect the Namaz." I had great difficulty in convincing the people that these questions would not arise in the House.

Khan Saheb FAIZ MAHOMED KHAN : And nobody listened to you.

Mr. ALI BAHADUR BAHADUR KHAN : From a narrow communalistic point of view some objection can be made on the basis of the communal award so far as it concerns Assemblies because it is a political question. But so far as local boards are concerned, it is not a political question at all ; it is a civic question. If you want to divide society, even in its civic life, into two watertight compartments, I think you are aiming at something very unnatural, which cannot stand for any length of time. You will have to submit sooner or later. And it is in this spirit that the option clause is added. Because you are going against nature, a time must come, sooner or later, when people must see things in their true perspective and must submit to the natural course that politics and civic life must adopt in this country. We are now living in very artificial and unnatural divisions. Those divisions must go, and will have to go.

One point more, and I shall have done. The argument has been advanced that they do not want joint electorates because the members who would succeed would be puppets or agents of majority and that they might get rewards. It has been said that rewards are being given to those people who resign from the Muslim League. I have no such instance before me at least so far as the Bombay Presidency is concerned. I do not know and I do not want to discuss about the other provinces, but

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so far as Bombay is concerned, I think it is a remark that ought not to have been made in this House. I would like to make it clear that there is no one in this House who has resigned from the Muslim League and received a reward.

Sir, this question is not an all-India one. In fact, in Sind and in some other provinces a move is already afoot for doing away with separate electorates. That move is made, not by Congress circles, but, so far as Sind is concerned, by those people who have always been anti-Congress. I believe a similar move will be made in some other province—perhaps in the Frontier Province—and the people in that province will adopt joint electorates and set an example for the whole of India, as they have done in so many other political and civic matters. So far as local boards are concerned, it is not only in Bombay, but there are several other places also where elections are going on on the basis of joint electorates, and there has been no protest from those places. Therefore, all this protest here is absolutely wide of the mark. It is based on self-interest, on the desire to keep one's position as a communal leader in society. The option clause that has been introduced in the Bill is the right one and deserves our wholehearted support.

Mr. S. H. PRATER (Bombay City *cum* Bombay Suburban District): Mr. Speaker, Sir, on behalf of the Progress Party, I rise to oppose the first reading of the Bill.

The Bill seeks to abolish the system of nomination and, ultimately, the system of separate electorates under which certain minorities secure representation in the local boards. The Bill proposes two alternatives. For the smaller minorities it proposes reservation of seats within joint electorates on a population basis; for Mahomedans it introduces the system of local option, with the ultimate object of replacing separate electorates by joint electorates.

Sir, the question of joint *versus* separate electorates has been debated and re-debated and discussed and re-discussed but it remains today a live and burning issue, in the country, an issue which has defeated all attempts at settlement. The British Prime Minister's Communal Award has provided the only *via media* out of the impasse; and the country today yet awaits a solution based on the goodwill and consent of all the parties concerned. If this Bill is an indirect approach to the settlement of that issue, then I say that it is wholly a wrong approach. It is even dangerous to the issue. To impose upon a community this Bill in spite of the opposition of its elected representatives in this House, will only increase animosity and postpone the amicable settlement which we all desire. Sir, eventually this issue will have to be decided not on the floor of this House but in the country. But what I submit is this that the majority community today has a greater opportunity of winning over the confidence of the minorities in this Assembly than it ever had. For, by its wise and prudent decisions this Assembly will contribute materially to the settlement which we all desire. But wise and prudent decisions do not imply riding rough-shod over the wishes of

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the minorities, but rather does it imply seeking every measure to alleviate and remove suspicion and mistrust to induce an atmosphere of confidence which would tend to an amicable settlement. Remember, the actions and decisions of this House will have their repercussions in the country and let not that reaction be such as will cause greater friction, but rather let it engender that understanding which is broad-based on confidence and goodwill.

Sir, another issue is the question of reservation of seats within joint electorates on a population basis. The Lothian Committee has indicated that population cannot always be made the basis of representation, because if such a criterion was universally applied, then there are minorities such as the one I represent, which would secure no representation whatsoever and, if Government wishes to secure representation of such minorities who have received representation under the Government of India Act, then it cannot always apply the principle of representation on a population basis.

Sir, I have tried to indicate some of the main reasons why we are opposed to the principles of this Bill. We are wholly in sympathy with the aims and objects of Government and its anxiety to arrive at a settlement. But we consider that the present measure is inopportune, because it makes no recognition of the actual conditions in this country and it endeavours to raise a super-structure upon a wholly insecure foundation. Sir, this Bill, if passed, will defeat its own objective.

For these reasons, we oppose the first reading of this Bill.

Khan Saheb FAIZ MOHAMED KHAN (Kaira District): Sir, I feel that an utterance is due from us. By "us" I mean the Muslim League Party. Sir, one honourable gentleman who rejoices himself to be called "Ali Bahadur Bahadur Khan" and who takes his name from "Hafiz", which means a person who knows Quoran by heart, has spoken against us, in spite of the fact that we, not only one, two or three of us, but all the elected representatives from the Presidency who form the Muslim League Party in the Legislature or the Assembly had expressed our definite view with regard to this Bill and the amendment that was discussed. He has in the name of Islam just because he happens to be a Mussalman, denounced us in a manner, which I am afraid, is certainly deplorable, and I take this liberty to defend myself in the House. Sir, I feel that members must not come here for ventilating their religious or communal feelings in a manner as has at times been done in the past. An honourable member yesterday called us whether we as Mussalmans—

The Honourable the SPEAKER: May I request the honourable member to speak on the question before the House and not to refer to personalities?

Khan Saheb FAIZ MOHAMED KHAN: Sir, other members did refer to personalities and I am trying to defend myself.

The Honourable the SPEAKER: Because mistakes have been made in the past, it does not mean that we should repeat them, or imitate those honourable members.

Khan Saheb FAIZ MOHAMED KHAN : I do not wish that anybody should imitate me, nor do I wish to imitate anybody. I will say what I have to say and that will be because I have the right. Sir, the honourable gentleman told us that we were living in a fool's paradise, and I doubt this. He has discovered this fact. He has taken long years to find that out. The whole of the Spanish world was jubilant when Columbus discovered America. The whole of the Mahasabha world was jubilant this morning when the article appeared in the honourable gentleman's newspaper that Mr. Karandikar made a speech in which he denounced the Muslims in this manner. Sir, I must give him the credit that he has not only discovered a fool's paradise but also Muslim community in it. I am asking him, has he discovered the fool? Sir, I have found him, but I am not going to say who he is. I leave it to the imagination, and we begin from this day when it is the part of the duty of the majority party to listen to these arguments on a question which the Honourable Minister for law and order had said had nothing to do with the major question in the country. It was a minor Bill, a small Bill which was ushered in by the Honourable Minister for Local Self-Government. My leader has expressed his definite views on the question. But, now there seems to be somebody else who is claiming to speak on behalf of us, i.e., Muslims. Sir, I cannot apologise for this because I have to say so, as lot has been said this morning on the question of the Mussalmans and their relative position in the political world. We are not asking anything on communal lines in this manner nor do we win over people by sentiments. Sir, if anybody has really gone, as my honourable friend Hafiz Ali Bahadur Bahadur Khan says, to ask for money required to whitewash some mosque, I must say that the persons who had approached the man, and the man himself must have been of the same category, who have really no right to speak on our behalf, or for Islam, or for the interests of the Muslim world, or even for the majority of the Mussalmans. Sir, I am afraid I must agree with you that I have expressed my views somewhat in a passionate manner. I admit I had to be so in view of the speeches which have been allowed to be made. Sir, I resume my seat.

Mr. K. S. FIRODEA (Ahmednagar South) : Sir, I am really surprised to find that such a simple and an innocent Bill should have evoked such large opposition from the Opposition Benches. If we were only to look at the two opposite ends of the Opposition Benches, to hear their speeches, look at their amendments, we would have been convinced that the Bill which the Government has introduced is the proper Bill. Look at the amendments, look at the speeches from one end to the other. They are as opposed to each other as the two ends themselves. [An Honourable Member : "Are they?"] Therefore, it is really that this modest Bill has been introduced at this juncture by the Government. What is this Bill? I have carefully listened to the speeches of honourable members. This is a Bill which is intended to remove nominations. Not one member has so far opposed the principle of removing nominations. I could not really understand what the honourable member

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Mr. Prater meant. He did not definitely say that he was against removing nominations. He only wanted to say that the rights of the minorities should be safeguarded. Now, if we are all agreed that the principle of nomination should be removed what then is this Bill going to do? This Bill, when it removes nomination incidentally does those things which are necessary, which were being done before this nomination principle was removed by a piece of legislation. What was being done previously? Rights of minorities were safeguarded by nominations. Nominations were given to Mahomedans, nominations were given to other minority communities who could not be represented by election. Now so far as the argument of the Muslim Group is concerned, they are very vehement. They say: Do not disturb us, let us have our separate elections as they are. My humble submission is: Look at the Bill. What does the Bill say? Does the Bill remove your separate electorates? No. It is keeping your separate electorates, as they are. It is only giving you an option. No concession is taken away from you. The option is given to the minority community by a unanimity or by majority to seek or ask joint electorates. If those leaders of the Mahomedan community are not confident of their own followers, they might become suspicious, but if they are quite confident of their own followers, if they think that the Mahomedan public will be always after them, what fear is there for them when this option is given to the Mahomedan community. But my humble submission is that this Local Board affair, as has been put by the Honourable Minister for Home Department and several other members, is really a family affair. It is an affair which we people living in the district, can manage among ourselves. In this family affair, it is not necessary at all to introduce all these big questions. When we are arranging our own family affairs why look at this question from this particular point of view. Only look at it from a family point of view. Supposing two brothers living in a house think of compromising their own quarrels, if they embrace each other. Why should there be insistence on some members sitting here if they are not sure of their followers? If those persons ask for joint electorates, why should these people insist that they should not ask for joint electorates? The option is given to the Mahomedan public and it is given not only to the electors by the Bill, it is given to every Mahomedan who is of 21 years of age. Look at the broad option that is given to the Mahomedan community. It is under these circumstances I cannot really understand the position. If they really want to put the opposition simply because at one time they are trying to stick to this communal award or other questions, let them stick to it, but if they really want to see that our family affairs, as we always take these Local Boards or Municipalities, I think there should be no opposition of the Muslim community. It is our experience in the mofussil that when there were joint electorates in local bodies our affairs were very smooth. The outlook of the Mahomedan members who were

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ected by these joint electorates was an outlook which was a broad outlook, while what we find now after the separate electorate is that the state of things has changed and therefore I would humbly request Muslim members here not to press this point because after all the option is given to them. We are not taking away their rights.

Then coming to the argument of the leader of the Labour Party, Dr. Ambedkar, he said at the outset that he may not be against joint electorates, but all the same he said that some details are not provided for in this Bill. Some details, whether it should be by plural constituency or it should be by the particular constituency, he said, are not provided in the Bill itself. My answer to that is, really speaking, it is not an argument of principle. It is an argument of detail. I find that several amendments have been tabled to this Bill, but leaving aside that, what do we find? The way these people are standing to gain or lose by this Bill. If we refer to section 5 of the Local Boards Act, we find that formerly nominations were in the hands of Government. It was stated that the Government shall nominate one such member to be a member of the Local Board. So far they could get only one nominee on the Local Board from the scheduled caste. Now, when reservation of seats is given and when it is given on the population basis, I really cannot understand their opposition. Instead of one, even if we take my district, if it is given on the population basis—

Mr. D. W. RAUT: As it is reserved to the Harijans, the Bill does not say that it should be given on the population basis.

Mr. K. S. FIRODEA: My honourable friend is not correct. If he had read the statement of objects and reasons—

Mr. R. R. BHOLE: That is not part of the Bill.

Mr. K. S. FIRODEA: That really shows what is the mind of the mover of the Bill. Instead of getting one, they are really standing to gain six members in a small district like mine. Therefore, I cannot understand their opposition at all.

Coming next to the opposition which was moved by the honourable member Mr. Prater and the honourable member Mr. Raut, he stressed upon section (b) of clause 4. It says:

“unless the Provincial Government is of opinion that the reservation of such seats is necessary, having regard to the population of such caste, community or tribe in the area constituting the general constituency.”

His fears were that even in the case of these Harijans and these backward classes, the Government may not give reservation of seats. That is not so. If we really find that the provision that has been made is for this purpose by the Government of India Act, separate representation has been given to about ten communities. These ten communities are: The European community, the Anglo-Indian community, the commercial interests. These interests do not really figure, do not really exist in the population of the districts and therefore there is no necessity of safeguarding the interests of these communities or these

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interests. Then only Government will not think it necessary, otherwise when the necessity of any such community requires that they should be represented, that representation should be there. My submission is that when we look to the Bill as a whole, there seems to be no reason why there should be so much opposition at the first reading itself.

Looking to the amendments that have been moved by several honourable members, I find they are really cutting at each other's throats. All these amendments are such that they cancel each other.

Therefore, I oppose all the amendments and I support the first reading of the Bill.

Mr. D. N. WANDREKAR (Bombay City North and Bombay Suburban District): Sir, I rise to support the first reading of the Bill moved by the Honourable Minister for Local Self-Government. The Leader of the Opposition, the honourable Sir Ali Mahomed Khan Dehlavi, administered a sort of a rebuke to the Honourable Minister because according to him he is trying to solve the communal problem by this Bill when greater men than him have failed. I want to make it clear to him that not the greater but the smaller people will alone succeed in solving the communal problem and that not by harangues or speeches, but by concrete constructive work. The present Bill itself

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is giving an opportunity to the workers, to the small men, for doing concrete work which we want to carry on among the masses. I am aware that the masses as such have not got any communal mentality. If we approach our masses in the proper way and in the proper spirit, I am quite sure that they will give a proper response to the particular method now being initiated by this Bill. We were waiting for an opportunity of the sort provided for in the Bill. We will show and will show conclusively that the masses are for joint electorates, that the masses are for joint work in a truly national and non-communal spirit. This is what the Bill is meant for. I am not referring to the nomination side or to the Harijan side of the Bill. I am addressing myself only to the question of the provision regarding option to the Muslim friends either to have separate electorates or not, or rather to have joint electorates in supersession of the separate electorates if they so prefer. In support of what I have said, I may give just one or two instances from my own district. I remember a case which occurred soon after the introduction of the Montagu-Chelmsford Reforms. In or about the year 1921, a circular was sent to our municipality asking for its opinion as to whether the municipality would like to have separate electorates for the Muslims in their area. At that time, the present Municipal Boroughs Act was not passed and separate electorates for Muslims were not foisted upon the Muslims. In spite of the fact that there were joint electorates before this and that they had worked very well, this sinister circular was sent asking for the opinion of the local Muslim community along with the other communities as to whether the Muslims should have a certain number of seats with separate electorates. I may tell you, Sir, that we Congress workers,

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who have all along been working with our Muslim friends in many common matters, for instance, in carrying on the Khilafat agitation, got together our Muslim friends and placed these proposals before them and through them before the Muslim masses. I am glad to say that one of our staunchest workers Mr. Somji, the father of Mrs. Sofia Khan, came forward to lead the agitation against the sinister proposals and the result was that the Muslim community of Bandra unanimously rejected them and voted in favour of the continuance of the joint electorates. That was the way in which we worked then and we say that way is going to succeed even now. The same method of work is going to be provided for by this amending Bill. We want to show to the world, we want to show to our Muslim friends here as well as outside, that we smaller workers are capable of solving this problem in a different way from that in which it has been so far tackled by the greater Muslim Leaguers or so-called Muslim Leaders. I shall now come to the other instance. The last one pertained to the Bandra Municipality and the present one is in regard to our District Local Board. After the new District Local Boards Act came into existence with its provision for separate electorates a pitiable state of things so far as the Muslims are concerned arose in our Board. Ours is a small district and a seat has been reserved for the Muslims in the District Board. What do we find? Although it is a very enlightened district in general, not a single Muslim candidate has at times come forward to contest the seat and Government had to nominate a Mahomedan gentleman to that seat on more than one occasion. On other occasions the prospective President, who is interested to get a party for himself, would put up some unwitting Muslim friend for that seat which was always uncontested. This will show how separate electorates have killed the civic sense of the Muslims in the Bombay Suburbs. I am sure the Muslims of the Suburbs will be overwhelmingly for joint electorates if a vote is taken. I may mention that when the proposals for the reconstitution of the local boards recently circularised by the Government, were considered the Suburban District Local Board unanimously recommended the substitution of joint in place of the present separate electorates. The instance of Thana quoted by my friend the honourable Mr. Phadake and this instance will show how the wind is blowing and what the trend of public opinion is.

Sir, it has been argued that this question of separate electorates should be left entirely to the Muslims. This is what the Bill itself is providing for. Here are these local Muslims who are going to be given the option as to what they should decide. If they decide in favour of separate electorates, the separate electorates are there. If they decide in favour of joint electorates, they must have them by right. That is what the Bill is meant for. The argument that has all along been advanced that this question should be left entirely to the Muslims is thus conceded by this Bill which seeks to do that very thing through the local units.

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Sir, another argument that has been put forward is that the Muslims who will be represented under joint electorates will not be the true representatives of the Muslim community. I do not understand exactly what is meant by "true representatives of the community." After all—and it has been admitted here also—so far as local problems are concerned, there are no such things as Hindu interests or Muslim interests or any other communal interests, but they are all common interests such as, interests regarding roads or wells or dispensaries or public hygiene and sanitation which are common to all communities. All these matters are such that the people when administering them forget that they belong to a particular caste or religion. If this is so, I fail to understand why separate electorates should be insisted upon there in these bodies. We have already made a beginning in the direction of nationalism in place of communalism. We want to show that true nationalism prevails all over the country. That is why the Congress has initiated the Muslim Mass Contact Movement and the Harijan Movement and all the other movements. Similarly the ameliorative measures of the Government either inside or outside the legislature, must in the end do away with communal feelings and rouse the national or civic consciousness of the citizens irrespective of the community to which they may belong.

Sir, the idea of joint electorates has also been ridiculed by one or two speakers who were saying that a vote once given to a Mahomedan along with a Hindu is not going to solve the communal problem and is not going to establish nationalism. I really do not understand the meaning of this argument. The vote is no doubt given on one particular polling day but it is not the giving of the vote that matters. It is the whole psychology behind the vote that has got to be understood. The voters feel that they are a part and parcel of the same Nation, of the same body politic. That is the psychology behind that vote. When this psychology is created as we intend doing in the constituencies, joint electorates must logically follow. It is not the voting on that particular day which is going to bring about the desired result. The vote is the result of communal harmony and unity already achieved.

Now, Sir, coming to the question raised by the honourable member Mr. Prater regarding the basis for the reservation of seats for the minorities, we find the basis adopted in this Bill is one of population—and it alone is the correct basis. I really do not understand what other basis can there be. Even our Muslim friends have condemned weightage. For instance, our friend the honourable member Mr. Mirza Akhtar Hasan has I believe just said, that the Muslims do not want any weightage but what they want is true representation on the population basis. I think the same is the case with the Anglo-Indians and Indian Christians. If the honourable Mr. Prater had suggested any other basis and had asked for weightage, his suggestion would have been sympathetically considered. I do not mean that weightage may not be given. Weightage may be given if that is necessary, but so

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far as local civic matters are concerned, I do not see how the question of weightage can come in. That is why I submit that population alone should be the basis for the reservation of seats.

Coming to the question of the provision in clause 4, proviso (b) to section 6 (I), regarding the powers of the Provincial Government about reservation of seats, I may cite the instance of the Christian community in the Suburban District. I am quite sure my honourable friend Mr. Ferreira will bear me out when I say that the Christian community of the Suburban district and specially of Bandra is an enlightened community. But in spite of the fact that the Christians are in a minority, they have been able to secure a majority of the seats in the Bandra Municipality in successive elections. They have been carrying on the administration of the Bandra town for years together even though they have no reservation. The same is the case with the Suburban district local board. Although on a population basis they may not have more than one seat or at the most they may get two seats, still it will be found that they have every time been getting more than two seats, sometimes up to four seats. The question whether seats should be reserved for such a community must therefore be decided by the Government. The minorities need not be afraid of the power given to the Government under this clause. The Government will use its discretion only after mature consideration. With these remarks I resume my seat.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I heartily support the first reading of the Bill. At this stage we are not required by the rules to go into the details of the provisions of this Bill, and the principle is that of abandoning this age-long principle of nomination, and introducing in its place something more democratic. This does not mean that Government are going to the logical conclusion of their principle. That, I know. Government naturally are more cautious, and having their own commitments outside, they have not gone the whole hog with the principle of democracy, but that they are moving in that direction is absolutely clear to me from this Bill. They are conscious that up till now the affairs of public bodies have been run and are being run, and threatened to be run not on civic or national lines, but on communal and sectional lines, and that the reason for that is this wretched principle, or rather the wretched absence of principle called communal representation. Viceroys and Governors, Secretaries of State and big leaders, in season and out of season, tell us how sorely they feel about the communal differences, how much they would love to see all communities living in peace. And it is becoming the fashion with the Governors General and even the Governors to say that they are waiting for the day when all the communities will live in peace and amity and concord. Their argument always amuses me, because I know that they are themselves the authors of the bad results which they pretend to deplore. They are like a man who is an incendiary, who himself lights the fire and then telephones for the fire brigade, and

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pretends to be helping in extinguishing the fire. I am sorry to say that all these British vested interests, without always being conscious of it, ever since 1905 have played the part of incendiaries, setting fire, forgetting that they are setting fire, and all the time shouting for the fire brigade. That is really the attitude of the British Government, and I always read it with great amusement, not to say with cynicism, their talk of communal concord, communal amity, and their intention that the communities should live in peace. Having set the fire, they want it to go on, and yet they talk of the fire brigade!

The Government, being representative of the largest political party in the country, have unhappily also talked the language of the ring keeper. The honourable member Mr. Firodea just now talked of this thing cancelling that, and he being the arbiter. I beg you not to think that you are a nationalist. You have surrendered nationalism.

Mr. K. S. FIRODEA : I am a nationalist.

The Honourable the SPEAKER : Let there be no interruptions.

Mr. JAMNADAS M. MEHTA : I remember, Sir, yesterday's admonition.

Mr. K. S. FIRODEA : When he referred to me personally, I had to reply.

The Honourable the SPEAKER : I do not want any interruption while an honourable member is speaking.

Mr. JAMNADAS M. MEHTA : He talked as if he was the ring keeper, keeping the two fighters apart and maintaining peace. This is exactly the road which the British Government have been following. You have been an incendiary only to a slighter degree. That, I must say. Read the statement of the Working Committee in 1936. Listen to the speech of the Honourable Minister for Law and Order. What does it come to? The only difference is that the Congress Group starts with an enunciation of the most lofty principle. The expression of the condemnation of the Communal Award by the Congress cannot be improved. No nationalist could have spoken better. But when they come to conclusions, they are identical with those of the late Mr. Ramsay Macdonald. That is my difficulty with them. Look at their statement of the case. It is printed in the Congress Bulletin of September 21, 1936. What do they say? They say :

"The communal decision which forms part of the new Act has led to much controversy, and the Congress attitude has been much misunderstood. The rejection in its entirety of the new Act involves the rejection of the communal award. Then the communal decision is wholly unacceptable as being inconsistent with independence and the principles of democracy. It encourages fissiparous and disruptive tendencies, [a Daniel come to judgment] hinders the normal growth and consideration of economic and social questions, is a barrier to national progress and strikes at the very root of Indian unity."

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This is the declaration which the Congress made. Now look to the tame conclusion to which they come :

“The effort of one community only to change the decision in the face of opposition of another community might well result in confirming and consolidating that decision. Any attempt by one group to get some communal favour from the British Government at the expense of another results in the increase of communal tension. Ultimately, the Congress is of opinion that to seek a common basis for agreed conciliation will be of help to strengthen the unity of India.”

That is exactly the position of the Communal Award given by Mr. Ramsay Macdonald that, until all the communities agree, the Award will remain and nothing is to be done. And that is what the Honourable Minister for Law and Order was reiterating yesterday. He was so apologetic yesterday lest the intention of Government may be misunderstood; said again and again that Government did not wish to change that Award. I regret I am pained at this very apologetic attitude of Government while making only one inch of progress where a mile of progress has yet to be achieved. Yet, it is a step in the right direction. That is the reason why I am here to support the Bill without any qualification.

Sir, I am glad to see my honourable friend Dr. Ambedkar here. He is like the angel who flutters his wings only occasionally. Yesterday, I saw him participating in the debate; I saw also that, after his day's work in the court, he had to improvise such arguments as he could find on the spur of the moment. What was his complaint against the Bill? His complaint was that he could not see that a single day's voting in a common polling booth was going to abolish castes and creeds and do away with communal prejudices. He asked: Is this common voting for a single day in a polling booth going to lead to inter-marriages; is this going to bring about the fusion of castes and inter-dining? That was the way in which he proceeded and kept a solemn face so that some people must have thought he was giving arguments of a most cogent character. Sir, what is a Local Boards election? Is it a matrimonial agency? What is the point in saying that local board elections will not lead to inter-marriages? A polling booth is not a matrimonial agency and it is not intended that that voting should lead to inter-marriages. The whole purpose of the Local Boards Act is different. Secondly, it is not intended to be an inter-dining function. We inter-dine almost every week in the Taj Mahal. People dine at the same table while representing most hostile interests. They come together for a mere ceremonial occasion. I am inter-dining wherever there is vegetable food served. I do not think that inter-dining leads to anything like communal fusion. Therefore, I am very much surprised that my learned friend Dr. Ambedkar raised only such objections to this Bill, namely, that these joint electorates do not lead to inter-marriages, do not lead to inter-dining and do not lead the Hindus to come out of their exclusiveness. It is because we want that the Hindu exclusiveness must disappear that this Bill is brought. The Bill takes a step towards leading the Hindus to give up their exclusiveness. I agree with him

[Mr. Jamnadas M. Mehta]

that the Hindu, particularly the orthodox Hindu, is exclusive in the sense that he fears that, by the touch of some one else, he will not go to heaven. There may not be the possibility of the fellow going there at all. Except to reduce the exclusiveness of the Hindu, it is not intended to bring about by this Bill the other results mentioned by the honourable member Dr. Ambedkar.

There is another thing which I wish to say. Look at the composition of the Municipal Corporation of Bombay. I will humbly invite him and invite the leaders of the Muslim League to look at the 'composition of the City Municipal Corporation. It consists of 112 members out of whom 86 seats are under joint electorate. What is the composition of this Corporation? Honourable members will, perhaps, be aware that in the City of Bombay, out of 12 lakhs of population, Hindus form 8,50,000. Our Mahomedan fellow citizens form about 2,65,000; and the rest, out of a total of 12 lakhs, are our European fellow citizens, our Christian fellow citizens, our Parsi fellow citizens and so on. The House will be glad to know that in this joint electorate, in a house of 112 members, the number of Hindus is not even half. And yet, I must say to the credit of the Hindus that they never complained, because they do not go there as Hindus. I am not going to the Municipal Corporation simply to worship Shiva or to have some emblem of caste or any other thing. I go there for such purposes as are defined in section 50 of the Local Boards Act. I tried to make a list of the functions of the local boards under section 50 of the Local Boards Act, 1923. What do I find? I cannot exhaust all the functions mentioned there but I will mention some of them: Roads, communications, hospitals, dispensaries, markets, public tanks, wells, water works, schools, payment of teachers, primary education, sanitary works, infectious diseases, smallpox, planting trees, light railways, tramways, weights and measures, telephones, obstruction and encroachment, taxation and so on. These are not things in which Allah is going to desire things differently from Buddha, or Christ is going to say differently from Vyasa. I beg of you to consider whether there can be any difference of opinion on matters like these between the great prophets of any religion—the Great Allah whom the Muslim community worship and revere, Christ whom the Christians worship and revere, Zoroaster whom the Parsis worship and revere, and Vyasa and Buddha whom the Hindus worship and revere. I want you to tell me whether the functions I have enumerated and many more are of any denominational character. Telephone is a telephone, whether it is operated by a Hindu or a Mussalman. I have a telephone in my house, it has nothing to do with my religion, but it is only a machine to give me service. In the same way, the tramway serves all communities. The tramway man asks for your money and not your caste. When an infectious disease attacks a locality, the same treatment is required for all. When there is smallpox, can a Mussalman claim any special protective measure which the Hindus should not get? Or can there be any reservation for the depressed classes? Smallpox is the same for all and the treatment is the same for every community professing any faith.

[Mr. Jamnadas M. Mehta]

If some Mahomedans are able to give me good water supply and protect me from infectious diseases, I will elect them all. No Hindu is needed. The question of communal representation simply does not arise. It never did arise. It has arisen because incendiaries have set fire to our common household. The civic functions which I have pointed out are common to the local boards as also to the municipalities. It is the same all over so far as civic welfare is concerned. I know why Government are hesitating further than they have done; I am not going to raise that issue today, because, as I told you, they are moving in the right direction.

Then, Sir, we are asked how are we going to get the confidence of the minorities? I think the honourable member
 6 p.m. Mr. Prater asked that question. Their confidence can be secured by appointing, say, as a health officer a person who is most qualified to look after the health of the city, by opening schools which will educate the children of the city, by sanitary measures which will improve the health of the locality. Is it necessary, therefore, to bring A who is a Christian, B who is a Mahomedan, or C a scheduled caste man? I think it is a most preposterous principle, but it has become a most respectable principle today. The values in this country have so changed, that what was thoroughly wrong yesterday has today become the first principle. Time was when people used to apologise for communal electorates; they were ashamed of standing for communal electorates; since the Ramsay MacDonald award, however, they have become a matter of principle. As a matter of fact, it is the foreigner who has inoculated this disease into our minds, and we are playing into his hands. It is not a question of communities. If you want, as a trial, I do not mind all the seats being filled by others than Hindus. But believe me you are playing into the hands of the foreigner who does not want that you should unite.

Now, Sir, I agree with my honourable friends Dr. Ambedkar and Mr. Karandikar in saying that Government have not really brought before us the revision of the other parts of the Local Boards Act, that there are more important matters in the Local Boards Act which require revision. I agree; I hope they will expedite and bring before us at the earliest moment measures which will make the Local Boards Act far more satisfactory than it is. But in the statement of objects and reasons it is clearly indicated that this Bill is meant only for doing away with nominations and introducing the elective principle. I do not think it is a serious fault that the Bill does not do something which it was not intended to do. The Bill is a very modest one, a small step in the right direction in the sense that nominations are being abolished. Although Government have been proceeding far too slowly and cautiously, because of their past commitments, I congratulate them on taking at least this first step in the right direction, and my heart is with them in the first reading of this Bill.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I should like to ask for some little information from the honourable member who spoke last, and I hope he would enlighten us. He has been the Mayor of the Corporation. I wonder if he could tell us whether in the City of Bombay, where there is mixed electorate, he has analysed the voting, and, if so, whether he could give us the figures of the last few elections showing how many Hindus voted for Mahomedan candidates and how many Mahomedans voted for Hindu candidates.

Mr. JAMNADAS M. MEHTA : I will certainly give him. Every time this has been the result : in joint electorate, Hindus have voted for Mahomedans and Mahomedans have voted for Hindus.

An Honourable MEMBER : Never.

Mr. JAMNADAS M. MEHTA : I can give you names by the cart-load.

Sir ALI MAHOMED KHAN DEHLAVI : I want figures.

Mr. JAMNADAS M. MEHTA : I have not been a polling officer. But I know the Mahomedans who have voted for me. I know them. I would have liked to vote for them.

An Honourable MEMBER : What about it when it is *vice versa* ?

Mr. JAMNADAS M. MEHTA : I think the honourable member Mrs. Tyabji will tell you that her husband voted for me.

The Honourable the SPEAKER : I find that a large number of honourable members are still anxious to speak. The principles of the Bill have been under discussion since yesterday, and I should think that all possible arguments have been advanced and replied to from one side or the other. It is, I think, as well that we might consider whether we should not now proceed to close the debate so far as the first reading is concerned. I should like to know if that is the consensus of opinion.

Mr. B. K. GAIKWAD : I want to speak, Sir.

The Honourable the SPEAKER : Yes.

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*) : Mr. Speaker, I rise to support the amendment moved by my honourable friend Mr. Chundrigar. I had no intention of speaking on this question, as it has already been discussed for a longer time than was necessary, but one or two new points have been raised and I think I should reply to them.

In the closing part of his speech the honourable member Mr. Jamnadas Mehta asked what difference it made if all the members constituting a local board were elected through joint electorates. He said that local bodies concerned themselves with administration of purely civic subjects. He read out a long list of works which local boards were expected to carry out and asked what difference it would make to any member if he got himself elected through joint electorates instead of through separate electorates. May I ask the honourable member another question on the same subject? Suppose that Mahomedan members

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and Depressed Class members were elected through separate electorates instead of joint electorates. Does he mean to say that they would go on discussing their religion in local bodies? What difference does it make if they come through separate instead of through joint electorates?

Sir, this question of joint and separate electorates has not been raised in this House for the first time. This question is being discussed throughout the country. I belong to the depressed classes. Our leader, the honourable member Dr. Baba Saheb Ambedkar, entered into a Poona pact with Mahatma Gandhi in order to save his life. By that pact depressed classes were brought into the joint electorates with reservation of seats. Now, Sir, if you want to know why we want separate electorates even in local boards, I will tell you. The depressed classes are not allowed to use public wells which are under the control of local boards. Nor are they allowed to take the benefit of hospitals and dispensaries that are run by those bodies. If these disabilities are to go, it is absolutely necessary that their own representatives should represent them on the local boards and fight for their rights.

Sir, the leader of my party, Dr. Baba Saheb Ambedkar, has really expressed our wishes. He has advanced very cogent reasons, and I need not go over the same ground and take up the time of the House.

Sir, big cities like Bombay are divided into groups. What is the propriety of these groups, I ask? These groups are specially made so that persons who are elected from such group will be able to look after their own groups. But, what is the actual experience? The majority party in a local body always carries the day, and the demands of the minority party are left unheeded. It is said that in Bombay Muslims have not demanded separate electorates. The answer is easy. In Bombay there are different wards. There are some wards in which Mahomedans predominate. In others Hindus predominate. Because the Hindu and the Mussalman population live in entirely separate wards, which are mostly inhabited by only one particular community. Separate electorates therefore exist by force of circumstances. They do not need to be created.

Mr. JAMNADAS M. MEHTA : No. That is not so.

Mr. B. K. GAIKWAD : I hope you will excuse me. But please don't interrupt me. What I have stated is a fact.

Now, Sir, what is the condition in our villages? There are hardly half a dozen Mussalman houses, and those Mussalmans have to depend entirely on the support of the majority. The majority party wants to get elected to these local bodies persons from the minority communities who will be under their thumb. You blamed the British Government because they used some of your men by giving them titles such as Rao Sahebs and Rao Bahadurs to defeat your purposes. Why do you want joint electorates? Do you want to get hold of the joint electorates, just as the previous Government had got hold of title holders

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to keep them under your thumb? I am afraid that is your plan. Mr. Jamnadas Mehta said mostly for the purpose of creating fun that Dr. Ambedkar spoke of inter-marriages and inter-dining and asked whether Local Boards were agencies for inter-marriages, etc. If joint electorates cannot produce social solidarity what is the good of it? Even among Hindus people vote according to caste and creed. If joint electorate has not produced any social solidarity among Hindus, how can you expect to bring about any solidarity among the Hindus and Muslims. I venture to say that even with joint electorates the trouble will not be over unless castes are removed.

The Honourable the SPEAKER: The honourable member may take his own time as there has been no speech from his party.

Mr. B. K. GAIKWAD: I do not think there is much in what has been said against the Muslims. It is incumbent upon the majority party to agree to the Muslim demand. I support the suggestion of my honourable friend, Mr. Chundrigar.

The Honourable the SPEAKER: To my mind, the subject has been sufficiently debated upon and I do not propose to allow any further debate on the subject. I will now call upon the movers of the amendments to begin. There is one point which I may make clear at this stage and that is that I find that the honourable member Mr. Chundrigar has not been able technically to move his amendment, because some amendments were moved by the honourable member Mr. Phadake. All the same, as he had tabled the amendments and as his point of view is different, I will allow him to reply.

Mr. B. M. GUPTÉ *rose*.

The Honourable the SPEAKER: Does the honourable member want some information?

Mr. D. W. RAUT: I wish to raise a point of order, Sir.

The Honourable the SPEAKER: I have just declared that the matter, to my mind, has been sufficiently debated upon and I find arguments are being repeated. That is what I said before the honourable member Mr. Gaikwad stood up for speaking; but, as there was no speech whatever from his group all through the debate, I thought it proper to permit him to participate in the debate. His speech having been finished, I am now calling upon the movers of the amendments to reply. The honourable member Mr. Jhabvala.

Mr. ALI BAHADUR BAHADUR KHAN: On a point of order, Sir. Have the movers of amendments a right of reply?

The Honourable the SPEAKER: Not in the case of resolutions; but, so far as Bills are concerned, they have.

Mr. S. H. JHABVALA (Railway Unions): Sir, I am very glad to hear the debates that we have had on this Bill today and that has led me to but one conclusion, namely, that no case has been made out by either

[Mr. S. H. Jhabvala]

the one or the other party in the matter of separate electorates, joint electorates and all that, and, therefore, I beg to submit that the amendment which I have moved is perhaps the choicest one of its kind. It will be observed that I am correct in view of the fact that all the friends that have already offered their various remarks have found that ultimately they have led the House to nowhere.

Now, Sir, what was the point that I was urging upon the House? My point was that friends like the honourable member Mr. Prater are still on a wild goose chase. They are still in the belief that the State is of particular vested interests, but who the vested interests are, they are not able to decide for themselves. Ultimately, they divide up the whole country into two blocks, namely, the Hindu community and the Muslim community. That exactly is the charge which these very friends were laying at the door of the Government of India and at that of the Parliament at the time when the Act was being framed. If you were to refer to the history of the Local Boards Act, it would be found that the ultimate logical corollary that will be arrived at today in the year of grace 1938 would be that the whole case of representation under the Government of India Act as well as under the existing statutory laws permits of the idea that the country is split up into two communities. This very idea requires to be uprooted by a Congress Government and unless the Congress Government takes courage in both their hands and resolutely determines upon a definite plan of overhauling the very fundamentals and the very basis of that pernicious idea, it will be impossible to face the problem at any stage. Lord Mayo, in the year 1871, accepted the fact that a scheme must be arrived at and he introduced the Decentralisation Scheme by which the general economic management of the rural districts such as roads, education, sanitation and things of that character should devolve upon the shoulders of the members of the population of the village community itself. Ultimately he devised a scheme and a Government Resolution was issued in the year 1870. I have that resolution before me. It says:

"Local interest, supervision and care are necessary to success in the management of funds devoted to education, sanitation, medical, charity and local public works. This scheme (the decentralisation scheme for rural administration) will afford opportunities for the development of self-government, for strengthening municipal institutions and for the association of natives and Europeans to a greater extent than heretofore in the administration of affairs."

Sir, if we look to this resolution of Government, and if we also look to the purport of the present Bill, only one difference is to be found, that whereas in the year 1870 Lord Mayo advanced the plea that there should be representation of the natives and of the Europeans, today the Congress Government are simply going a very short step further, and have been saying that the natives should be Hindus and Mussalmans and that the Hindus must have a particular number of seats and the Mussalmans must have a particular number of seats, meaning to say that they should have separate electorates. Separate electorates are fundamentally opposed to all sound canons of social democracy. Though in the Bill as it stands they have advanced

[Mr. S. H. Jhabvala]

a scheme of joint electorates and given the option to Muslims to adopt it or not, the sorry fact of separate electorates is accepted by the Congress. It was in the year 1881 that Lord Ripon once again surveyed the whole field, and in the year 1915 it was the Lawrence Committee that went a step further and gave further privileges to the local boards. But we find in the year 1938, even though 13 years have passed away, not a single step further and in the right-direction has been taken in the matter. Be it mentioned to the discredit of those persons who formulated the Montagu-Chelmsford scheme that the present principle of separate electorates was introduced. But this kind of perpetuation of one community dominating over the other and one community struggling for assertion over the other, as has been indicated in the various speeches that were delivered here today, will ultimately lead the country to nowhere. Therefore the whole basis of representation needs to be changed and a correct colour requires to be given and it was for this that I presented my amendment to the House, namely, that the constituencies themselves being general must be based on the principle of the fact that the workers, both intellectual and manual and the peasants should be given the right of voting, and the constituencies should be formed on those lines. Look at the villages, look at the small towns. We will find that these villages and these small towns are inhabited by the Mussalmans and Hindus who never quarrel and never fight among themselves. They have never been known to fight among themselves over a particular issue so far as their matters of daily life are concerned. But if the principle of separate electorates from a democratic Government like the Congress Government is stressed, and if it is accepted by them that there should be an acceptance of the fact by the general body politic that the Hindus and the Muslims are separate entities, who have separate administrative rights, then certainly I am afraid that there will be not only political chaos but communal riots now and then.

The Deputy SPEAKER : How much more time will the honourable member take ?

Mr. S. H. JHABVALA : I think, Sir, I shall have to continue tomorrow.

The House then adjourned till 2 p.m. on Thursday, the 20th January 1938.

Thursday, the 20th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Thursday, the 20th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
 AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINEJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, Mr. KHANDUBHAI K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKAR, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.

GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOLDING, Mr. C. F.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KRIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.

MORE, Mr. J. G.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R..
 PATIL, Mr. S. K.
 PHADARE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SRINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.

SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUBE, Rao Bahadur V. L.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VINCHOOBKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

REFERENCE TO THE DEATH OF SIR CHARLES TURNER.

The Honourable Mr. B. G. KHER : Mr. Speaker, Sir, before we enter on the business of the day, it is my sad duty to announce to this House the sad and rather unexpected death of one of the past members of this House, Sir Charles Turner. As most members know, since 1925 Sir Charles Turner had been almost continuously a member of this House, and I may say without fear of contradiction that during this time he had endeared himself to all those with whom he came into contact by his very quiet and unassuming attitude, gentle demeanour and cordiality. He had been working in the Secretariat continuously for a very long time, and his acquaintance with the new reforms that have been initiated was very thorough indeed. Although he spent many years of service in the Secretariat, his knowledge of the districts also was very intimate. He had done duty particularly in the famine districts, and his knowledge of those problems was of considerable value in the administration. He was also on two occasions a member of the Executive Council.

After the reformed constitution was introduced, Sir Charles made a special study of it. Speaking personally, Sir, I would like to say that the way in which he adjusted himself to the new order of things and gave me wholehearted co-operation made my rather difficult task fairly easy. The situation was naturally very difficult, but even when there were differences of opinion, he was quite willing, as every member of the Civil Service should be, to put forward his advice boldly, without fear, and strictly as he felt it was his duty to do, and then to carry out the wishes of the Ministry. His intimate knowledge of procedure and his willingness to adjust himself to the new order of things made matters very smooth indeed. When he was compelled to retire rather abruptly owing to ill-health, I felt his loss very keenly.

[Mr. B. G. Kher]

It was only last month that Sir Charles retired on medical advice, and it is very sad indeed that he did not live long after his retirement. Soon after he reached the shores of England, we have now the sad news of his demise. I move that this House should record our sense of great grief and loss and convey our condolences to his relatives.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Mr. Speaker, Sir, I associate myself entirely with whatever the Prime Minister has said regarding an old colleague of ours. To many of us he was a personal friend and a sound adviser. As the Honourable the Prime Minister has said, he was connected with the Secretariat ever since the Montagu-Chelmsford Reforms right up to the new reforms. He showed himself to be of that personality, as a civilian, whose duty, as the Honourable the Prime Minister has said, is to put his point of view strongly and honestly, and after that to carry out the behests of those under whom he works. Sir Charles Turner was a prominent figure in the old Council for many years. His departure for England at the fog end of his life, as it seems, was postponed; he could have gone earlier on leave under medical advice, but he could not be spared. That shows the intrinsic value Government attached to his services. He could not be spared at a moment when the new constitution was about to be launched, and I know it personally that he had to stay on to see that the new constitution was launched smoothly and properly and that it worked fairly well. I am glad that the Honourable the Prime Minister has nothing but words of praise and appreciation for him as a character in the Civil Service of the highest order. We are all very sorry; actually, we were shocked yesterday afternoon when the news was broken to us that he died so suddenly. We wish his soul all peace.

Mr. R. R. BHOLE (Poona West): Sir, although none of the members of my party, except perhaps the leader of my party, had the privilege of knowing Sir Charles Turner personally, my party certainly associates itself with the views of the Honourable the Prime Minister and the words of praise that have been showered by him and also by the Leader of the Opposition.

Mr. C. P. BRAMBLE (Bombay City *cum* Bombay Suburban District): Mr. Speaker, Sir, I wish to associate myself with what the Honourable the Leader of the House has said about the late Sir Charles Turner. As is well known to the House, he was an official of the greatest importance a year ago; but in the case of many members of my party, he was also a close personal friend.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I wish to express our sense of loss and grief at the sudden death of Sir Charles Turner. We were hardly prepared for this shock. When he left these shores last month we never thought that he would be lost to us in such a short time, and I agree with all the sentiments that have been expressed

[Mr. Jamnadas M. Mehta]

on the floor of this House by the Honourable the Prime Minister and my other colleagues. I had some personal experience of the late Sir Charles Turner and I can say that he literally died a martyr to his duty. He was at his desk from 10 o'clock in the morning to late in the evening, and he devoted himself to his work with the thoroughness and earnestness which was an inspiration to others. As the Chief Secretary to Government he really felt that he had to set an example of having been thoroughly reconciled to the new order of things, and he did his best to make the task of the ministers easy. It is not perhaps known that among the many good things that he did, he was the author of the Famine Relief Code. Those who have read that Code will realise what labour and what insight, for the needs of the famine stricken people, the late Sir Charles Turner had undergone and gained. Sir, although it is a document many years old now, still it is a document which, if applied to famine stricken areas in the spirit in which it was framed, would leave nothing to be desired. I am told that he was so devoted to his duty that he would not grant too many interviews and would rather come out himself out of his room than waste time for seeing the visitors in his room. It is, I feel sure, the desire of the House that you will communicate our sense of grief and our condolences to the family of the late Sir Charles Turner.

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

REPORT OF THE COMMITTEE ON DRAFT RULES.

The Honourable the SPEAKER: I present to the House the report of the Committee appointed to frame draft rules made under section 84 (1) of the Government of India Act, 1935. I presume the honourable members would require some time to study the report and the rules, and the matter may be taken up for discussion in the House at some convenient date.

Mr. JAMNADAS M. MEHTA: Next session.

The Honourable the SPEAKER: I understand that it would be convenient to the honourable members if it is taken up at the next session.

Honourable MEMBERS: Yes.

The Honourable Mr. B. G. KHER: Sir, I entirely agree with what has fallen from you. It will be convenient for members to take it up next session because they will get sufficient time to read the report and make suggestions.

BILL NO. I OF 1938 (A BILL TO AMEND THE BOMBAY LOCAL BOARDS ACT, 1923).

Question again proposed, "That the Bill be read a first time".

Mr. S. H. JHABVALA (Railway Unions): Sir, inasmuch as the Bill moved by the Honourable Minister for Local Self-Government accepts the principle that nominations should be done away with,— he has carried the whole House with him,—inasmuch as he has advocated the principle of joint electorates with reservation of seats for minorities on population basis, and inasmuch as he has given option to a minority, namely, the Mohamedans, I have moved my amendment which tries to obviate that kind of ingrained fear and suspicion which has been constantly lurking in the minds of those two rival communities ever since the Morley-Minto Reforms came into being and ever since the Round Table Conference developed the whole issue in what is now called 'the communal award'. Sir, if the whole idea of social democracy is studied, it will be found that liberals, the bourgeois, the social democrats, all spin round and round and trot one after the other, while they never attach their mind seriously to any grave problem, the serious problem of sombre economic truths of life. They, however, always with a certain amount of eclecticism, go round and round, never go to the right issue, and make pacts, compromises and create positions which are as knotty as the positions that are created today by the Congress Government. The position created by some social democrats who hold the reins of administration in their hands today is just the same, and they have indicated a certain amount of fear and suspicion, though they have tried to eliminate the same from the minds of their opponents. By my amendment I totally uproot this kind of suspicion, or this kind of fear by delivering the right of election, the right of management of the Local Board, over into the hands of the workers and peasants. If we study the whole rural position, if we study the whole countryside situation, we will find that the real persons who form the bulk of the population are those who do manual work. These persons have, down to the present day, been deprived of their direct share in the management of their own affairs. Politics, Sir, is the handmaid of economics, and I am loathe to see—

The Honourable the SPEAKER: The honourable member Mr. Jhabvala might be reminded that he is speaking by way of reply, and therefore all his remarks should be limited to meeting the case that he thinks has been made out. This is not a second opportunity for a second speech in respect of the amendment.

Mr. S. H. JHABVALA: Sir, I was simply replying to the various arguments that were advanced in favour of separate electorates and local option and all such other things, and so far I believe my reply is a direct reply to those arguments. I say that I was very loathe to see that even the Independent Labour Party, who in their manifesto has stated that they primarily exist for the workers and the labouring community—the words 'depressed classes' come next, but the primary

[Mr. S. H. Jhabvala]

idea so far as the Independent Labour Party is concerned is the working classes, Labour and labouring community—are today talking in terms which appear to be entirely different from the creed of that party. Instead of boldly standing up and supporting the amendment that I have proposed, they are still trotting one after the other behind the bourgeois, the social democrats, a large crop of whose groups we have been here experiencing. Sir, I have said that even if we study the Local Boards Act, we would find that Lord Ripon's Government in 1882 went a step further and a committee was appointed and when the committee made a report, the Government of Bombay itself passed a resolution. I have got the resolution in my hand and according to that resolution it has been stated that the electorates are small and merely a mass of people, that they are ignorant and illiterate, and that different creeds and communities cannot be properly organised and represented. They have said that, and it is very sad to find an advanced political vanguard, as they proudly call themselves to be, namely, the Congress Party, taking a retrograde measure, and trying to create a position by which there will certainly be great confusion. If they desire that joint electorates should be imposed upon the people, it is a very welcome idea, but in doing so they should accept my amendment, namely, that the right of voting should be given to the workers; those persons who create the economic wealth of the country should get the right of voting for their own economic and political bodies. I do not mean only illiterate workers, but I include also the intellectual workers. If this amendment is accepted, then the mutual fears, the mutual suspicions and the mutual doubts will vanish.

With these words, I commend my amendment to the kind care of the House.

Mr. G. K. PHADAKE (Thana South): Sir, by my amendment I propose to substitute 'joint electorates' for 'separate electorates'. Many of the points raised by the honourable members against my amendment have been well answered by the honourable member on my left (Mr. Ali Bahadur Khan), and some of my friends from the Congress Benches while supporting the option clause in the Bill. Even that stalwart champion of the down-trodden, the honourable member Mr. Jhabvala, has partially supported my amendment since he is not for separate electorates; but one or two points remain to be answered.

The introduction of separate electorates in the local bodies was due to the Lucknow Pact of 1916, but there is no reference to local bodies in that pact. That Pact refers to provincial and central legislatures. It was introduced by a Mahomedan Minister, and since they have come last they must go first.

Then, Sir, the honourable member belonging to the Independent Labour Party has asked us, perhaps in a ridiculous tone, why we insist on joint electorates, when they want men of their own cult to represent them. It is for these very reasons that we want joint electorates.

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We want them to feel that our interests and theirs are not different so far as public questions are concerned ; we want them to realise that their problem will not be solved so long as the main problem of our country is not solved. We want to disabuse their mind of the idea that they will get all their demands even though all of us are ground down under the foreign domination, and finally disabuse their mind of the idea that the question of national struggle is subordinate to the removal of their disabilities. And what are these disabilities ? Are they peculiar to our unfortunate country ? My honourable friend Mr. Jhabvala will corroborate me when I say that they exist in every country ; they existed in Russia also, but the Russians never asked the help of a foreigner to remove those disabilities. They depended on themselves, and we know that they have removed their disabilities. Let us not lose confidence in ourselves. After all, Sir, what have they got by separate electorates ? Have they got enough bread and butter for their people ? Have they got enough education for the masses ? They have not. It is not possible for them to get anything by these separate electorates. Ours is a fight for all. [*Interruption.*] Yes, it is for all, and if they help us in our fight, join us in our fight, then when we are free we shall see that all of us get enough bread and butter ; all of us get education. And supposing for a moment that all the positions which the higher classes are enjoying today are given to these people, will that solve their problem ? I do not think that will, because then we shall be depressed and we shall give them more trouble for our bread and butter than they are giving us today. That is why we want them, we want their help in the solution of this problem and that is why we ask for joint electorates.

Then much is said about the religion and culture of a community being in danger. Is not our religion already in danger ? Do we or can we do all that our religion prescribes ? No. Sir, it is not that our religion is in danger, but we ourselves are in danger. Unless we protect ourselves, it is not possible for us to protect our religion. Neither the Hindu religion and culture nor the Mahomedan religion and culture could save us from our downfall. Neither the excessive zeal of the Mahomedans for their religion, nor the ridiculous credulity of the Hindus would save us from the downfall to which we are subjected. No religion would help us to attain our rise as it has not helped us to avert our abject fall ; but it is only the spirit of nationalism, that spirit that you and I and all of us, who form the nation, are one, the spirit that the slavery which is the main cause of our misery must be removed, that spirit alone will save us from our troubles. Sir, these separatist tendencies have hampered our progress towards our goal, and in order that we should march as quickly as possible towards that goal, we want the help of all.

Then with regard to the Congress members. They have assumed the reins of Government, to do good and justice to all, to achieve Swaraj. When they want to solve economic problems, they are not afraid of any

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class, because they know that it is the right thing to do. When they want to help labour, they are not afraid to wound capital. When they want to help the agriculturist, they are not afraid to wound the money-lender. But when it comes to the question of communal classes, courage fails them. They know full well that this spirit of anti-nationalism, inherent in separate electorates, is hampering the very cause for which they are fighting so nobly. The logical conclusion of all their arguments in support of the option clause in the Bill must lead them to the acceptance of my amendment, and I therefore request them to be bold enough and to be wise enough to accept my amendment.

2-30 p.m.

Mr. ISMAIL I. CHUNDRIGAR (Ahmedabad District): Mr. Speaker, Sir, it is said in support of the plea for joint electorates that the questions which come up before the local boards are mostly of such a character that the communal question does not come in at all. It is said that we have got to deal in local boards with the making of streets, lighting, water supply and other amenities which are common to all the people of a district. I concede that a majority of problems coming up before the local bodies affect all the inhabitants of the districts equally, but it should not be forgotten that there are some other questions which either come in or are brought in intentionally which affect a particular community and have got a bearing on the communal question. I was surprised to find that these remarks should have come, among others, from the honourable member Mr. Ali Bahadur Khan when he knows that he had to resign from the Municipal Corporation on a question which was a communal question—I mean the Sabha Mandap question.

Mr. ALI BAHADUR BAHADUR KHAN: Once in a year.

Mr. ISMAIL I. CHUNDRIGAR: And if once in a year a matter comes up before—

[At this stage an Honourable Member was seen coming in between the Chair and the honourable member in possession of the House.]

The Honourable the SPEAKER: Order, order. The honourable member should not cross the floor like that. I have already invited the attention of honourable members to the convention that no member should come in between the Chair and the member addressing the House.

Mr. ISMAIL I. CHUNDRIGAR: Sir, even if such matters were to come up in a local body on some rare occasions, they often involve questions so serious as to compel a member to resign on that issue. Is it not desirable that the member who resigned on that issue should have an opportunity to get a vote of the people whose opinions he was voicing in that House? It was therefore that Mr. Ali Bahadur Khan could not after his resignation get the verdict of the people whose opinions he claimed to voice and as a protest against whose grievance he resigned from the House. Again,

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it should not be forgotten that even in the matter of common amenities, it is possible to make a differentiation and representatives of backward communities have to see that the poor and neglected wards are given the amenities on the same scale on which they are supplied at public expense to the other people, whose voice is stronger. It is desirable for this reason also that backward communities should have the right of choosing their own representatives who can raise a strong voice for the supply of common amenities to the poor and neglected areas inhabited by their poor and ignorant communities.

Then, Sir, it was stated that the Communal Award has been brought in the discussion time and again though it is to be in force for the time being only and that the problem has to be solved once permanently. I concede that and it was on that very ground that I suggested that the present *status quo* should continue till an agreed solution is substituted for the Communal Award on an All-India basis. The Mussalmans are not enamoured of the Communal Award, but unless and until a satisfactory solution acceptable to all the parties to the Communal Award is forthcoming by mutual settlement, the Communal Award must remain.

Then, it was stated that by a substitution of joint electorates, the Hindus will have a voice in the selection of Muslim members and Muslims will have a voice in the selection of Hindu members. Sir, I submit that that reasoning would have got some force if the population of both the communities in each ward had been almost equal. It could then have been said "that both communities have a voice in the selection of both the candidates", but that, unfortunately, is not the case in this presidency. Here the majority of the Hindu community is so great that it can elect its nominee with ease.

Then, there is another very important point about the Option clause which the Honourable Minister in charge of this Bill wants to incorporate in this Bill and it is this. The Option clause enables the Mussalmans of one particular constituency to resolve to give up separate electorates and have joint electorates instead. That will lead to many practical difficulties. To take the instance of Thana, there was a board of about 36 members and there cannot be one constituency for all these members. In fact, the idea is to have single member constituencies as far as possible and, at the most, constituencies returning two members in some cases. Supposing the Mussalmans of one constituency resolve to give up separate electorates, Muslims of that constituency will have no voice whatever in the selection of any Mussalman member and will only have a voice in the selection of non-Mussalman members. To give you a concrete instance, supposing there are 10 constituencies. In spite of the existence of 10 constituencies, 10 Muslim members will not have to be returned, because their population is not large enough. In the whole district only two Muslims may have to be returned. That means that these Mussalmans of one Constituency, who resolve to give up separate electorates, will be merged in the general constituency where they

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themselves cannot stand as candidates because the two seats reserved for Mussalmans, will be reserved in the remaining 9 constituencies which will be there. It will, therefore, lead to very practical difficulties. If Muslims of one constituency out of 10 resolve to give up separate electorates, the Mussalmans of 9 remaining constituencies who still want separate electorates cannot be deprived of their two seats in the instances given above. Therefore, the Muslim seats shall still have to be retained in these 9 constituencies which have not given up separate electorates. The result will be that the Mussalmans of that one constituency, who give up separate electorates, will have a vote in the general constituency where they themselves cannot stand as candidates, as there is to be a reservation of seats for Muslims. What I submit, Sir, is that we must leave the solution of this question alone till the restoration of goodwill and mutual trust between the two communities; have it by mutual agreement which may be approved of by both sides. The majority should not try to thrust a solution which in its opinion will be good for the other community. The Mussalmans are the best judges and I submit that unless and until a mutual understanding is arrived at, the matter should not be precipitated by forcing a provision like this in the teeth of opposition which, I am afraid, will only lead to further complications and estrangement. I would, therefore, request the Honourable Minister in charge of the Bill and the benches opposite to concentrate their efforts and energies on creating an atmosphere which alone will make a change possible. I will not try to embitter feelings by quoting instances like the one which was quoted by the honourable member Mr. Mirza Akhtar Hasan yesterday. In fact, innumerable instances of that kind could be quoted, but it is not in the interest of communal amity that these instances should be brought to light and feelings further embittered. My only appeal to the House is not to force a change against the wishes of the Mussalmans, but to approach the problem by the only one method available, as was admitted by the Honourable the Home Member himself, that is, the method of arriving at a settlement between the two communities acceptable to both.

The Honourable Mr. L. M. PATIL : Sir, the principles involved in this Bill are thoroughly discussed by many of the honourable members of this House. In my opening speech on this Bill I have also given the views of the Government in this matter. So, I do not now wish to go into the merits or demerits of the principles involved in this Bill. I will only try to remove certain misgivings, doubts and misunderstandings which are still lurking in the minds of some of the honourable members. I will also try to refute the charges which are levelled by some against the Government.

Sir, the Leader of the Opposition has said that the Government is following surreptitious ways and indirect methods when they are tackling this problem of joint electorates. There is no such intention. We do not want to follow any indirect or surreptitious ways. Under the provision for joint electorates in the Bill as regards Mahomedans, a *local*

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option is given to them. I want to ask this question of those who oppose the local option to Muslim adult population in the matter of joint electorates: do you or do you not want joint electorates? It is a straight question and I want a straight answer. From the speeches that have been made even by the honourable members belonging to the Muslim League, I think they have made it clear that as a principle they are for joint electorates. If that is so, how to tackle this problem? A reference was also made to the fact that big people have failed in this matter. I know; and it is unfortunate that up to this time we have not been able to reconcile our differences and to come to an agreed settlement. But does that mean that we should not try henceforth, in the future to approach this problem and to solve it? I know I am a small man. I am a villager. I come from a village. I have moved amongst the Mussalmans and the Harijans. I have got friends amongst them. I have lived with them, dined with them. In villages these communal differences do not exist. It is only when we come to the cities, when we come amongst the big people that we witness these communal feelings. I do admit that this is a very delicate question and it ought to be solved by mutual understanding and goodwill. Therein I perfectly agree. But are we not solving this problem by taking the consent of the people, of the masses who are our masters? Every member of this House is a servant of the masses. How to solve this problem? If you say on principle you favour joint electorates, then why not leave the door open, so that this question will be solved by the people themselves? And, this is what is provided by this option. We are not forcing this reform on the Mussalmans. This is really not a surreptitious or indirect way. It is the most direct way, a royal road, the high road of democracy. This means has been followed in all democratic countries. Whenever there is any intricate problem, it is always referred to the people themselves, and we are also doing the same. We are not forcing it on the people, we are not going against the will of the Mussalman masses. Therefore, I do not understand why the honourable members of the Muslim League should have so vehemently opposed this provision giving an option.

Much has been made of the Communal Award. I must make it clear that the Communal Award deals only with the legislatures, the Provincial Legislatures and the Central Legislature. It does not affect the local bodies. In the Madras Presidency joint electorates for Mahomedans have been provided by the legislation, and the Prime Minister of the Province of Sind is also contemplating the introduction of joint electorates in the Province of Sind. I do not know why we should lag behind the Province of Sind which is a baby of our Province.

Sir, I will now turn to the amendment moved by the honourable member Mr. Jhabvala. He says that by having reservation of seats for the minorities we are continuing the communal divisions. We are the last persons who will perpetuate the communal factions. On the other hand, we want to reconcile the interests of different communities and bring them together. As a principle, I agree with him that

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separate electorates and reservation of seats are against the principle of democracy. But facts are facts and we must face them. The peculiar circumstances which are existing in our society are unfortunately not allowing us to follow the principle of democracy especially when communal considerations are involved. Look at the Harijans. They have been down-trodden, oppressed, and put down under the name of a false religion. In the past they never got representation in any local body through election and in the future also I fear that they will not get their due share in the elections. From the speeches which the honourable member Mr. Jhabvala has made up to this time on the floor of the House I think that he is sympathetic towards the down-trodden, and here are the Harijans who are down-trodden. The same is the case with the Backward tribes. I therefore hope that he will not object to the reservation of seats which is provided in this Bill for the Harijans, the backward tribes and other minority communities. So, I would request the honourable member to withdraw his amendment.

The honourable member Mr. Phadake has strongly advocated joint electorates. I have already stated that on principle we are for joint electorates. But we are not able at this juncture to provide joint electorates for Muslims compulsorily by legislation because there are still misgivings and doubts in the minds of the Mahomedans. And we do not wish to add to these already existing misgivings by forcing joint electorates on them against their will and so we are giving them option. Sir, I have made it clear that there is no sinister motive behind this Bill. We are not following any surreptitious ways. We are following direct methods, and we do not wish to follow any unclean methods in this matter.

There are certain doubts in the mind of the honourable member Dr. Ambedkar, who is not now present in the House, regarding the formation of constituencies, the system of voting and other matters. These are matters of detail, and they can be dealt with at the time of the second reading of the Bill. With these words, I request honourable members who have moved amendments of principle to withdraw them, and to support this Bill unanimously. [*Applause.*]

Khan Bahadur ABDUL LATIF HAJI HAJRAT KHAN: On a point of information. Is it not contemplated by the Government to increase the number of seats by the abolition of taluka local boards?

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

The Honourable the SPEAKER: There are now six amendments and I propose to put them one by one. There were nine amendments in the list of amendments supplied to honourable members, but three of them were not moved as they were duplicate. Today, members have been supplied with a list of amendments with the serial order changed, because other amendments have come in. I, therefore, refer to the amendments by serial number in the fresh list supplied to honourable members today. I suppose all of them have got the list. The first amendment is—

Mr. S. H. JHABVALA : As there is one other amendment moved by me as a consequential amendment, if you put to vote amendment No. 4, you can put the other amendment also. The other amendment which I have moved is "Omit the words from 'and . . . tribe' in clause 7 (a)." Both of them are of the same nature.

The Honourable the SPEAKER : The honourable member has moved only one amendment and not the other. This is the first reading of the Bill, and, therefore, amendments of principle have been taken. The other amendments refer to details. As the honourable member stated, the other amendment referred to by him is of a consequential nature. In case his first amendment which he has moved is not carried, he need not move those consequential amendments, thus saving the time of the House.

So, the first amendment to be put is the amendment, serial No. 4, moved by the honourable member Mr. Jhabvala. I deem it proper to alter it a little verbally so as to make it complete and intelligible in legal language. I will read the amendment as verbally amended :

"In sub-clause (1) of clause 6, after the word 'general' add the following 'constituencies which consist of peasants and workers either intellectual or manual' and delete the whole subsequent part of sub-clause (1), sub-clause (2) and sub-clause (3) of clause 6."

I will now put this amendment to the House.

Amendment put, and negatived.

The Honourable the SPEAKER : The next question I put to the House is serial No. 5, the honourable member Mr. Phadake's amendment :

"Delete the words 'and Mahomedans' after the word 'general' in the second line of section 4 of sub-section 6 (1)."

Question put. The House divided : Ayes, 9 ; Noes, 126.
3-00 p.m.

Division No. 2.

Ayes.

CHITALE, Rao Bahadur G. K.
GAVIT, Mr. D. P.
GIRASEY, Mr. G. B.
JHABVALA, Mr. S. H.
KARANDIKAR, Mr. S. L.

KHEDGIKAR, Mr. R. A.
MANDLIK, Mr. R. N.
MISHRA, Mr. JAMNADAS M.
PHADAKE, Mr. G. K.

Tellers for the Ayes : Khan Saheb FAIZ MOHAMED KHAN and Mr. S. L. KARANDIKAR.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Khan Bahadur
AIDALE, Mr. J. S.
ANTROLIKAR, Dr. K. B.
ARADHYE, Mr. D. T.
BEGMAHOMED, Mr. HUSEIN ABOOBAKER
BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
BHARTIYA, Mr. S. R.
BHOLE, Mr. R. R.
BRAMBLE, Mr. C. P.
CHITRE, Mr. A. V.

CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
CHUNDRIKAR, Mr. ISMAIL I.
COLLACO, Dr. J. A.
DABHI, Mr. FULSINHI B.
DANDEKAR, Mr. V. V.
DEHLAVI, Sir ALI MAHOMED KHAN
DESAL, Mr. DINKERRAO N.
DESAL, Mr. KHANDUBHAI K.
DESAL, the Honourable Mr. MORARJI R.
DESAL, Mr. RANDHIR P.
DESHMUKH, Mr. K. B.

Noes—contd.

DESHMUKH, Mrs. ANNAPURNA GOPAL	NARIMAN, Mr. K. F.
DESHPANDE, Mr. G. H.	NESVI, Mr. T. R.
DODMETI, Mr. A. D.	NUMANEE, Mr. P. A.
FAIZ MOHAMED KHAN, Khan Saheb	NURIE, the Honourable Mr. M. Y.
FIRODEA, Mr. K. S.	PATASKAR, Mr. H. V.
FRENCH, Mr. F. H.	PATEL, Mr. BABUBHAI J.
GAIKWAD, Mr. B. K.	PATEL, Mr. BHAILALBHAI B.
GANDHI, Mr. M. M.	PATEL, Mr. ISMAIL MUSA
GAVANKER, Mr. S. K.	PATEL, Mr. MAHOMEDRAWA M.
GHEKWALE, Mr. A. A.	PATEL, Mr. MANGESH B.
GHIA, Dr. C. J.	PATEL, Mr. MUSAJI E.
GHIA, Mr. M. C.	PATIL, Mr. ATMARAM N.
GILDER, the Honourable Dr. M. D. D.	PATIL, Mr. GAMBHIRRAO A.
GIRME, Mr. R. B.	PATIL, Mr. KALLANGOUDA S.
GOKHALE, Mr. K. G.	PATIL, Mr. LAXMAN G.
GOLDING, Mr. C. F.	PATIL, the Honourable Mr. L. M.
GOFI, Mr. M. G.	PATIL, Mr. MALGOUDA P.
GREAVES, Mr. J. B.	PATIL, Mrs. NAGAMMA
GUPTA, Mr. B. M.	PATIL, Mr. S. K.
HAKHEEM, Khan Saheb A. B.	PIKE, Mr. G. O.
HALLIKERI, Mr. N. F.	PRATER, Mr. S. H.
HANAQI, Mr. ABDUL KARIM AMINSAB	PURANI, Mr. C. B.
HASAN, Mr. SHAIKH MOHAMAD	RAIS, K. B. Sardar HAJI AMIRSAHEB
JADHAV, Mr. D. G.	MOHIDDIN SAHEB
JADHAV, Mr. T. S.	RAJMAL LAKHICHAND, Mr.
JAKATY, Mr. P. C.	RANE, Rao Saheb B. N.
JOSHI, Mr. JINABHAI P.	RANE, Mr. B. R.
JOSHI, Mr. N. G.	ROHAM, Mr. P. J.
JOG, Mr. V. N.	RUSSELL, Mr. W. W.
KALE, Mr. R. S.	SAKARLAL BALABHAI, Mr.
KANUGA, Mrs. VIJAYAGAURI BALVANTRAI	SAKLATVALA, Mr. S. D.
KARVADE, Mr. R. K.	SATHE, Mr. S. H.
KARGUDRI, Mr. S. S.	SAVANT, Mr. K. S.
KATE, Mr. APPAJI YESHWANTRAO <i>alias</i>	SHAIKH JAN MAHOMED HAJI SHAIKH
BAPUSAHEB	KALLA, K. B.
KAZI, Mr. AZIZ GAFUR	SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB
KESHWAIN, Mr. S. N.	JAGDEORAO
KHEER, the Honourable Mr. B. G.	SHIRALKAR, Mr. P. K.
KHIMJI, Mr. BHAWANJI A.	SHRIKANT, Mr. L. M.
KUNTE, Mr. D. K.	SIDDIQUI, Mr. ISMAIL HASAN BAPU
LALA, Mr. BHOGILAL D.	SINGAPORI, Mr. A. E.
LALCHAND HIRACHAND, Mr.	SONGAVKAR, Mr. S. G.
MAGANLAL NAGINDAS, Mr.	SUGANDHI, Mr. M. S.
MASTER, Mr. NAGINDAS T.	TALKAR, Mr. K. R.
MEHTA, Mr. H. P.	THAKOR, Mr. B. P.
MITHA, Mr. MAHOMED S. C.	THUSE, Mrs. LAKMIBAI GANESH
MOHAMEDALLY ALLABUX, Mr.	TULPULE, Mr. H. V.
MORABHAI KASANJI, Mr.	TYABJI, Mrs. FAIZ B.
MUKADAM, Mr. W. S.	VAGHELA, Mr. B. U.
MUNSHI, the Honourable Mr. K. M.	VINCHOORKAR, Sardar N. G.
MUNSHI, Mrs. LILAVATI K.	VYAS, Mr. ISHVARLAL K.
NAIK, Mr. V. N.	WADEKAR, Mr. R. B.
NALAVADI, Mr. G. R.	WAIVEKAR, Mr. B. B.
NANDA, Mr. GULZARI LAL	WANDEKAR, Mr. D. N.

Tellers for the Noes: Mr. S. K. PATIL and Mr. S. H. JHABVALA.

The Honourable the SPEAKER: The next amendment that I will put to the House is No. 9 in the revised list. It reads as follows:

"Add '(ii) Mahomedans' after '(i) Harijans' and renumber the following clauses accordingly in clause 4, sub-section 6 (1) (a)."

Mr. G. K. PHADAKE: Sir, I do not think it is necessary to put this amendment. It is a consequential amendment. Since the first amendment has failed, it is not necessary to move this amendment.

The Honourable the SPEAKER : It has already been moved. Unless the honourable member wishes to withdraw it, I have to put it to the House. Does the honourable member wish to withdraw it ?

Mr. G. K. PHADAKE : No, Sir.

Mr. JAMNADAS M. MEHTA : All the other amendments hang on to the first. If the first fails, the others will be inconsistent with the rest of the Bill. Even if they pass, they have lost their force on account of the first having failed. That is the honourable member's submission. If you wish to put it, we have no objection.

Mr. ISMAIL I. CHUNDRIGAR : May I submit, Sir, that so far as amendment No. 9 is concerned, I concede that its passing will create an inconsistency after amendment No. 5 is lost. That is not the case with amendments Nos. 12 and 16 corresponding to amendments Nos. 13 and 17. As I stated before, I tabled them with a motive altogether different and diametrically opposite to the one which inspired the honourable member Mr. Phadake. They will therefore survive even if amendments Nos. 5 and 9 are lost. Therefore, my submission is that amendment No. 9 should be considered differently from amendments Nos. 13 and 17.

The Honourable the SPEAKER : I am not at present considering amendments Nos. 13 and 17. The only question is about amendment No. 9, and it is whether it should be put to the House at this stage or not in view of the decision just taken by the House. It would be inconsistent with the decision just taken, and I do not think it need be put to the House. Amendment No. 9, therefore, falls. Amendment No. 12 does not fall ; it can stand independently of the first.

Sir ALI MAHOMED KHAN DEHLAVI : Mr. Speaker, Sir, I have a submission to make. Amendments Nos. 12 and 13 were bracketed together according to your directions. One was placed formally and the other was allowed by you for discussion. It was found by the House that the reasonings in respect of the two amendments were diametrically opposed to each other. However, you ruled that No. 13 need not be formally moved but could be debated upon. No. 13 is the amendment, I wish the House to understand, in which we the Mahomedans on this side are keenly interested. If the Government benches consider that there could be some negotiations regarding that, and if you, Sir, permit, we can see whether there can be a better understanding between the two opposite parties. This amendment, if they agree, might be left over and not put to the House until tomorrow. If the Honourable the Prime Minister agrees with this view, then my submission may be accepted.

Mr. S. L. KARANDIKAR : Sir, I have not been able to follow what the Honourable the Leader of the Opposition said.

The Honourable the SPEAKER : The honourable the leader of the Opposition just submitted that amendments Nos. 12 and 13, and 16 and 17—two sets of amendments—are put in by two different representatives of two different groups with diametrically opposite objectives—I am

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stating the substance in my own language and am not repeating what he said—and his appeal, as I understood it, to the Government Benches was that before both were put to the House, there was room for negotiations and for an understanding, and that they would proceed with the negotiations and understandings, if I permitted them to do so in the interest of better understanding of all sides. His final request, therefore, was that these amendments should not be taken up for the decision of the House just now, but should be kept over till tomorrow. That is the request which the Leader of the Opposition has made.

The Honourable Mr. B. G. KHER : Sir, I must frankly state that I thought that the position that had been taken by us in drafting the Bill was so uncontroversial that the speeches of some of the occupants of the benches opposite have come to me as a very great surprise. I do not at this stage naturally wish to speak on the merits of the amendments. I had certainly hoped that in the interest of general unity and harmony as the Honourable Minister in charge of this Bill observed, no sinister motives would be read into an attempt to give those people, who want to get rid of communal electorates, the liberty to do so by their free and unhampered choice. Unfortunately, the position that has been taken by the Muslim League is that even this might result in a kind of influencing or as they choose to call it coercing people to accept the joint electorates which at least a part of the Muslim community considers, are not opportune. I certainly understand that kind of feeling though I believe it is not right. The gentlemen who are making these statements are very good judges of their own fears and I do not doubt their motives. May I suggest a solution ? We might, Sir, in the interest of that larger unity of the communities, refer this Bill to a Select Committee. In the Select Committee we can all sit and all the parties can be represented, and we can have a free talk, and decide whether even giving this option would amount to a coercion as it is feared. What I understand is that the Leader of the Opposition thinks that, although the words of the clause are such that they clearly give the option to the members of his community in any particular Local Board Constituency to decide whether or not to give up the communal electorate, the separate electorate they have, this might in effect amount to hampering their free decision at the request of the majority community. Sir, it was our intention to proceed with this measure through all its three readings in the hope that it would not rouse any opposition and, as I frankly stated, the opposition that has been roused did come to me as a very great surprise. Personally, I must state that I am unable to appreciate any risk or chance of coercion in a measure like this which is a pure relief, a pure choice or right. But, Sir, as an appeal has been made to me, I would suggest that the best solution is that this matter may be considered by a representative Select Committee and then it may be decided whether or not this clause might be retained.

I am sure that if, with the frame of mind that we see now coming over the members, we sit down for a discussion, it will not be difficult to find

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a solution and therefore I would appeal to the Leader of the Opposition now at this stage to withdraw the amendment, let the Bill go to a Select Committee, let this point be considered, and, although it was our intention to proceed with the second and third readings, we will now discuss this matter further and then proceed with the Bill.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, there is one technical difficulty which no one can bridge over. You have ruled, to start with, certain amendments as of principle, and, under our present Standing Orders, amendments of principle can only be discussed at the first reading. Sir, the debate has taken place at length; in fact, you were tired of the debate and, without the closure having been asked, you felt that it was right that the debate should stop. However, if these amendments and the discussion on these amendments in the Select Committee as well as at the second reading could be allowed, then alone that suggestion has a practical value, because that would give us time and give time particularly to the Government Benches to come into a better frame of mind.

The Honourable Mr. B. G. KHER: Sir, I do not think that we need any time. Because, there is no better frame of mind that I can induce myself to come to on this simple question. As I said frankly, all this came to me as a great surprise, and I do not need any more time to come to a better frame of mind. I am in the best frame of mind already.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, I am sorry to see that my honourable friend says that there could be no better frame of mind to which he could be induced to come. That is not logical. The clause, as it is, came to us as a bolt from the blue and a surprise much more than our objection today has come as a surprise to the Honourable the Prime Minister. Whatever that be, I would agree to his suggestion if you permit that all these broad questions be left open to be discussed in the Select Committee as well as at the second reading.

Rao Bahadur G. K. CHITALE (Ahmednagar South): Sir, I rise to a point of order which is very very important. It is all very well for two parties to agree when an awkward situation comes in the way, but there are certain rules by which we the legislators are bound. The principle of this Bill was enunciated, amendments were moved, they were debated upon and now we are on the point of voting, and I pray to you to establish a precedent and establish the privilege of this House by ruling that this amendment shall be put to the vote and the vote of the legislature will decide the whole point. This is not the time for a motion to the Select Committee, nor can only two parties be allowed to decide this matter now. Sir, it would be introducing a bad principle.

Mr. J. B. GREAVES (Bombay Chamber of Commerce and Bombay
3-30 p.m. Presidency Trades Association): Sir, it seems to me
that the best course is to adjourn and accordingly
I move for an adjournment of the House now till after tea.

The Honourable the SPEAKER: I was considering as to the best solution out of this difficulty; but the request to me that I should hold what I once held to be amendments of principle as amendments of detail, and should allow them in the second reading is too much for me to swallow. At the same time, there is also the difficulty pointed out by the honourable the Leader of the Opposition that if the principle is once decided, then their objective would not be gained. The discussion in the Select Committee will then be only confined to the details, and what they object to is the principle of the Bill. So, I was myself considering what would be the best course. I think it will be better if we adjourn this particular item of business at this time so that the parties may come to an agreement, and then the matter may be proceeded with further from the point where we leave it now. I do not think there will be any technical or legal objection to that; it will be keeping the precedents intact, it will give an opportunity to the honourable members to come to some agreement, and it will also save the time of the House by curtailing, in case of an agreement, further discussion at the time of the second reading. An adjournment of the House has already been moved by one of the honourable members.

Mr. K. F. NARIMAN: I submit, Sir, that consideration of the Bill may be adjourned, under Standing Order IV, 4 (I) on page 21, which says that the consideration of a Bill may be adjourned to any future day in the same session available for such business or to any future session.

The Honourable Mr. B. G. KHER: Sir, the correct procedure would be the one pointed out by the honourable member Mr. Nariman. Standing Order IV, 4 (I)—I refer to page 21—is:

“A motion that consideration of a Bill which has been introduced not being a Bill sent under section 90 of the Act or of any resolution moved in Assembly be adjourned to any future day in the same Session available for such business or to any future Session or *sine die* may be moved by any member at any time and such motion shall take precedence of any other motion then before the Assembly. The Speaker, after permitting, if he thinks fit, a brief explanatory statement from the mover of the motion and, if the motion is opposed, from the member opposing the motion, may without further debate put the question thereon.”

So, the correct procedure, under this rule, is to adjourn consideration of the Bill to some future day.

Mr. ALI BAHADUR BAHADUR KHAN: Sir, I want to know what is before the House. What is your verdict on the point of order raised by my honourable friend Rao Bahadur Chitale?

Mr. K. F. NARIMAN: Sir, I submit that the rule just now pointed out by me, namely, Standing Order IV, 4 (I) on page 21, is a complete answer to that point of order.

Mr. J. B. GREAVES (Bombay Chamber of Commerce and Bombay Presidency Trades Association): Sir, I beg to move that the consideration of this business be adjourned to Monday next.

The Honourable Mr. B. G. KHER: Sir, I would suggest, if it is convenient to the Chair, that it should be adjourned till Saturday.

Mr. JAMNADAS M. MEHTA : There will not be any difficulty ; from tea time it went to Monday ; now, from Monday it can come back to Saturday.

Mr. J. B. GREAVES : I accept the alteration, Sir.

The Honourable the SPEAKER : So, the motion is that the consideration of this business be adjourned to Saturday the 22nd instant. We are not fixing any time.

Question put, and agreed to.

**BILL No. III OF 1938 (A BILL TO PROVIDE FOR THE
RELEASE ON PROBATION OF OFFENDERS).**

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move for leave to introduce Bill No. III of 1938, being a Bill to provide for the release on probation of offenders.*

The Honourable the SPEAKER : The Bill is introduced.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that Bill No. III of 1938, being a Bill to provide for the release on probation of offenders, be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, this Bill, which has been before the members of the House some time now, is to provide a criminal, wherever possible, having regard to his age, character and the surrounding circumstances, an opportunity to reform himself. The intention of this legislation is to introduce a modern and humane outlook towards crime and punishment in our law. The law, as it stands at present, is really the survival of the old outlook which society had. Our present idea is those whom we consider morally inferior must be looked down upon and we have no compunction about inflicting any punishment upon them. The second idea is that in order to prevent others from committing a similar offence, we must punish the offender severely. Retribution and deterrence are the two principles of our law as it is at present. Unfortunately, the idea of retribution is very little separated from the idea of the old vendetta—a tooth for a tooth, an eye for an eye, blood for blood—the idea of vengeance. In civilized times, the society, through its judges and magistracies, took upon itself the function of the avenger. The result was that the law visited retribution upon offenders irrespective of the causes which led to the offences or in complete disregard of the social environments which led the offenders to commit the offences. Sir, I may mention to the House an instance of the wooden manner in which our present law worked in a recent case which was full of harrowing details. Some time back, the wife of a village servant attracted the attentions of the patil of the village who, incidentally happened to be the village bully. Whenever the mood seized on the patil, he forced his attentions upon the woman in entire disregard of the time, the hour or the presence of the husband. Ultimately, tired and

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terrorised, unable to go to any authority for refuge because the patil himself was the effectual authority and, unable to get assistance of the neighbours, they decided upon taking the law in their own hands. Once, when the man insisted on satisfying his lust when the husband and wife were taking their food, they invited him to a field a little away, and there, just when the man was trying to gratify his lust, the husband and wife killed the man. Both of them confessed. When the case came on before the Sessions Court, the assessors introduced an element of humanity and decided that the accused were not guilty. The learned judge also decided, after due consideration of the law and tinctured with a little humanity, that they had the excuse of self-defence and acquitted them. Naturally, the Government took the strictly legal attitude that the decision was not correct in law and an appeal was taken to the High Court and the High Court, very reluctantly, came to the conclusion that in law, under the circumstances presented in this case, there was no right to self-defence, and both of them were sentenced to transportation for life. Of course, the High Court asked Government to exercise their clemency and, ultimately, the Government acquitted them. But, Sir, this is a curious illustration of the inelasticity of our law. The notion is that once a man was murdered, doesn't matter under what circumstances, doesn't matter with what motive, the law must have somebody to punish; and the net result was that two persons were, according to law, duly sentenced to transportation for life for having committed a murder. It is unfortunate that the law could not provide any discretion to any of the courts to exercise their mercy or to take into consideration the circumstances under which the offence was committed or to take into account the extenuating circumstances. This is a glaring case, but I dare say cases like this must be found in every court and in respect of many of the offences known to the Indian Penal Code. Therefore, the idea of retribution is an exploded myth and the sooner we grow out of it the better.

Sir, the second idea against which this Bill is intended to operate is the idea of deterrence. The theory of law is that if you punish an offender severely enough, every other potential criminal will be terrorised into harmlessness. This does not, in fact, work. All practitioners who have been at the criminal bar know very well that a criminal rarely takes into account the deterrent effect of a punishment which is given to somebody else. He only takes into account that there may be a possibility of escape if he is clever enough. Then, so long as there are police officials who are either inefficient or corrupt, so long as there are lawyers who are very able and persuasive, or judges who are humane enough to exercise the privilege of mercy, no criminal can be said with certainty to be liable to be convicted; and, therefore, the theory of deterrence is, I submit, unsuited to modern times.

We, therefore, come back to the real purpose of this Bill, that the court should take into account not merely the fact of the offence having been committed but must take into account the age, the character, the antecedents of the offenders and the circumstances under which the

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offence was committed. This is the principle which has been now accepted in modern countries and which is sought to be introduced by this Bill. A crime is not due to the deliberate decision of a free, prudent and wise man; it is more often than not the result of pathological conditions; often of uncontrollability of temper; in some cases of social environments; and the purpose of this Bill is to meet the difficulties which the courts come across in dealing with the large classes of offenders who have committed offences under any of these conditions. A criminal may be feeble-minded, he may have lost his temper, he may be of an uncontrollable temper, he may be the victim of social conditions or he may have been driven to commit the offence under the urge of circumstances over which he had no control; and, therefore, the mere fact that an offence is committed need not attract the penalty which the law provides for it.

Sir, in this connection, I will deal shortly with the provisions of this Bill. This Bill enlarges the scope of section 562 of the Criminal Procedure Code. That section is not resorted to by the courts as often as one could wish. The distinction between section 562 and this Bill is this: in section 562, the offence must be of a trivial nature; in clause 4 of this Bill, the only considerations to be taken into account are (a) the age, character, antecedents or physical or mental condition of the offender, and (b) the nature of the offence or any extenuating circumstances under which the offence was committed. After all, if all these conditions exist, there is no need to go to the triviality or the seriousness of the offence. An offence which attracts the penalty of two years' imprisonment cannot be considered trivial at all, and that is why part of section 562 has not been applied more often. Further, section 562 is this. This clause does not apply necessarily to first offenders, while section 562 applies to first offenders only. Sub-clause (1) (a) of clause 5 says "any male person is convicted of an offence not punishable with death or transportation for life;" while section 562 requires that it must be an offence not punishable with more than 7 years' rigorous imprisonment. So the scope of this clause is larger. Then again sub-clause (1) (b) so far as women criminals are concerned, gives an unlimited scope. Further, clause 5 provides for a supervision order, which is not provided for by section 562 at all. Clause 6 deals with the payment of certain damages by the parents and guardians of minor offenders in special cases.

Now, Sir, the whole reason, as I said, of the scope being widened is that very often if a man, when convicted, is given a chance to improve, he might improve. But if you send him to jail, if you herd him with habitual criminals, if you put him through the paces of a rigorous jail system, he is flung out at the end of his sentence as an ex-convict; the world would not recognise him as a respectable man; he would be treated as a man unsuited for any decent service. The only result of such a thing is that numerous persons ultimately go back to a life of crime and seek asylum only in a jail where all their old pots and pans

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and old mattresses are waiting for them. It is a very common thing in a jail for a man of this kind who has been in once or twice to go to the jemadar and tell him "Oh, please do not give my pots to anybody else, and do not give my mattress to others. I have kept it clean for the last five years. I am coming back within a month, please do not give it to anybody else". That is a very common thing, because he has nowhere else to go. The only safe place where he thinks he can live, where he has got his friends, is the jail. If this man had been, at the beginning of his career, when he first slipped into crime, given the opportunity to behave properly, perhaps he would never have gone back to jail again. And therefore it is that the scope of this Bill has been made wider.

At this stage, I should like to draw the attention of the House to the principles involved in it, so that the discussion might be comparatively narrowed down. As I conceive it, Sir, the principles of this Bill are three. The first is whether clause 5 should be restricted to first offenders or to offenders, may be for the first time, second time or third time; the second is whether women should be given the benefit, as has been done in this clause, irrespective of the nature of the punishment; and the third is whether the element of supervision should be introduced or not. These I conceive to be matters of principle, and I will briefly deal with them one after the other. As regards the first principle, I find that the honourable member Mr. Bramble has moved an amendment to restrict the operation of clause 5 and to make it applicable only to first offenders. Well, this will have this curious result. There are three boys, of whom one has been convicted for riding a bicycle negligently, and the other has been convicted for waving a flag and shouting "Bande Mataram"; a third might not have been taken up for a political offence, but taken up under what is said to be "a chapter case" *i.e.* under sections 106 to 108 of the Criminal Procedure Code. If these boys commit any other offence, they will not get the benefit of this clause. Why, my honourable colleague over here will not get the benefit of this clause at all, because three times he has been convicted for driving without a proper light. Therefore, to narrow down the scope of this clause to a first offender will practically render the section useless.

Perhaps, a conceivable argument may be that if you do not use the words "first offenders", the magistrates may take a very liberal view of offences and let off offenders. But that is not quite correct. As a matter of fact, all the conditions which must exist before this clause can be invoked are laid down here. They are the age, character, antecedents or physical or mental condition of the offender, or the circumstances in which the offence was committed. How can the magistrate go against them? It can go to appeal or to the High Court for revision, and no magistrate worth the name will become so liberal as to jeopardise his reputation. Under this clause, there will be no difficulty on this score at all. Even today a magistrate can give a man one day's sentence. That is perfectly in order. Are you afraid of such a power? Why is any member afraid of the magistrates taking

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an *ultra-liberal* view? Supposing in 5 per cent. of cases this clause is applied in a more liberal spirit than it is intended to be, even then it would be much better than restricting it to first offenders and making it entirely useless.

The Honourable the SPEAKER: As it is now 4 o'clock, the Honourable Minister may continue after tea.

The Honourable Mr. K. M. MUNSHI: Very well, Sir.

The Honourable the SPEAKER: There is one point which I think must be cleared up. I think what the Honourable Minister means is the principal features of the Bill and not the principles of the Bill. The mixing up of the phraseology might create difficulties about the stage at which the amendments will have to be moved. In the view which I am taking, I am looking upon what the Honourable Minister has stated as the principal features of the Bill; they cannot be the principles. At the first reading, only the principle of the Bill is considered. What the Honourable Minister has so far placed before the House are, I think, the principal features. If they are deemed to be principles, I should like to be enlightened as to why they are considered principles. If they are the principal features, I have nothing to say.

The Honourable Mr. K. M. MUNSHI: I said "principles" in the ordinary sense, and not in the sense of their being the only principles which are embodied in this Bill.

(The House re-assembled after tea at 4-30 p.m.)

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, the second principal feature of this Bill, as I was saying, is whether women should be given the benefit, irrespective of punishment. On that question, I think, Sir, there will not be much difference of opinion in this House. It is very rarely that the major offences are committed by women, such as dacoities or house-breaking. Wherever they commit an offence of a serious character, they are scarcely responsible for it in the same sense as men are. Take for instance a case of infanticide. Numerous crimes of that nature come to the notice of courts every year. What else would happen in a society like ours which frowns upon widow re-marriage? There is an unhappy widow who, perhaps, in a moment of unusual ecstasy, submits to the laws of nature. She conceives. The society, or the family or the parents become a terror to her. Out of sheer fright, she kills her poor child, which she would have very much liked to bring up and rear in the normal course if the society had permitted her to do so. In order to escape the infamy, the terror of society, she kills the child. What does law do? The law imposes upon her double infamy. She is duly tried, exposed and sent to jail. When she comes out of jail, she has no decent place to go to; there is none

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so unrighteous as to befriend her ; and ultimately, in many cases, a life of vice or a life of crime is only open before her. Is it any fault of hers that she was not given the benefit of the doubt by the society, that she was not allowed to live a decent life ? So, in most cases, women are more sinned against than sinning. To them, perhaps, a much larger scope should be given under this section than to men ; and, therefore, clause 5 has been enlarged to that extent.

The third principal feature is with regard to probation. Probation is not very common in India ; not very much in vogue even in this Province. If I may refer to the existing conditions in Bombay, you find that in Dharwar, Belgaum, Sholapur, Poona and Ahmedabad, you have stipendiary probation officers. In Broach, Panch Mahals, Surat and Bijapur, there are only after-care societies recently started. There are sub-committees and sub-associations functioning in several other districts. But we have not reached a stage where probation system could be introduced all over the Province. Therefore, we have introduced two features. The first is that this Act should be extended to such parts of the Province as are ripe for it ; and, secondly, in every case, where the offender is over 25 years of age, he may be let off, not under a supervision order, but under the guarantee of two sureties. This will secure the same purpose as a supervision order can. We may reach a stage hereafter, as in England, where every one is let off only on probation and under a supervision order. But today, the conditions in this Province are not such as to warrant such a course, and the solution put forward by this Bill is one which will, perhaps, be most effective in the present conditions of our society. In this connection, I may read to the House the position as given by the Report of the Committee of Enquiry set up by the Bombay Government to enquire into the care of destitute children and young offenders. It says :

“The supervision of an offender in his or her normal surroundings by a probation officer, possessed of those personal qualities likely to exert an influence for good, is relatively easily carried into effect in a country where destitute children form a negligible portion of the population, where trained probation officers exist, where suitably trained magistrates sit in authority and where there is compulsory education.

These conditions do not obtain in the Bombay Presidency, and until the situation is improved by the introduction of at least some of the recommendations made in this Report, and more important still by an awakening of social responsibility generally, ‘probation’ itself must be on probation for many years to come.”

Therefore it is that we have departed from the recommendation of the committee recently appointed in England that in all cases criminals who are given the benefit of probation must be placed under supervision officers. If we insist on that condition in our country, as I said, clause 5 may be entirely useless. But we cannot wait. If we go on waiting, we will never be able to have a proper system. The object of Government in having this Bill is that once this kind of law is there on the Statute Book, it will be possible for Government to establish a net-work of supervisors all over the Presidency, so that the after-care of offenders under this Act may be duly provided.

This is the object of the Bill. I have no doubt this Bill may serve to draw the attention of the judiciary and the magistrates and of the public

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to the very urgent necessity of dealing with criminals in the way which I have suggested. I therefore hope and trust that this Bill may perhaps open a new chapter in the history of crime and punishment in this Presidency. As only the other day a newspaper remarked about this Bill, it is the first of its kind to be introduced in any assembly of this country and I do hope that it will meet with success, though I am not quite prepared—I frankly confess—to say how far the judges and magistrates will fulfil the high hopes that Government have entertained with regard to this Bill. Bernard Shaw, I remember, remarked at one place that judges, magistrates and Home Secretaries,—corresponding to the Home Minister of the present regime,—are generally of the view that criminals are very much better off in jails than outside and that they are positively pampered there. Shaw further remarks on this belief of theirs, that the judges, magistrates and the Home Secretaries should be lodged in jail for six months incognito so as to appreciate the difficulties of the situation of a criminal. But so far as this House and not only this Home Minister but many members of the Cabinet and a substantial section of the House are concerned, they are fully alive to the situation and do not need the dose which Shaw would prescribe for similar persons in England. The bulk of the House knows, by first-hand experience, the terrible system which prevails in jails—the insult, the indignity, the rigour, the ferocity with which a criminal is sought to be tamed under the system which prevails in our jails. I have no doubt that if the whole of the system, as many of us saw in working, were properly known in the full details, it would shock the Prince of Darkness himself. But I do hope that this Bill might enable our judiciary and our magistrates perhaps to save many persons, after conviction, but before they reach the jail-door and harden into proper criminals.

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

Mr. MIRZA AKHTAR HASAN: On a point of information, Sir. May I know whether my amendment would be treated by you as one of principle or detail?

The Honourable the SPEAKER: It is rather difficult and awkward to bind oneself down to a view. All that I can say is, that for the moment out of the 39 amendments—there are 37 which, I believe, are in the hands of members and two more are added on, so 39 in all, I have looked into them and, *prima facie*, I believe they are all amendments of detail—there does not seem to be any amendment of principle. That is my view.

Mr. D. J. FERREIRA: On a point of information, Sir. May I enquire under what Act the probation officers referred to by the Honourable the Home Minister in his speech moving the first reading of the Bill have been appointed?

The Honourable Mr. K. M. MUNSHI: They are not appointed under any Act. District Associations and Societies have been formed and the officers have been approved by the Government administratively.

Mr. S. H. JHABVALA : Sir, my point is to know whether the amendments which I have given notice of, are not amendments of principle. I could not catch you.

The Honourable the SPEAKER : On enquiry from one member here (Mr. Mirza Akhtar Hasan), I said that all the amendments that have been tabled so far, appear to be amendments of detail and, in my view, they can be moved in the second reading. They need not be moved at the first reading.

Mr. C. P. BRAMBLE (Bombay City *cum* Bombay Suburban District) : Mr. Speaker, Sir, the principle of this Bill is one which I fully support and I should like to take this opportunity of congratulating Government on dealing with this subject so early in their career. The Bill, however, is far from being perfect for reasons which I shall attempt to set out and as a member of a party which is so often misnamed—the real designation is the Progress Party—I believe that I am not belying our name when I say that this Bill goes, not so much too far, as too fast.

In the statement of objects and reasons, Government have made it clear that they intend to limit the places to which the Bill should apply in the first instance. They have in mind places where there are prospects of the Bill being worked satisfactorily. In other words, Government have in mind a geographical restriction. But in my opinion the scope of the Bill itself should be limited. It should deal with true probation only and with this end it might have to be limited to first offenders. I very much hope that that will not be necessary. It all depends on the machinery available to Government and the Honourable Minister in charge has already indicated that the machinery is very scarce.

Now, Sir, I should like to define probation. A probation order is an order of conditional release, subject to supervision by a probation officer. The important factor is supervision. But this Bill concerns itself with three different kinds of treatment, only one of which is probation proper. The Bill provides, first, that first offenders may be merely admonished and released; it provides, secondly, that offenders, not being first offenders, may, if they are 25 years of age or more, be released on what I would call so-called probation—it is not probation proper, because it does not contemplate the services of a probation officer. Thirdly, Sir,—and this is a very small category, but quite the most important—it concerns itself with those offenders, not being first offenders, who are under the age of 25; such offenders may be placed on probation proper—this is the real thing. Now, Sir, let us consider what chances any delinquent has of receiving the benefit of the advice, control and general help of a probation officer. If he is a first offender, he will almost certainly be admonished and released; this is the line of least resistance, and magistrates will tend to follow it, with the result that it may very easily become a rule to administer the law in this way. Likewise, if he is not a first offender but appears to be about 25 years of age, the danger is that his age will be guessed at and he will be accepted as being 25, because—I say this again—this is the line of least resistance. I am not condemning

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all our magistrates by a generality. It must be understood that the alternative to this line of least resistance would mean delay in a court while inquiries were made and while the delinquent was medically examined. And even supposing that the court is abnormally conscientious and thorough, there may still be a very large margin of error about the doctor's view as to a man's age. It is open to question whether any doctor—I see that a most distinguished doctor is not present here now—but I say, with due deference to the Ministry, that it is open to question whether any doctor can definitely testify that a man is 23 or 25 or 27. Yet upon his certificate depends whether or not supervision will be ordered by any court for any given delinquent. It boils down to this, that the only delinquent who will definitely receive the benefit of supervision by a probation officer is he who is not a first offender but who is between the ages of 16 and 25.

Sir, I must say that when I heard the introduction of this Bill, I thought that the House might consider it was beyond criticism. Nevertheless, my criticisms are practical ones. They are made in the light of my knowledge of human nature and of courts generally. It should be remembered in this connection that any first class magistrate is to be authorised to exercise powers under this Bill. I have also criticised the Bill in the light of knowledge of up-to-date opinion in England. In England the existing law on the subject leaves a great deal to be desired. I admit it. The reason is that the law has grown up piecemeal during the last 50 years. It is true that all the three kinds of treatments contemplated by our own Bill have been provided for in England at one time or other by specific Acts. But any further legislation—there has been none for over 12 years—will almost certainly be based on the recommendations of a committee which sat in 1934 and finished its deliberations only 18 months ago. That committee, the name of which is the Committee on Social Services in Courts of Summary Jurisdiction, points out that because the Probation Acts in England concern themselves with a number of practices which are not probation proper, the different courts in England have gone astray, and that they tend to dismiss some cases unconditionally and to release the accused in some cases conditionally but without supervision. As I have already pointed out, the essence of probation is supervision. The result is that offenders are denied that constructive help which they need in keeping straight. This Bill of ours, which should be the last word on the subject,—we are now in 1938, and the committee to which I have referred sat in 1934–35—is every whit as much confusing as the several English Acts put together. It provides, in one enactment, for all the several types of treatment which in some cases have been found wanting in England. Over and above that, it differentiates between the treatment of the two sexes.

Now, Sir, I should tell the House that I make no apology for referring to the position in England. The Honourable Minister has made it quite clear where he found his pattern. But I do ask the House not to repeat here the mistakes which he has found there. The practical difficulties

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which manifested themselves in England during the rapid growth of probation work led to the appointment, several years ago, of the committee to which I have already referred. And that committee recommends very largely the removal from English law and practice of methods which this Bill seeks to set up for the first time in this Province, notably,—and this, I think, is the worst aspect of the Bill—release on admonition. That committee reports, with its experience of English courts, that that method of dealing with offenders is useless.

Sir, there are some Bills which possibly incorporate vital principles of Congress policy ; there are some Bills which the prestige of Government demands should be passed without any substantial amendment. This is not one of them, and I would point out to the Honourable Minister in charge,—if I could only get his attention,—that this is an opportunity when Government might very reasonably listen to the constructive criticisms of the Opposition—a course which, if I may say so, they have not followed very much in the past—and to refer this Bill to a Select Committee where our constructive criticisms and those of others who have taken the trouble to go through the Bill as drafted and table amendments might all be reviewed. I would ask the honourable the Home Minister very seriously to consider this appeal. I admit that the adoption by the House of my point of view would mean that the benefits of the Bill—and I have never disparaged it—would necessarily be felt very slowly. But against that, it must be remembered that probation is not to be used generally : probation is suitable only in picked cases. We are told, again, by the Honourable the Home Minister that in England the system has proved efficacious not only in checking crime but in keeping down the population in jails. The one is largely, though not entirely, the result of the other. But I am sure that the Minister in charge has no intention of urging the House to accept the principle of emptying all jails in order to keep down expenses. The point is that indiscriminate use of probation—even of probation proper—will speedily lead to undermine the entire system of jail administration, and the hasty application of so-called probation will also result in bringing the whole thing into disrepute. I hope I have made myself sufficiently clear. We in this party approve the Bill in principle, but we very strongly urge that it should be referred to a Select Committee and that there it should be altered in several important respects. To this end I have tabled several amendments which I hope I shall be allowed to move later.

Mr. D. J. FERREIRA (Thana cum Bombay Suburban District) : Sir, I am speaking for myself and not as a member of my party, nor as a criminal who has had the advantage and experience of life in prison, as the Honourable the Home Member says he had, but as a criminal lawyer who has had many many occasions to see how sometimes offenders in a moment of temptation which they are unable to resist, have committed offences and been brought before the Criminal Courts there to be punished. I started in practice in the year 1892. At that time the Criminal

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Procedure Code of 1882 was in force, and being in Court in the very first cases which I conducted, I found cases of first and second offenders brought before the Magistrates for being punished for certain offences. It seemed to us all who were present, waiting there for our cases to be taken up, as also to the Magistrates who were trying those cases, that there should be some means whereby these offenders could be dealt with in a way other than under the law set out in the Indian Penal Code and the Code of Criminal Procedure. But there was no section like section 562 in the Code of Criminal Procedure of the year 1882. Six years after I started practice, a new Code of Criminal Procedure was enacted and there for the first time appeared this section which allowed the Magistrates to deal with first offenders, offenders against whom no previous conviction had been proved. This section laid down that in cases of theft, theft in a building, and the other cases in the section mentioned including all cases of offences under the Indian Penal Code for which the punishment was not more than 2 years' imprisonment, if it appeared to the Court before which the offender was convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances under which the offence was committed, that it was expedient that the offender should be released on probation of good conduct, the Court might instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond for keeping the peace and for being of good behaviour and agreeing to come up for being sentenced whenever called up during such period.

It will be observed that under section 562 as it then stood, provision was made only for first offenders; it was expressly laid down that the section was applicable only if no previous conviction was proved against the offender. Under this section, however, not only could persons, who were found guilty of offences punishable under the Indian Penal Code with not more than 2 years' imprisonment before any Court, be dealt with, but also those persons who were convicted of theft, theft in a building, dishonest misappropriation, and cheating. All these came within the purview of that section, and my submission to the Honourable the Home Minister is whether it is right that instead of enlarging the scope of this section we should curtail the powers which have been already given. It was only 25 years thereafter, by Act 18 of 1923 that section 562 was made applicable to all offences the punishment for which was not more than seven years and, in the case of persons under 21 years of age, to all offences other than offences punishable with death or transportation for life. But yet, Sir, no provision was made for cases in which the Magistrate using his judgment would wish to say "I will release this man. I will convict him, but I will release him without any punishment and I will take no bond." That, Sir, was provided for by Act 37 of 1923, an Act which enabled the Magistrates not to convict but to release after due admonition. Now, it has been said, that this is an improper thing to do. Sir, I have been practising at the Criminal Bar for the last 45 years and have come across very many cases in which it has been felt by everybody present, as I said, both by the trying

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Magistrates and by the Counsel during the trial of that particular case, that that case ought to be dealt with by the Magistrate in these terms "I do convict him, but under the circumstances of the case, I am not going to sentence him, but I will release him after due admonition." By Act 37 of 1923 an addition was made to section 562 which stated that if in any case in which a person was convicted of theft, theft in a building, dishonest misappropriation, cheating or any other offence, under the Indian Penal Code, punishable with not more than 2 years' imprisonment and no previous conviction was proved, the Court could release the offender after due admonition without sentencing him or without asking the offender to execute a bond.

Now, Sir, what is this present Bill going to do? The present Act curtails this power of the magistrate, and, therefore, I feel that I ought to invite the attention of the Honourable the Home Minister to this position. The words "where a person is convicted of theft, theft in a building, dishonest misappropriation, cheating" are omitted. These are all offences which are punishable with terms of imprisonment ranging from two to seven years, and the result of the present Bill would be to curtail the power of the magistrate to this extent, that he can only deal with offences for which a two years' term of imprisonment is provided, that he cannot do what he formerly could do, that he cannot in cases of theft, theft in a building and such like cases, release the offender after due admonition. What is to happen in the case of a person, who, in an unfortunate moment, commits the offence of theft. The Honourable Minister gave us instances which affected family life. I will give an ordinary instance. A man is starving; the members of his family are starving; while passing along he sees a purse lying unclaimed in a compartment of a railway train; nobody is about; he pockets the purse. He does it out of sheer necessity. Remember, his family is starving. Now, in this case, what could the magistrate do after the passing of the Bill? He can release him on his executing a bond. It was proved that the family members of this man were actually starving, that this man once occupied a good position, that his antecedents were excellent, that he was unable to make both ends meet having lost his employment because of illness, that it was only in a moment of temptation—temptation born of dire necessity—that he did this act. What should the Magistrate do? He says, "this is a case in which I convict but I will release you after due admonition". This the magistrate may say, but he cannot do if this Bill is passed. Why is the present Government anxious to reduce the power of the magistrate, and not to allow the magistrate to have this power which he had under section 562? As you will observe, once this Act is made applicable to any particular area, then the Court cannot act under the provisions of section 562, because clause 14 of the Bill says "In any area in which this Act is in force, no Court shall make an order under section 562 of the Code in respect of any first offender". Therefore, it will not be possible for the magistrate to deal with such a case as he would like to, and so I say that by the present Bill the powers of the Magistrate would

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be curtailed. I am glad to observe that whilst under the Code—under the provisions of section 562—the powers of the magistrate were limited to offences which were punishable under the Penal Code with imprisonment for two years, this Bill is providing for all offences punishable with two years' imprisonment, both under the Penal Code and under special Acts. This is a great advance which, I have no doubt, was present to the mind of the Honourable the Home Minister when this Bill was placed before him. I was once caught riding on a cycle without a lamp after lighting time. Fortunately for me, the sepoy, who caught me, said "Sab, I know you; do not do this again". He was more reasonable than the legislature, because if he had taken me before a magistrate, the magistrate would have said, "Well, no doubt, I could release you under the second part of section 562, if you had committed an offence under the Indian Penal Code, but having committed an offence under a special Act, I am sorry I must impose on you at least a fine—may it be a fine of a rupee—but I must impose that fine upon you". Therefore, in so far as this Bill provides for cases where the term of imprisonment is two years—no matter, whether under the Indian Penal Code or under any special Act—I have to thank the Government for enlarging, in a sense, the powers of magistrates.

Then, Sir, there are some other points which I wish to mention. Cases have arisen where we felt that there should not be even a conviction. We are all out for the uplift of the masses. If any one requires uplifting, if any one requires to be raised, to be helped, it is the man who, in a moment of excitement, in a moment of temptation, has committed an offence. What do we do for him? We say, "we will convict you"; in other words, we stamp him as a criminal offender, as a man who has been convicted. The Act of 1907, upon which the present Bill is based, provides for release without conviction, and I do not know why the draftsman of this Bill has not incorporated such a provision in the present Bill. I refer to Chapter 17, section 1, of the Probation of Offenders Act, 1907, It says:

"Where a person is charged before a Court of summary jurisdiction with an offence punishable by such Court and the Court thinks that the charge is proved, but is of opinion that having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the Court may, without proceeding to conviction, make an order dismissing the information or charge."

Why is it that in this Bill, which is based upon this English Probation of Offenders Act, 1907, we have no such provision which certainly is a very humane provision. If we want to rehabilitate the offender, the first thing is to get him an employment, and this becomes next to impossible after a conviction. What are we doing for him? We say we will convict him. Why not take advantage of the idea which is given to us by the Probation of Offenders Act and say that there are cases in which we will release the man without convicting him? No doubt, we feel that the man has done something that is wrong but we should not convict him because the moment we convict him the first thing

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that happens to him is that he is thrown out of work, nobody cares to employ him and the result is that we, who are anxious to uplift him, are unable to do anything for these unfortunate brethren of ours who have committed some offence under special and very extenuating circumstances.

There is one thing more which I wish to add. No doubt, much will depend upon the probation officers, more perhaps will depend upon our magistrates. But, Sir, I do not understand why the present Bill says that only in the case of persons under 25 shall such an order be made as this supervision order. Sir, it is true, no doubt very true, that probation and supervision would be very helpful in the case of youthful offenders, but as pointed out in the report, page 41, I believe, referred to by the Leader of the group to which I belong, there cannot be any shadow of a doubt that probation and supervision prove helpful in the case of offenders of all ages. Now, Sir, I do not know what justification there has been for fixing this age of 25. First, it will be very difficult for any doctors, as already pointed out, to say that a particular man is above or below 25. There would be an inquiry whether the offender is 25 or below 25. What is this age 25? Is there any charm in this figure of 25? Why should it not be 23 or 27? Why has this age of 25 been fixed? Is there any special reason? Does something special happen to a man at 25? I do not know. I suggest that this age limit should be removed entirely and we should follow the Act of 1907. In the Act of 1907, there is no age limit. Probation officers would be very helpful to men also of greater age. Whilst men of greater age have got their ways of thinking, they have also the will to reason and to understand and to be led. Why I ask again, this particular age of 25? I do not understand why this age has been fixed in this Bill.

Sir, there are other points which I would like to make reference to, but on the first reading I do not propose to do so. There is no doubt whatever that we welcome whole-heartedly the advance that is being made in this Bill. First and foremost it is an advance that most clauses of the Bill have been made applicable to all offenders. I cannot agree with the honourable member Mr. Bramble that so far as we can we ought to make it applicable only to first offenders. I am very glad indeed that this Bill has been made applicable to all offenders. Again, in the case of offences which are punishable with higher terms of imprisonment also, these provisions have been made applicable, and last and not least the Bill has gone further in the case of women and provides that in the case of women, no matter what the offence is, this Bill should be made applicable to them and the magistrates should be empowered to deal with them and to send them on, under bond, to a probation officer. These are all matters for congratulation. Sir, I have given notice of amendments and I have made certain suggestions in addressing the House just now. I shall no doubt have an opportunity of moving those amendments at the proper time, unless the Bill goes to a committee, the demand for which I heartily support.

*Dr. B. R. AMBEDKAR (Bombay City): Mr. Speaker, Sir, one notices that there is not much enthusiasm for this Bill because one does not see the same competition that is observable when other Bills are before the House, and when I rise, although I am desirous of making reference to only one section, I also confess that I do not feel any very great enthusiasm for this Bill, and that, I submit, is very natural, because the Bill does not touch any problem which can be said to be either grave or urgent. It touches a very small problem. The Bill, I am told, follows very closely an English statute. I do not know whether the English people who are made subject to the statute which is taken as a model for this Bill have derived any benefit which may be called to be considerable, but I trust that the Honourable the Home Minister has examined the position carefully and has evidently come to the conclusion that the benefit arising from this Act in the country in which it is now prevailing, is certainly so considerable that we ought also to follow it by similar legislation in our province.

Sir, I have nothing to say with regard to the detailed provisions contained in the Bill, and I say at the outset that reading the Bill as it is, I think there are principles embodied in this Bill to which I can lend my support. There is only one clause about which I feel some trouble and which I would like to place before the Honourable the Home Minister for his consideration, and that clause is clause 6. Clause 6 seems to me to embody a principle which may become in its operation somewhat oppressive, to use a very mild expression. The latter part of clause 6 says:

“and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has conduced by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian.”

It seems to me that this may rightly involve a great deal of oppression as against the parent or guardian. My learned friend the Honourable the Home Minister will agree that the words “neglect” and “negligence” are the vaguest of the vague words, and it is very difficult to give any positive definition of what is negligence and what is not negligence. If I may refer to what happened during the course of the Civil Disobedience Movement, I think it will give an analogy by which it might be possible for my honourable friend to realise the difficulty which I feel. I believe it is true—I will stand corrected if I am told that I am wrong—that during the Civil Disobedience Movement many civil servants who were in the service of the State and whose children had taken to the Civil Disobedience Movement, were brought under disciplinary action on the ground that they had not justified their duty to the State by seeing that the children did not follow the movement which was subversive of the Government of the day. I think I am right in saying that members who are now sitting opposite did take great objection to that principle, because, if I understand them correctly, their contention was that no parents could be responsible for the conduct of their children, especially

5-30 p.m.

*Speech not revised by the member.

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if the conduct involved the holding of a certain opinion which may differ very legitimately from the opinion of their parents. My submission is that a child may develop criminal proclivities notwithstanding the fact that the parent has been as careful and as dutiful as ordinarily parents are; and unless the word "neglect" or "connivance" or "conducting" is properly defined, it seems to me that this Bill may lead to consequences which would be far greater than those which probably the Honourable the Home Member himself intends.

My honourable friend Mr. Bramble, who undoubtedly, as one sees from the speech that he made, has devoted special attention to the study of this problem, has pointed out that the English law contains certain anomalies, and that if the English law is to be taken as our model, we ought to take this occasion in order to see that the anomalies which are found in the English law are not introduced in the legislation that we are passing. I have every reason to believe that the statement that he has made is based upon the deepest study, and if that is so and the prestige of the Government does not come in the way, I would join in the request made by the honourable member Mr. Bramble that this Bill could very well be referred to a select committee, where all the points that may be raised either in favour of certain principles or against may be threshed out, so that the Bill may become as perfect as we in this House can make it. With these remarks, I support the first reading of the Bill.

Mr. S. H. JHABVALA (Railway Unions): Sir, in the beginning of my public life I have had to do a good deal with what is known as the Bombay Prisoners' Aid Society—I do not know whether it exists now. I have also been myself a prisoner for a pretty long time in a Central Jail in the United Provinces. Accordingly, I desire to place before the House certain experiences so far as this Bill is concerned, and viewing from that point I feel myself inclined to the view that the suggestion made by the leader of the Progress Party (Comrade Bramble) should be accepted by the House and the Bill should be sent to a select committee. The principle of the Bill that the Honourable the Home Minister has explained in the Statement of Objects and Reasons is release on probation. Now, Sir, the whole science of criminology, so far as the modern system of society is concerned, requires to be thoroughly understood before a Bill of this character is suddenly rushed through the House. This principle, namely, that society, constituted as it is at present, is not prepared to accept *in toto* the Bill as laid out by the Honourable the Home Minister, requires to be thoroughly threshed out in a committee. The whole list of amendments of which notice has been given—and you have already said, Sir, that there are no less than 39 amendments—will indicate to the Member in charge that the Bill, though generally acceptable in its principle, is certainly one that requires to be, if not overhauled entirely, recast and put in a proper form suitable to the needs and requirements of the economic situation of the country. Under the circumstances, I shall not expatiate further on the whole

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issue, because I want to reserve my remarks at the time the second reading is moved if the idea of a select committee is not acceptable. I shall then explain further what I have to say. In the meanwhile, I do suggest, Sir, that the suggestion of the honourable member Comrade Bramble must be accepted, that as soon as the principle is accepted it should be sent to a select committee. But with one reservation, that the select committee should not mainly consist of lawyers, because, Sir, pardon me, lawyers are very good gentlemen, but then they are a great nuisance to society and too many lawyers will bring an end of the Bill.

The Honourable the SPEAKER: The constitution of the select committee may be discussed when we come to that stage.

Mr. S. H. JHABVALA: I was forecasting, Sir.

Mr. MUSAJI E. PATEL (Broach Sub-Division): Sir, a Bill of this nature, involving principles both modern and humane, was long overdue, and really the Government are to be congratulated on bringing a Bill of this nature. My honourable friend Dr. Ambedkar has observed that no great enthusiasm is found over this Bill in this House. Unfortunately, we have been observing that unless there is any communal or class touch attaching to any Bill or measure no enthusiasm is found, though as a matter of fact great and very urgent problems are involved in this Bill. The question of the improvement of a considerable portion of our fellow citizens is involved in this Bill; still, it is regrettable that no enthusiasm is to be found in this House with regard to it.

No doubt, a great latitude and great discretion has been given to the magistracy, and this Bill is a great advance on section 562 of the Criminal Procedure Code. However, at least I have found in my small practice in criminal courts in Bombay that principles of this nature are double-edged swords. Sometimes it has a salutary and healthy effect on criminals, and sometimes it has got a very bad effect. Of course, it all depends on the nature or the mentality of the people with whom we have to deal. Now, Sir, the success or failure of a Bill of this nature depends considerably upon the way in which our magistrates administer it. As I observed in the beginning, great latitude and discretion have been given to the magistracy, and our only hope is that this discretion is used judicially and not arbitrarily by the magistrates.

Now, Sir, it is certainly very commendable that the Honourable the Home Member has provided that this Bill is to be applied only to those portions of our Presidency which are fit for its application. Great care will have to be taken in extending the application of this Bill, because in our Presidency there are some districts in which the tendency towards criminal acts is very apparent, and criminal propensities and tendencies are found there. Hence great care will have to be taken in selecting the areas to which this Bill is to be extended.

Now, Sir, my honourable friend Dr. Ambedkar also has observed that clause 6 is a very intriguing clause in this Bill, because many unfortunate parents will be held responsible for the delinquencies of their children,

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and it is also provided in the clause that the compensation that is to be awarded to the complainant will have to be recovered from the parent concerned in accordance with the provisions of sections 386 and 387 of the Criminal Procedure Code, and hence it would be better. I endorse the views expressed by the honourable member Dr. Ambedkar and the honourable member Mr. Bramble that this Bill ought to go to the select committee wherein we can thresh out the several amendments put forward by several honourable members. There we can, without any outside influence, examine the Bill clause by clause and come to the conclusion whether this Bill when passed into an Act will serve the purpose for which it is intended and do good to the society for which it is meant.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers): Sir, I rise to support the first reading of this Bill and I sincerely congratulate the Honourable the Home Minister on the enunciation of the principle underlying this Bill. It is my exclusive privilege for the last 10 years to practise in Mazgaon Police Court and I can say without being challenged that no other court records more criminal cases than this court. I quite agree with the Honourable Minister when he says that the Bill is intended to ward off an ordinary criminal who sometimes on account of circumstances gets into the clutches of the law from contact with hardened criminals who are jail birds. You are aware that there is an Act in Bombay known as the Children Act. The first principle of that Act is that the juvenile offenders should be kept apart from jail birds and it has had very good effect.

As regards the very important principle which has been laid down in this Bill, I have to make certain observations. A great latitude and a greater discretion has been given to the magistracy. I really desire that some means or other should be found to define this discretion in such a way that the public may be protected from encroachment on their rights. I think it is better that the discretion of the magistrates should be so restricted that it may not infringe on the ordinary rights of the people and that it may be in keeping with democratic principles. I shall give an instance. It is provided that offences under section 324, Indian Penal Code, can be compounded with the permission of courts. Some members may be aware of it. There is a circular issued by the Commissioner of Police that the practice of compounding cases in which knife is used should not be encouraged. Whenever we point out that an offence under that section deserves to be compounded, the Magistrate has to consider that circular, and the prosecutor has to oppose it formally. I beg of you not to leave a wide discretion to the magistracy without defining its limits as to what he can do. After all, we are all human beings and the magistrates are not above that.

I now come to the most objectionable part of it. In this Bill a latitude has been given, I may say a license has been given, to women to commit

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offence. This will prove a sufficient premium on hypocrisy. I do not refer to innocent cases. But I invite your attention to the past history as to what happened in this House. You will remember that the Purity League was formed and in pursuance of the recommendations of the society, vigilance societies were created. As a result of that, a legislation, known as Prevention of Prostitution Act, was passed. In pursuance of that Act, the vigilance branch of the city police is functioning and doing very useful work. With all that, what is the result? We have got so many professional women in Bombay who are importing girls from Kashmir, Karwar and other places for prostitution. There is a history behind it; and honourable members will know more about it, if they refer to the debates in this House in 1929 and 1931. If such offences are protected by section 5 of the Bill, I do not know what will happen to society. A number of professional women carry on this trade. If they can get a privilege under this Bill, it will be a great menace to society, with all our good-will to do service to humanity. In spite of all legislative measures to stop gambling, gambling is on the increase every day. The more the penalty Government impose, the more the number of ways they find to carry on gambling.

I have to make one more observation. The honourable member Dr. Ambedkar has referred to the operation of section 6. There is already a section under the Bombay Children Act, where the parents or guardians of the juvenile offenders are made to pay. There is another thing that the working of the Children Act will be greatly hampered. Sufficient attention will have to be paid in drafting the provisions and various rules of this Bill so that the good work done under the Bombay Children Act is not hampered. With these words, I support the first reading of this Bill.

Mr. K. F. NARIMAN (Bombay City): I was rather surprised, Sir, at the remarks of my honourable friend Dr. Ambedkar. He stated that there was no great principle involved in this Bill and that there was no great enthusiasm shown by this House. Although this is a Bill with a few sections, there are more amendments than the sections of the original Bill. That shows that honourable members regard this Bill as an important Bill, have paid attention even to ordinary details, and have proposed several amendments. I consider this as one of the very important measures which deal with fundamental rights of people. This Bill deals with the very great question that has been agitating the country about jail reforms. There has been a very long agitation and substantial agitation based upon good ground and a clamour for years that the existing system of jails and penalties and punishments need to be overhauled, as it has been overhauled years ago in the civilized countries in the world. The object of penalty, the object of jails and punishment, are entirely matters misconceived in many cases, 70 per cent. of the cases, which have been tried in courts of law. There has been no distinction. As has been pointed out, it is a question of crime psychology, it is more than crime psychology. There is a distinction

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between crime and crime. You will find several sections in the Indian Penal Code which are known as accidental crimes where there is no criminal intent for offences, as we find in rash driving, rash and negligent act and so on. In such offences, you do not find the criminal intent as you find in house-breaking and robbing. Two different kinds of criminality are involved. Still, on the question of accidental crime and deliberate crime, there is no differentiation made at all. Similarly, there is no difference made between what is known as crime involving moral turpitude and a crime involving no moral turpitude. During the time of political upheaval, when everywhere, in all parts of the world, political offenders are treated entirely differently from ordinary criminals, you will find in our jails, in our courts, there is absolutely no distinction made between political offences and ordinary criminal offences, one involving great moral turpitude and the other involving even moral good, a commendable act. Particularly with regard to the juveniles, the question has been agitating the minds of all social reformers as to what is to be done in the case of juveniles. We have known in courts of law, a magistrate is much disturbed when a young lad, sometimes of good family, sometimes of good antecedents, by mere accident or mischievous propensity, happens to come within the clutches of the law, and it is so easy to come under the clutches of the law as an accused person. Then, the question arises if it is an offence punishable by the law with imprisonment as it is provided in the Penal Code. There is no other alternative for the Magistrate but to impose some kind of penalty on that boy. What happens? Today some kind of arrangements have been made for a separate jail for juveniles, but that is also a very unsatisfactory arrangement. There is not a sufficient number of reformatory schools. There are not a sufficient number of juvenile jails and very often it happens, if you go to the jails you will find even today, young boys are kept miles away from good society but are mixing up with hardened criminals. The result is that at a tender age if they get a criminal training in jails instead of being reformed good citizens, that criminal propensity grows and they become hardened criminals, when the society could have saved them, if only a measure like this had existed. There are numerous cases where young lads commit a little offence which a law technically describes as an offence and he is put into the company of criminals and instead of becoming a citizen he becomes certainly a hardened criminal for life. It is, I understand, that type of incidental crime, that type of crime without moral turpitude, to deal with which this provision is certainly made. Unfortunately I was not here when the honourable member, who is experienced in the line, spoke. But great care is to be taken to see that you do not create a new tribe of juvenile criminals just as you have created a criminal tribe. Here a separate provision, a separate section, is necessary. An attempt should be made to efface from the young mind of the juvenile, who accidentally has committed a crime, and make him forget all about that. By such measures probably we constantly remind him of the past and we look upon him with an eye of suspicion. Keeping an eye on him and looking upon him cautiously may defeat the

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object and the commendable provisions of the Act and instead of the little lad forgetting the past, he is constantly reminded of it and the reform which is intended may be defeated. Therefore, this provision of officers and supervisors does not seem necessary. Although a certain amount of supervision is necessary, that supervision ought not to be of that type which is usually given in the case of criminal tribes. Because securities are associated in law and in society with the worst class of 'Badmashas,' what are known as chapter cases are cases of hardened criminals. Against them security proceedings are taken because there is no other way of dealing with them. Let this not be mixed up with that kind of security proceedings. Because in this case it is practically the same. If bond is to be taken somebody is to look after him. Let those methods be as mild as possible, as less harsh or affecting the mind of the juvenile as possible, so that he can forget the past.

If I may be permitted, Sir, to make an humble suggestion, not with a view to criticise, but with a view that the Honourable Minister can consider the suggestion, I really feel that clause 6 does require reconsideration. It might have been put with the best of intentions. I do not know if it is incorporated bodily from the English Act. (*An Honourable Member*: It is so.) But if it is so, then I really think that this is one of the anomalies from the English Acts which ought to be removed. With my recent experience, as my friend Dr. Ambedkar suggested, this is a clause which is very carefully to be reconsidered, because after all we are leaving into the hands of a judicial officer or may be a Collector, the necessary powers. What was our experience during the Civil Disobedience Movement? We know that it was a daily crime for boys and girls taking part in political demonstration, for picketing, for shouting slogans. They were inflicted heavy penalties and those penalties were recovered from the parents and guardians as a matter of penal clause imposed upon the parents and guardians. They were told that it is your duty to see that your boys and girls are turned out to be loyal citizens, they do not take part in nationalist movement and the fact that you did not take sufficient measures to prevent them from taking part in demonstrations, resulted in fine that was recovered not only from Government servants, as disciplinary measures were taken against them, but even ordinary citizens were made to pay heavy penalties because of the supposed crimes of the children. These are recent experiences.

Then I say it is a very wrong principle. After all a man or woman must and should be made responsible for his or her own acts. I can understand the parent inciting a child to commit a crime, as very often beggars do. They make children blind, in order that their beggary is increased or send children for pick-pocketing. Not because he is the father of his children, he certainly deserves to be punished as an abettor. Supposing a lad throws a stone at a railway train with the idea of mischief-making, the stone hurts a passenger and the passenger loses his eye. It is a criminal offence and an accidental crime by the boy. In a Civil Court, the parent would not be responsible for serious damages. The damages may come to lakhs, if the deceased person is a millionaire, but

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the boy may be released. But under this clause, the guardian or parent may be made liable for damages for the alleged crime of the boy. Similarly, so many instances may be mentioned. So many boys try to run the cars and accidents do happen. That is also criminal and rash and negligent driving. The boy may be convicted, but not the parent or guardian. How is the parent to prevent the child from such mischief? After all boys will be boys. Half-a-dozen headmasters cannot prevent him, if he is inclined to make a mischief. Is the parent or guardian to be made responsible for this sort of crime?

I therefore suggest that this clause is capable of great mischief. There may be some good, but I do ask the Honourable Minister to consider in view of our recent experience and it is not necessary that the Bill should be delayed. I am sure the Honourable Minister will consider.

My honourable friend here, with ten years' experience in the criminal courts, particularly the Mazagaon Court, with the largest number of crimes, objects to certain patronising attitude given to women. I say it is the one clause which ought to be there. We know of several cases, most tragic cases, where women do deserve this protection, which has not been given to them under the existing law. Those are the
6 p.m. unfortunate cases of disposal or desertion of newly-born and still-born children. The accused is sometimes a poor girl of seventeen or nineteen. How many cases of this type come before the courts where the real criminal who is responsible for the crime escapes? He is not within the purview of the law, but the poor woman, both in society and in law, is made the victim. What happens? The magistrate says that it is a case which deserves sympathy and pity. The Sessions Judge says that it deserves all sympathy. But the law says it is murder; and there is no other penalty for murder except transportation or hanging. Then the case goes to the Governor. The Governor mercifully exercises his privilege and the sentence of transportation is sometimes reduced even to very long terms of imprisonment. So many such cases occur where the unfortunate woman, who is more a victim than a sinner, is brought before the court. She deserves the sympathy of all of us. But even the magistrates and judges say that they are helpless under the existing law.

A provision like this will come to the rescue of such persons. I am sure the courts, the society and the women themselves will welcome this provision, which I think is a belated provision, and I hope that it will be passed with as little delay as possible. There are dozens of such cases. You visit any jail and you will find so many young girls, sometimes belonging to respectable families, who as a result of a lapse have had to land in jail. As I said, the real culprit is some one else, and he is free. The girl has to spend her life in jail for a little lapse here and there. Such a case would be covered by this provision. I therefore do hope that this Bill will not be delayed a day longer. I know the procedure of a select committee: it may mean three or four months. All the amendments are such as can be considered within an hour or two by the Home Minister

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and some of the honourable members who are interested in the matter. But I do appeal that this much-delayed measure should be passed into law without delaying for a day or an hour. In this way we should give a lead to the other provinces. This is a measure which I hope will be introduced throughout India. This is the first step towards jail reform, and gradually will come, I hope, the much needed reform of criminal courts. I do congratulate the Home Minister on this measure and hope that the House will unanimously accept it.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, there is only one point on which I rise to speak. My honourable friend Mr. Mirza Akhtar Hasan, while speaking on the Bill, brought forward one point, namely, that he did not agree to the provision in the Bill that women should be specially protected. Well, Sir, I may point out that we do not want any special treatment for women as some of the parties in this House or some of the members of the public outside want. But I am not inclined to agree with the honourable member when he made some remarks about some of those unfortunate women, namely, prostitutes. Sir, prostitutes are made; they are not born. They are the creatures of circumstances. They are there because of the man-made social laws or whatever you call them. I met some of these unfortunate beings in jail. I was twice in jail, and I had occasion to come into very close contact with them and talk to them. They were as human as we all are. They responded to kindness. The majority of them wanted to live a clean life. But they were there because of the force of circumstances. Therefore, Sir, I think the honourable member was very hard on those unfortunate women when he made that remark. Those women, if given a chance, have every inclination to lead a clean life, the right kind of life. If a chance is to be given to those women to do that, it should be welcomed and not rejected.

I would not have risen to speak, because this is a Government Bill, but I had to say a few words on the point raised by the honourable member Mr. Mirza Akhtar Hasan. I hope the House will take my remarks in the same spirit in which they are offered. There was once a great woman of the past about whom I had to speak on one occasion. She was a woman of Greece, and she was the subject matter of my lecture. According to our ideas, she was the wife of Pericles, but according to the old ideas she was not recognised as his wife. All the same, she was great. Some of the people were very angry to see a respectable woman standing up and defending a person who according to them was not quite respectable. I hope that this kind of view will not be taken in this House and the members would rather welcome the effort made by the Government.

With these words, I resume my seat.

Mrs. FAIZ B. TYABJI (Bombay City) : Sir, I should like to point out that there is a slight misunderstanding on Mrs. Munshi's part as to what Mr. Mirza Akhtar Hasan said as regards prostitutes. He really did not

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mean prostitutes, but he meant women procurers. Sir, I have worked for a great many years on the Committee of the Vigilance Association, and I do know that there are many women procurers who do deserve punishment. I should only like to point out to the Honourable the Home Minister that we do not, as Mrs. Munshi rightly said, want any preferential treatment, and I feel sure that the members who will be sitting on the Select Committee will keep in mind both these things. I do not mean that prostitutes who are unfortunately placed in that position not because they deserve it, or because they are born prostitutes, but because some unfortunate circumstance in their way has made them what they are, should be penalised. I hope that this consideration will be kept in mind, as I see from the Bill that it has been kept.

Sir, I just wanted to give this explanation as Mr. Mirza is not here.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I have great pleasure in supporting the principle that is involved in this Bill. As I rise to support the principle of the Bill, I cannot, Sir, concur with my learned and honourable friend Dr. Ambedkar, who, in the course of his speech, remarked that this Bill had nothing in it to commend itself to the House. If I support this Bill, it is not for the details that are mentioned in the Bill. I may state just now that I agree with those honourable members who have criticised some of the details of the Bill. It is not for the details of the Bill that I want to lend my support to it. It is for the principle that is involved in it that I rise to support it. Administration of justice in every country has several functions to serve, and one important purpose for which justice is administered in every society is the retributive part of justice. If we look to the course of penal legislation in this country right from the day of the Indian Penal Code, we find that this retributive part of the administration of justice has been over-emphasised. That was probably due to the fact that the ideas of administration of justice even in Western countries at the time were far behind those of a progressive society. As society has been progressing, it has been found necessary that the other aims and objects of the administration of justice should be incorporated into the administration of justice, and should be given more prominence than they had been hitherto receiving; and the second aspect of the administration of justice is the corrective side of the administration of justice. And, if I welcome this Bill and the principle involved therein, it is for this reason that the corrective side of the administration of justice is being, for the first time, emphasised in this Bill. Many fears have been expressed as regards certain provisions of the Bill. General statements have been made and it has been said that the criminal is an offender against society. That was the view that prevailed formerly. Even now we have to admit the fact that the criminal is a sinner against society, but with the march of times we have also to admit the fact that just as the criminal is a sinner against society, he is also a product of the self-same society, and as such, while trying to punish the criminal for the wrong doings that he may be guilty of, the society has also to treat him leniently, because he is nothing

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more than the product of the self-same society ; and for this reason, as we advance more and more, we have to emphasise the corrective aspect of the administration of justice. As this Bill tries to take into consideration this corrective side of the administration of justice, I want to lend my support to this Bill.

Now, Sir, one question might be asked in this connection. Even the Indian Penal Code has given so much discretion to the magistrates and to the judges, who are asked to administer the several provisions of the Code. There are, if I remember aright, only a few sections of the Indian Penal Code, which make it incumbent upon the judge to give the maximum punishment. In all other cases, discretion is given to the judge to give a very lenient sentence or to give a very harsh sentence, according to his own discretion. But the very fact that the necessity of such a Bill has arisen means that this discretion which was given to the magistrates has not been properly exercised by them, and it is, therefore, found necessary to have some specific measure for leniency being shown to offenders.

Now, Sir, there is one point that was criticised, and that was as regards the punishment by proxy to parents and guardians. Now, as I read that section, and as I read that section sympathetically, I began to think that the section in the original English enactment and the section in the present Bill itself might have been inserted from a certain point of view. This Bill tries to effect a kind of compromise between the two aspects of the administration of justice, to which I have already referred. There is the retributive side and there is the corrective side, and in the retributive part of justice, the man against whom an offence has been committed wants some satisfaction, wants that for the offence that has been committed against him, he should get something in return. This return is not always in the form of money, but it is in the form of mental satisfaction. Now, this punishment by proxy clause, that has been inserted in this Bill, is, I believe, an attempt to give a kind of satisfaction to those who want something in return for the offence that has been committed against them. But though I have tried to explain why the section has been inserted in this Bill, it does not mean that I am going to justify it. When you want to introduce a lenient measure, when you want to introduce that as a means of correcting the criminals in your society, why emphasise the retributive part of justice ? You ought to show even greater leniency, and therefore, my suggestion would be that this part of the Bill should be dropped, and if at all the retributive part of justice is to be incorporated in this Bill somehow or other, some other provision may be made when the Bill is taken to the Select Committee.

There is one point which I would like to refer to. In the statement of objects and reasons it is stated that the Act, when it was passed in England, succeeded in bringing about a substantial reduction in the jail population. Now as that sentence has been put there, I fear it is likely to lead to some kind of misapprehension and some kind of misunder-

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standing. As this Government is bent upon economy in all spheres of administration, the Government also wants to reduce the number of prisoners in jails, and in order that this may be possible and in order that the expenditure on the jail administration may be considerably reduced, this Bill has been introduced. I hope I shall not be misunderstood when I criticise this Bill in this regard, but I fear that this will be the direction in which the public is apt to criticise this Bill on account of the statement that has been made in the statement of objects and reasons, and I believe, therefore, that when Government answer the debate here, they will be able to answer this criticism.

With these remarks, I give my whole-hearted support to the principle involved in the Bill, and I hope that, accepting the unanimous view of the Opposition that for details the Bill should be sent to a Select Committee, the Honourable the Home Minister will be pleased to remit this Bill to a Select Committee.

The Honourable the SPEAKER: It appears there has been a unanimity as regards the principle of the Bill. Is it desired that this discussion should go on further?

Honourable MEMBERS: No, Sir.

The Honourable the SPEAKER: It has been sufficiently debated upon to my mind and it will be better if, at this stage, we stop further discussion and then consider whether the Bill should be put through the second reading and then taken up clause by clause. I will, therefore, request the Honourable the Minister in charge to say how he proposes to proceed.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I only want to advert to the points made by some honourable members, very shortly. My honourable friend Mr. Bramble need not have appealed to Government to listen to constructive criticisms and not to waive them aside. I have heard with great interest and considerable benefit to myself the various comments which have been made on this Bill and I heartily reciprocate his offer to co-operate in making this Bill as good and as complete as it possibly could be. I have no objection to take the Bill to a Select Committee after it has passed the first reading. (*Hear, hear.*)

Sir, what my honourable friend Dr. Ambedkar said about the lack of enthusiasm about this Bill is scarcely a reflection on the Bill itself. It is a reflection on our age which can put so much heat into separate electorates and Federation and Titles but which cannot warm up at the misery and plight of those who have been criminals. It is, therefore, a reflection, to some extent, upon ourselves.

There are only two points which I need deal with in this House now. A point was made, I think by my honourable friend Mr. Ferreira, that the probation should not apply after conviction but before it. The

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question is this whether, when you apply a probation order to an offender, he should be convicted or the magistrate should straightway proceed to make the order if he finds against the accused. There has been a sharp difference of opinion between experts on this point, and even the Committee which was appointed in England to consider the question of probation, by a majority came to the conclusion that conviction is necessary before, and I think I may read in this connection a judgment of an eminent Judge on this question. In connection with these words, Lord Darling in (1919) 2 K. B. p. 278—the words in the English section being “without proceeding to conviction”—said :

“The words of section 1 of the Probation of Offenders Act, 1907, are unscientific, thoroughly illogical and are merely a concession to the modern fashion for calling things what they are not, for finding people guilty and at the same time trying to declare them not guilty.”

It has led to a considerable difference of opinion among the judges in England, and we need not be chary about calling a conviction a conviction. Even if the judgment is delivered by the magistrate saying “he has committed an offence, but I do not record my conviction and give him a probation order for 2 or 3 years for his benefit,” it will have exactly the same effect as if the offender has been convicted. It is merely an empty solace that the word conviction is not there.

Then something was said by some of the honourable members on the other side with regard to the clause about women. The cases that they contemplate are fully covered by clause 5. To get the benefit of clause 5, whether it is a man or a woman, it must be found that age or antecedents or other circumstances are in his or her favour. In the cases which they are thinking of, neither the one nor the other of the factors would exist and they would not get the benefit of the section. But the reason why Government have departed from the rule applicable to men in favour of women criminals is simply this : if you find women offenders who by age or antecedents or extenuating circumstances are entitled to the benefit of this section, then you will mostly find that these women offenders have been victims of society or victims of their surroundings rather than deliberate offenders or incorrigible villains. That has been the uniform experience of criminal lawyers and though, somehow or other, criminals never thought much of me as their defender, in the course of my practice, I know sufficient about them to say that women, except where they have bad antecedents or there are no extenuating circumstances, are generally not such hardened criminals as cannot get the benefit of this section.

With these remarks, I think most of the points which have been made by honourable members here will, I dare say, be duly considered in the Select Committee, and therefore, Sir, I submit that the motion for the first reading of the Bill be accepted.

Mr. D. J. FERREIRA : On a point of information. Would the Honourable the Home Minister be so good as to inform us why this particular age of 25 has been fixed ?

The Honourable Mr. K. M. MUNSHI : I am not particular on that. My honourable friend can have 26 or 30. The age of 25 has been put in for this reason, that persons above 25 will be so confirmed in their habits that though a supervision order is made in respect of them, they will not remain under the tutelage of anybody. They will either be released on furnishing sureties, if they can be sufficiently relied upon, or given the benefit of the section. If my honourable friend now wants the benefit of this to be given to people up to 30 or 40 or even up to 60, that is a different matter.

Question, " That Bill No. III of 1938 be read a first time, " put, and agreed to.

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. III of 1938 be referred to a select committee consisting of the following ladies and gentlemen :—

- Mrs. Faiz B. Tyabji,
 „ Annapurna Gopal Deshmukh,
 „ Vijayagauri Balvantraï Kanuga,
 Mr. C. P. Bramble,
 „ Musaji E. Patel,
 „ Mirza Akhtar Hasan,
 „ D. J. Ferreira,
 „ S. L. Karandikar,
 „ B. K. Gaikwad,
 „ S. H. Jhabvala,
 „ H. V. Pataskar,
 „ H. V. Tulpule,
 „ D. N. Desai,
 „ B. M. Gupte,
 „ G. R. Nalavadi,
 „ M. S. Sugandhi,
 „ K. B. Deshmukh,
 „ Nagindas T. Master, and myself ;

with 7 to form the quorum, and to report on Monday, the 24th January 1938.

Mr. C. P. BRAMBLE : On a point of order. May I ask the Honourable Minister in charge to reconsider the time he has allotted to this select committee ?

The Honourable Mr. K. M. MUNSHI : I have no objection to extend the time for a week from today. The committee can submit its report next Wednesday.

Mr. C. P. BRAMBLE : In deciding the date, it will be helpful if the Honourable Minister informs us how long this session is likely to last. If it is likely to last for more than 10 days, we may report on Monday week—

The Honourable Mr. K. M. MUNSHI : Possibly, the session may not continue till then. It is difficult to say how long the session will last. There are one or two Bills and it depends on the time those Bills take up. The Bill that was postponed in the earlier part of the session today was expected to be finished in an hour. I am quite willing to extend the time till Wednesday next.

Mr. D. J. FERREIRA : Is there any special reason why this Bill should be passed in this session ? Cannot this important Bill stand over till the next session ?

The Honourable Mr. K. M. MUNSHI : The next session will be so occupied with the budget that this Bill may not have a chance of being taken up. As there is no likelihood of passion or prejudice arising on this Bill, we can get over the numerous difficulties put forward within a couple of hours.

Mr. S. H. JHABVALA : I want to put in a suggestion, if it is acceptable, that the select committee may be given the power to co-opt members from the outside public who may be interested in the subject.

The Honourable the SPEAKER : That would not be in order.

Do I take it that it is Wednesday, the 26th instant ? The motion stands amended that way. Instead of Monday, 6-30 p.m. the 24th, we substitute Wednesday, the 26th. I now put it to the House.

Question put, and agreed to.

The Honourable Mr. K. M. MUNSHI : Sir, I have to inform the House that the preliminary meeting of the Select Committee will take place tomorrow at 12-30 p.m. in the Select Committee Room.

The House then adjourned till 2 p.m. on Friday, the 21st January 1938.

Friday, the 21st January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Friday, the 21st January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAYALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saleh ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINHJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESEMUKH, Mr. K. B.
 DESEMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 GAIKWAD, Mr. P. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GRATGE, Mr. G. R.
 GHEFWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.

GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDAILY ALLABUX, Mr.
 MORAREHAI KASANJI, Mr.
 MORE, Mr. J. G.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.

NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIF, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BARUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGANMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA Mr. S. D.
 SATHE, Mr. S. H.
 SAYANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRAIKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUBE, Rao Bahadur V. L.

THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

NEW MEMBER SWORN.

Mr. Muhammad Mohsin Muhammad Amin Bhajji.

BILL No. IV OF 1938 (A BILL TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

The Honourable Mr. L. M. PATIL : Sir, I beg to introduce Bill No. IV of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888).*

The Honourable the SPEAKER : The Bill is introduced.

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. IV 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, the Bill contains several provisions intended to be introduced in the City of Bombay Municipal Act of 1888. All these provisions deal with matters of details. The Bombay Corporation experienced, from time to time, difficulties in its administration of the said Act. The Corporation considered for itself as to how these difficulties should be overcome. After careful consideration, they made suggestions to Government to amend the Act in several respects in order to remove those difficulties. Government, from time to time, approved the suggestions of the Corporation and drafted several amending Bills. All those Bills were, for a long time, kept in await until we have strung together all the pending Bills and brought this one consolidated Bill before this honourable House.

The main provisions of the present Bill give power to the Corporation (1) in order to take measures for the eradication of malaria in view of the recommendations made by Major Covell, who was appointed by the Government to make enquiries into the malarial conditions of the City of Bombay, (2) to rectify certain defects in connection with the water supply which stand urgently in need of removal in order to carry out effectively anti-malarial measures, (3) to give power to the Corporation to issue revised debentures in any case, and (4) also to give additional

*Appendix 8.

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powers to the Corporation and the Commissioner as regards the reappropriation of budget grants. The necessity for all these provisions is clearly explained in the notes on clauses. At present there is no clear definition of "market" in the present Act and so the Corporation was not able to take action against the owners and occupiers of the premises who unauthorisedly established markets, and so it was necessary to define the term "market".

The second provision deals with the procedure of elections of the councillors who are elected on behalf of the Bombay University, the Indian Merchants' Chamber of Commerce and also the Bombay Millowners' Association. The present procedure is found to be cumbersome. So by clauses 3, 5 and 6 it is intended that the procedure for holding these elections should be left to be determined by the bodies concerned in accordance with the statutes or the rules to be made by the University, Chamber or Association in this behalf. It is further proposed that a person will not be entitled to the right of voting or to stand as a candidate on behalf of the University, unless he resides for at least 6 months in the city. At present the Councillors who are elected on behalf of the Indian Merchants' Chamber of Commerce, the Bombay Chamber of Commerce or the Millowners' Association can continue to be members even if they cease to be connected with these bodies. This is really an anomaly and it is intended to remove this anomaly. It is therefore provided that as soon as a councillor ceases to be a member of a Chamber or Association he automatically ceases to be a member of the Corporation. At present a councillor can remain absent for any length of time if he is allowed by the Corporation to do so. Thus a constituency from which the member is elected remains unrepresented for undue length of time, so it is now proposed to limit the total absence of a Councillor to not more than one year.

There is no provision in the Act empowering the Corporation to issue a renewed debenture in any case. Under clauses 12 to 14 it is proposed that the Act should be amended so as to give the Corporation a similar protection to that given to Government under the Indian Securities Act, 1920.

Clause 17 proposes to amend section 123-A (3) of the Act so as to provide for the publication of the Improvement schemes accounts once a year only in the *Bombay Government Gazette*. Clause 18 intends that the financial transactions of the Corporation on the expenditure side should be classified on lines similar to those as adopted in Government accounts. Clause 20 of the Bill proposes to simplify the procedure for the reappropriation of budget grants and subordinate heads of accounts and to confer larger powers of transfer within such budget grants upon the Standing Committee and the Commissioner.

Then, the other provisions deal with the supply of water. At present, the owner of the premises can make the arrangements for the supply of water at any place he likes. This does not meet the needs of a modern

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city when structures four and five storeys high with modern sanitary arrangements are erected, and so the Commissioner is empowered to compel the owners of the houses to furnish adequate supply of water to all parts of the premises.

Then, the Commissioner is given power to compel the owners of the houses to keep the cisterns accessible for inspection. He can compel the owners to have proper locks and keys for the cisterns and to deposit the key with the Commissioner.

The Commissioner is given power to see that the water pipes, cisterns, fittings, etc. are kept clean and in efficient repair, and he is empowered to take the necessary action against those who are defaulters with respect to the abovementioned provisions, namely: (1) access to the cisterns for inspection, (2) providing the locks and keys to the cisterns, etc.

The Commissioner is also empowered to issue licences to barbers, cobblers and others and the Bill further provides for proper penalties for offences against the new provisions which are intended for the eradication of malaria.

These are the few important provisions that are intended to be introduced in the City of Bombay Municipal Act, 1888, by the present Bill.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I rise to support the first reading of this Bill; while it is difficult to say what principle there is in this Bill, I shall confine myself to the salient points of the Bill; this Bill contains in substance such amendments to the Bombay Municipal Act of 1888, as, from time to time, the Bombay Municipal Corporation have represented to Government should be made; but they are all mixed together in this Bill, and relate to the different services of the Municipality. The Corporation, being human, have also sometimes changed their mind; even while the Bill is before the House, they have altered some of the proposals they had made, to which I shall refer when we are reading the Bill clause by clause. The Objects and Reasons set out very properly the main features of this Bill, but there are 4 or 5 important provisions which are likely to produce hardship, and were not intended by the Corporation, I take it, to cause that hardship; but drafting is, after all, a human endeavour and often does not carry out what is intended. For instance, the definition of the word "market" has been attempted to be given in this Bill. The absence of the definition has been somewhat of an inconvenience to the municipal administration, and we have not always been able to suppress private markets run without the permission of the Commissioner; and, therefore, this Bill rightly sets out to give us a definition of "market"; but the draft definition goes far beyond what was intended by the Corporation. For instance, Sir, if you see the definition in clause 2, it seeks to include all places for the sale of food or other eatables whatsoever, with or without the consent of the owner of such place. Now this, "with or without the

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consent of the owner of such place" was intended to be a private market, but as it is stated, it might include the municipal foot paths where no licence is required, and if in such a place two or three more persons begin to sell vegetables, then they would come within the definition of a market and the punishment provided for is Rs. 1,000 for such unauthorised act. Therefore, the poor vegetable sellers who might be selling vegetables worth Rs. 5 at the end of the morning, would come under the proposed definition of "market" and be liable to pay a penalty of Rs. 1,000. This definition will also cover several shops which might be selling vegetables. If one or two shops in a street contiguous to each other sell vegetables or any other article of food as laid down in this section, then under this definition they would constitute a market and would be liable to pay a fine of Rs. 1,000. I am sure that that was not the intention of the Corporation and I am more sure that if Government were asked whether that was their intention, they themselves would say that it was not; and yet, the definition is so wide as to include these two kinds of sellers or vendors. The object of the Corporation and Government is identical in this matter; we all are agreed that we should not allow private markets to be established against the Municipal Act, but I am sure we do not want to cover things which were never intended to be covered by the definition of a market, and to expose people to hardships and penalties.

Then, Sir, so far as the residential qualification is concerned, the only difference in the Act and the new Bill is that formerly the voters or the candidates were required to reside for some time in a particular locality; now they will be required to reside ordinarily. That, I think, will be a matter of difficult legal interpretation, whether, if a man lives some time every year in a particular place, it is not his ordinary residence. But I have nothing to suggest.

About the debenture renewal, there is nothing more than what we asked for.

One serious flaw I find is the definition of the budget grant that is proposed in section 19. The present definition given in the Municipal Act is in section 130. There, the definition is:

"Any sum entered on the expenditure side of budget-estimates which has been adopted by the Corporation shall be termed a budget-grant."

Now, I am sure, the Government never intended to change this definition except for the purpose of the distinction which they make, of a major head, a sub-head and a unit. But what they have forgotten is they have omitted the words "on the expenditure side". The original definition in section 130 is that in order to make a sum a budget-grant, when adopted by the Corporation, it should be entered on the expenditure side. Receipts will not be budget-grants and I am sure, Government themselves did not mean to make an income side item a budget-grant. The words "on the expenditure side" in the original section have been omitted by an oversight and I submit that the

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Government should re-instate those words in order to bring out the meaning that they and everybody should have as to what a budget-grant is. A budget-grant is a sum sanctioned for expenditure by a competent body.

Then, as regards transfer from one sub-head to another, the Commissioner and the Standing Committee are given certain powers. The Commissioner is empowered to transfer Rs. 500 from one sub-head or unit to another sub-head or unit. Now, the Commissioner is given a power for a sum which does not exceed Rs. 500 and a Standing Committee is given a power of a larger amount than it possesses today. And then it is provided that although they have the right to transfer as stated in this clause, they shall report to the Standing Committee in the one case and the Corporation in the other, and both the Commissioner and the Standing Committee shall carry out such orders of the Standing Committee or the Corporation as the case may be, when such orders are given. But the difficulty is of a serious nature. In fact it is likely to cause a daily conflict, because today the Commissioner has power to spend Rs. 500 without the permission of the Standing Committee or the Corporation and then to bring it to the notice of these bodies. Now supposing the Commissioner spends, after these transfers have been made by him, five sums of Rs. 500 each under his present existing right and then this clause requires him to bring to the notice of the Standing Committee and then to carry out the orders of the Standing Committee, he might have already spent on all the objectives which he thought required expenditure. He has the right under the present law to spend it and this clause will come whereby the Standing Committee can call upon him to do otherwise. But he has already done it, he cannot undo it and therefore a serious difficulty will arise, the Standing Committee asking him to do a certain thing which he says is beyond recall. The same will be the difficulty with the Standing Committee and the Corporation. The Standing Committee might have authorised expenditure before the Corporation pass orders and there again chances of conflict will arise.

There is one way, Sir. Under section 38 (a) of the Bombay Municipal Act, as it at present exists, certain plenary powers are given to certain committees. These committees can act on their own authority, but if the Corporation later on directs to the contrary, they will be required to act to the extent which is not beyond recall. These committees are not bound if they have already acted. If a provision similar to that as is found in section 38 (a) were also included in these clauses, namely, proviso to sub-section 3 of section 133 and sub-section 5 of section 133 as laid down in clause 2 of this Bill, this difficulty would be met. Otherwise, I do not see how you can reconcile two parallel authorities acting under two parallel rights under the same Act being made responsible for the orders of one authority, when they have already acted upon the authority they have possessed. These things might be taken into consideration.

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Then we come to the question of improved provision for water supply. I think, this is one of the most beneficial provisions that the Corporation have been asking for years ever since I entered the Corporation 15 years ago. The clamour for water by the tenants in buildings of two, three, four and five storeys and the unwillingness of the landlord to spend one copper coin, whatever might be the plight of the tenants, has been a scandal in the City of Bombay. Every year we receive shoals of complaints where tenants, particularly in the summer months, crowd round one feeble small pipe at the bottom of the building; being all humble people requiring to attend their office or their job as early as they can and crowding at the water tap which is not enough for six, while the tenants are 20 and so long as the ground floor tap is working, great hardship is caused; there may be taps on the first storey and the second storey, but the water never comes out of them and women are put to no end of inconvenience; many of these water-tap squabbles which sometimes are reflected in the police courts of the City are merely a manifestation of the inevitable collision between tenants trying to get water. It is a tribute to the tenants of Bombay that no serious consequences have happened even when so great a necessity of life has been denied to them all this time by the landlord. This provision therefore is one which is most beneficial and the City will welcome it after the Act makes it obligatory on the landlord to provide water on every floor.

Connected with this, there are two provisions which are unhappily not intended, but are going too far and one is about stopping of water. That, I think, is clause 31. It is proposed that when any offence against the Municipal Act regarding the waste of water takes place, the landlord shall be liable. Now, it is good to control the landlord. He is not an over generous person. But this House will not treat even the landlord in a manner where he is punished without having been responsible at all. One of the most frequent cases of waste of water occurs almost every day in the City of Bombay. Taps are left open and water flows freely until somebody closes them, and the waste of water in Bombay City is almost criminal; it may happen that the landlord might be living in Fort and the tenant might be living in Bhendy Bazaar, and if the tenant is wasting water as generally he does, it would not be just to punish the landlord living in Fort for the waste of water committed by the tenant. I have some very funny experience of waste of water by the tenants in Bombay. At the Municipal elections, some years ago I went down to a house in Sandhurst Road to request a friend to vote for me. I found that his tenement was locked and on enquiry from the neighbours, I was told that he had gone upcountry, but I found some noise within the tenement and I wondered what it was. I then found that he had left the water tap open when he went to Ahmedabad. So, until he returned,—which may have been after six or eight months according to his convenience—the municipal water would be wasted. In this particular case, I cannot forget this shocking waste of water by the tenant

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and yet, under this provision it is the landlord who will be punished which I am sure would be a hardship. It cannot be intended that for the waste of water by a tenant the landlord should be punished. Sometimes, the landlord may happen to be a minor, sometimes a poor old widow and the small house may not be under their control, and yet, under the provisions now contemplated the landlord would be punished, which I am sure is not at all the intention of the legislature.

Then, Sir, there is another provision about punishment in the matter of water which I am also certain was never intended. That is this, viz. failure to provide a safe and easy access to a cistern will also mean a stoppage of water supply. This is a converse case, when in pursuance of the provision of increased facilities for the inspection of water taps, cisterns, against malarial tanks, it is provided that if the landlord fails to provide for an easy access to the cistern or to provide a lock and key for the same, the water supply will be cut off for the tenant. The provision for helping the malarial campaign of the Bombay Municipality is one we all wish well, but if in providing a lock and key to the cistern, the landlord makes a default, the water supply is cut off and the tenants will suffer. Here the tenants will suffer and the landlord may be rolling and lolling somewhere on the Malabar Hill where the water supply is open for all the 24 hours. I am quite sure the Government never wanted to penalise the unfortunate tenants somewhere for the sins of omission or commission of the landlord under clause 31 of this Bill. Therefore, I hope that so far as these various points are concerned, Government will be prepared to reconsider them and although I am not at all anxious to delay the passing of this Bill, I am clear, Sir, that some delay will be necessary if these amendments are to be carried out.

Lastly, there is the question of the hawkers. We have now provided that those who mend our shoes or men who mend our beards or give us a shave in the public streets shall be considered to be hawkers, and that if they occupy unauthorised places, they will have to be punished and their licences will have to be taken from them and their tools and implements of their profession will be carried away. Now this provision becomes necessary because all over hawkers are under a licence, but barbers and shoemakers are not, and very often they also occupy places where the public are obstructed in their use of the footpaths. But the Encroachment Department of the municipality as it is called has a right to remove the articles possessed by the hawkers when they are encroaching, but not the articles of the barber and the shoemaker when they are encroaching. So, the Bill now makes provision for seizing them. Fortunately or unfortunately, we have a large class in the city of Bombay who are pro-hawkers in the sense that they think the hawkers have every right to do as they like in the use of the thoroughfares, footpaths and roads, and on account of their poverty and sometimes the folly of the encroachment department, they have earned the sympathy of very well-meaning people, but the fact remains that the roads and footpaths are primarily meant for the public of Bombay, for the pedestrians, particularly

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for the old women and children of this city and people who are ill or infirm. When they use footpaths, they find that they are blocked by hawkers here, there and everywhere, and accidents occur—accidents of a very serious nature—because the hawkers obstruct the footpaths and the citizens have to use the roads and the traffic overtakes them before they are aware of it. In order to minimise the difficulties, we have tried to license them, and here although the municipality wanted it, Government have provided that the hawkers' articles shall be removed in all cases. The Corporation have only last week or perhaps on Monday last asked the Government to delete this provision that the barbers' and shoemakers' articles should not be taken by the encroachment department. I appeal to Government that they will not, that they will stick to their guns. With these words, I suggest that some arrangements might be made by which serious consideration could be given to the difficulties I have pointed out and, subject to that, I heartily support the first reading of this Bill.

The Honourable the SPEAKER : It appears from the provisions of the Bill and the different matters to which they relate that it is difficult to distinguish as to what is the discussion on principles and what is the discussion on details, and even if one tries possibly to touch the main provisions, the discussion is bound to be repeated when the Bill is taken clause by clause. I also feel that if a detailed discussion is taken up when the Bill is being read clause by clause, the House will be in better possession of all the materials that could be put forth in respect of that particular clause on which the discussion may be going on and the House will be thus better able to appreciate the points of view of various speakers on that clause. I would, therefore, like to know whether the House will now like to adopt the first reading without any further discussion, and the members might offer their detailed suggestions as each clause is taken up one after the other ; because, after all, there will be a discussion of the various clauses of the Bill. I do not wish to stop any discussion on the general aspects of the Bill at this stage. That is not my objective. I have been feeling what I stated and I thought that I should place the suggestion before the House just to see that time is saved, and have a fuller discussion of each clause at a later stage, instead of now.

Mr. K. F. NARIMAN (Bombay City) : Sir, I quite appreciate the remarks made by you and will not offer any remarks on the general principles, because, as you said, Sir, it is very difficult to see as to what are the actual principles of this Bill and what are the details. As a matter of fact, this Bill consists of several detailed recommendations made from time to time by the Corporation, and therefore practically it is not one principle that is involved in the Bill, but it consists of several details. I will confine myself only to one clause to which my honourable friend Mr. Jamnadas Mehta referred, particularly as a separate recommendation with regard to that class is coming, and we are moving the Bill before perhaps the recommendation from the Corporation arrives. Sir, I want

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to put in a plea on behalf of these much maligned hawkers, particularly the barbers and the shoe-blacks, who were ridiculed by my friend Mr. Jamnadas Mehta. I do not know whether he avails himself of the services of these poor hawkers on the streets, but I know, Sir, thousands of poor men who cannot afford the luxury of a saloon, who cannot even afford the luxury of a safety razor, do avail themselves of the services of these poor barbers on the streets, and if he comes along to the poorer localities, he will see hundreds of men being shaved or if they have got shoes at all, hundreds of them making use of a shoe-black to mend their shoes and to polish them, and it is certainly an institution which is of very great use. Sir, I am one of those who are very strongly of opinion that public streets and pavements should not be obstructed by any unauthorised obstruction, but I do say that it is a part of public service which these hawkers are rendering, and it was at my instance that this recommendation was made by the Corporation or is to be made, that although these people may have licences, which is in itself a hardship, the removal of the tools and implements of the barbers and shoe-blacks should not be insisted upon. Under the present condition, if any hawker of vegetables or fruit or anything occupies a place outside a certain limit, the encroachment department, which has been a department much criticised in the city, comes along and removes the articles, and days after, the poor hawker may go to the place and recover them, if at all anything is left of what has been taken away. There is a general clamour against this. There is a cry that the activities of the encroachment department should be minimised or restricted, or they should be very closely watched. Very often very great hardship is caused to the poor hawkers whose wares are taken away, and sometimes when they are returned, they are not in a fit condition to be sold again. Now I ask my friend Mr. Jamnadas, as I asked the members of the Corporation, to consider the situation, as to what would happen if the taking away of their tools and implements were to be insisted upon. A barber is shaving a customer in a street and the encroachment department comes along to the spot, and the poor customer is half shaved, what is to happen? It is not a matter to be laughed at. You have got to consider the situation in which the half-shaved customer is left on the streets. If the barber's implements are taken away, is the customer to run after the lorry to complete his shave? Similarly, it is a very embarrassing position for the poor customer who has one of his shoes being polished by the shoe-black and taken away by the encroachment department and the other left with him. Such a situation might arise. That was really a practical point of view which appealed to the common sense and the practical minds of the members of the Corporation, except my honourable friend, who sometimes talks philosophy but fails to see the common sense point of view. Therefore, Sir, the Corporation reconsidered the position and said that it is enough if licences are issued to the barbers and shoe-blacks, but that if they go beyond the limit they should not have their tools and implements taken away. Another difficulty is that these are sharp instruments, and very often there is

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a tussle between the vendors and the men of the encroachment department, each one trying to pull half of the article. Suppose there is a similar tussle over a razor, I do not know what will happen. On all these considerations, the Corporation has thought fit to revise its previous recommendation and to ask Government to delete the provision that the encroachment department may not remove the tools and implements of the poor barbers and shoe-blacks, but should leave them alone. I would therefore ask the Honourable Minister, if he has already received the recommendation to give effect to the later recommendation of the Corporation and to delete this particular provision.

With regard to other matters, I will follow the suggestion made by the Chair and not waste any further time. My remarks refer to a matter which refers to the deletion of a particular provision according to the recommendation of the Corporation. In section 314, clause (d) which is proposed to be added reads :

“any tools, implements or other articles used or intended to be used in any public place or in any public street by any person acting in contravention of the provisions of section 313B.”

This provision should be deleted, as I think the Honourable Minister has received the recommendation of the Corporation to that effect.

Mr. S. H. JHABVALA (Railway Unions): Sir, while feeling myself in general agreement with the Honourable Minister in charge in his efforts towards making certain democratic changes in the existing City of Bombay Municipal Act, I do feel that in certain points he has taken a retrograde step, and instead of being rather larger in his sympathy, he has become too narrow in his vision and too narrow in his mind. You know, Sir, that I am known to be always taking up the cudgels on behalf of the workers. Therefore, as regards clauses Nos. 37 and 38, I feel myself in total disagreement with him. I have given notice of amendments to the clauses and I will discuss them at the time the Bill is read clause by clause. But I believe that at the time of the first reading certain principles require to be radically modified. The feeling that has prompted the Honourable Minister in charge that the municipal administration should be such that the masses for whom the Congress proverbially stands may get some improvement in their lot is not substantiated by his action. But, Sir, the inclusion of these two clauses in the Bill is indeed a step backward. I do not think it refers only to the barber and the shoe-black. Speaking subject to correction, I think it applies also to the persons who carry monkeys or take bears with them for purposes of entertainment. Such a person also uses his skill and entertains the people. If that is so, then certainly it would be a great hardship upon these poor people as well. My honourable friend Mr. Jamnadas Mehta referred to the sad lot of the hawkers. But his sympathy was more or less lip-sympathy, for the reason that while on the one hand he sympathises with their lot, on the other hand he advises the House to accept these clauses and to be strict enough even to the shoe-black and to the barber and to the juggler. My point is that this is a wrong attitude in which the Bill should be conceived.

[Mr. S. H. Jhabvala]

Before we proceed with the discussion, I hope the Honourable Minister will undertake to make a statement in regard to clauses 37 and 38, so that we will be able to carry the measure unanimously. What is the condition of the hawker today? Unfortunately, the whole picture has not been fully painted before the House. The hawker is primarily a public servant who carries, either on his shoulders or on his head, bundles of goods, and hawks his wares without obstruction to public traffic. The man actually goes to the doors of people and offers his wares at a price comparatively lower than the ordinary market price. He hawks clothes and articles of daily necessity at the very doors of people and at very cheap rates. Imagine an old widow or a woman or an invalid person living in a house and unable to go to the bazar to purchase some articles. What will happen to those persons, if these restrictions are placed on the hawkers? I was one of those who expected some relief to the hawkers, but unfortunately, the Honourable Minister is taking steps in the opposite direction. Besides, how do the cobblers, barbers and jugglers cause obstruction to public traffic? For whom is the traffic supposed to be obstructed? For the superior class who drive in motor cars. Who walk on the footpath? The ordinary middle class people who need the services of these poor workers. The hawker question has been one of the most obnoxious questions in the city of Bombay. There are not less than 8 to 10 thousand hawkers, on the existing municipal list. These poor people will lose their trade, will be thrown in the street and will swell the lists of the unemployed. Instead of allowing them to earn their bread, Government will drive them away from the footpaths. The hawkers are not the sort of people who will deposit their goods in places where they are not wanted, thereby causing nuisance to the pedestrians. For example, go to a place like Chowpatty. There are hawkers. How do they cause obstruction to the public traffic? Still, they are to be driven out of footpaths. This should not have been the measure brought in by the Honourable Minister. Instead of giving some relief to these hawkers, he has imposed more restrictions on them. Otherwise, the Bill is deservingly necessary and I support the first reading of the Bill.

Question, "That Bill No. IV of 1938 be read a first time," put. and agreed to.

The Honourable Mr. L. M. PATIL: Sir, I move that Bill No. IV of 1938 be read a second time.

Question put, and agreed to.

The Honourable the SPEAKER: Before we proceed further, I would like to invite the attention of honourable members to what I have stated before, namely, that notices of amendments should be given in due time. The provisions of Standing Order VIII, part 10 (2), on page 13, read thus:

"Notice of the proposed amendment shall be sent to the Secretary seven clear days before the date on which the Bill is read for the second time: Provided that the Speaker may dispense with such notice in any case."

[The Speaker]

This provision is more observed in breach than compliance. Unless there are substantial reasons, members should be careful to see that the amendments are tabled as early as possible, so that the whole list of amendments can be digested and the Government given a chance to consider them, before they are discussed in the House. I find, today, the honourable member Mr. Jhabvala gives notice of his amendments at 11-40 a.m. or 12 noon. They are 6 in number and including the sub-parts thereof, they will be 9. I am admitting them at present, waiving the notice. In future, the waiver will be an exception and I will exercise waiver only when necessity arises. In the interest of all, it would be desirable that members should give notice of their amendments early and try to make the waiver an exception and not a general rule. I am inviting the attention of honourable members, particularly for the future, to follow the rule and not observe it in breach. Any amendment coming in without proper notice will not generally be admitted. Before I follow that practice, I consider it my duty to inform the House about it. We shall now proceed with the Bill before the House.

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

Mrs. LILAVATI K. MUNSHI : I have sent in amendments. Shall I move them now ?

The Honourable the SPEAKER : As each clause is taken up, I will call out the amendment. The honourable member proposing the amendment may invite my attention.

Mr. S. H. JHABVALA : I gave my amendment so late as that because—

The Honourable the SPEAKER : Let us not enter into any discussion on the subject.

Clause 2 (*Amendment of section 3 of Bom. III of 1888*) :

After clause (kk) in section 3 of the City of Bombay Municipal Act, 1888, hereinafter called "the said Act", the following new clause shall be added, namely :—

"(ll) 'Market' includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person."

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I regret that I am not in a position to move the amendment which I have in mind, but I would suggest it now if you are pleased to permit me to do so. The definition of "market", as proposed to be embodied in the Act, is :

"'Market' includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place,....."

[Mr. Jamnadas M. Mehta]

So far, the provision is perfectly as we want it to be that the setting up of an unauthorised private market should be made punishable. But this provision goes much beyond what the Corporation, I am sure, wanted and what the public would want and what the Government intend. Any two or more sellers of the articles described in this clause assembling on a municipal footpath would constitute a market, and any two or three shops in the same street where vegetables or any of those articles are sold would also constitute a market. That, I am sure, is not the intention of Government. If it is, I am sorry to say that I will not be able to support it. But if you permit and the Government accept, this change can be made.

The Honourable the SPEAKER : What is the specific amendment ?

Mr. JAMNADAS M. MEHTA : I want to make it clear that the definition does not cover municipal footpaths. If the footpaths which belong to the municipality are occupied by two or three persons and vegetables are sold, they should not constitute a market. Secondly, if in a single street three contiguous shops are selling vegetables, they should not constitute a market. Otherwise, the provision is perfectly proper.

Mr. S. K. PATIL (Bombay City) : Mr. Speaker, the suggestion that the honourable member Mr. Jamnadas Mehta has made is bound to make confusion worse confounded. I can understand his misgiving that by a far-fetched way possibly a footpath may be regarded as a market. But the suggested remedy is worse than the disease. A footpath is not the only municipal property ; there are so many other open spaces as well. To attempt to tackle a small problem, possibly room for mischief may be given. I do not think that by any stretch of the imagination vendors who gather on a footpath can be taken to form a market even within the definition given in this clause, because hereafter they will be under a licence. Therefore, the grievance seems to be imaginary. If you make an exception in the case of footpaths, you will have to extend it to open spaces as well. The clause as it stands is not fraught with any mischief. It appears to be an imaginary fear. I therefore oppose the amendment.

The Honourable the SPEAKER : The amendment is not yet formally before the House. I was just enquiring in what form the amendment was intended to be moved. Will this suit the requirements ? "After the words 'the owner of such place' occurring in line 10, insert the following : 'not being the Municipality and not being independent adjoining shops'."

Mr. JAMNADAS M. MEHTA : But I accept the honourable member Mr. Patil's argument. I only want that footpaths should not become markets under the conditions that I have described. I do not include open spaces.

The Honourable the SPEAKER : I shall feel thankful if the honourable member can give me his amendment.

Mr. JAMNADAS M. MEHTA : These words "not being the Municipality in relation to its foot-paths" may be added after the words "owner of such place". That will meet the honourable member Mr. Patil's point. Otherwise, I am clear that municipal foot-paths will come within the definition of "market". That is why I am anxious.

The Honourable the SPEAKER : Do I understand that the honourable member wants to exclude only municipal foot-paths and nothing else ?

Mr. JAMNADAS M. MEHTA : And the adjoining shops.

Mrs. LILAVATI K. MUNSHI : But I understand that so far as foot-paths are concerned, the vendors are under a licence always.

Mr. JAMNADAS M. MEHTA : Not all.

Mrs. LILAVATI K. MUNSHI : But then there are other provisions.

The Honourable the SPEAKER : I was only trying to see if I could help in the drafting of the amendment. I am not supposed to look into the merits of the amendment.

An Honourable MEMBER : "Other than the municipal foot-paths" can be added.

The Honourable the SPEAKER : After the words "owner of such place" in line 10, clause 2, insert the following : "not being the municipal foot-path nor independent adjoining shops."

Mr. JAMNADAS M. MEHTA : That is all right.

The Honourable the SPEAKER : The amendment is :

"In clause 2, line 10, after the words 'owner of such place', insert the following : 'not being the municipal foot-path nor independent adjoining shops'."

Dr. J. A. COLLACO (Bombay City) : Sir, I rise to oppose the amendment moved by the honourable member Mr. Jamnadas Mehta. The very fact that we had so much difficulty in making his amendment fit in clause 2 shows us that it ought not to be supported, because it will create more difficulties. There are two portions in the amendment and the first is about shops. Sir, the definition of the word "market" has become necessary because there are many roads where there are about 20-30 fruit-shops in private buildings and we could not take action against the owners of these shops, because they were located in private buildings. This, Sir, is the reason why the definition of "market" was necessary.

Secondly, any one who starts selling vegetables or anything on the foot-path can be easily removed with the aid of the police. While we could easily remove such foot-path sellers we could not touch the fruit-shops in private buildings.

For these reasons, Sir, I oppose the amendment of the honourable member Mr. Jamnadas Mehta.

The Honourable Mr. L. M. PATIL : Sir, I do not understand what is meant by the amendment which is suggested by the honourable member Mr. Jamnadas Mehta. He wants to exclude the foot-paths from the definition. But suppose 20 or 30 persons gather on the foot-path for the purpose of marketing, why should they not also be governed by the provisions under the Act ? Sir, therefore, I oppose the amendment.

Amendment put, and negatived.

The Honourable the SPEAKER : Now I put clause 2 of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3 (*Amendment of section 15 of Bom. III of 1888*).

In section 15 of the said Act, hereinafter called the said Act, for the words " he resides in the city ", the following shall be substituted namely :—

" he has resided in the city for six months immediately preceding the date of the election.

Explanation.—A fellow shall be deemed to have resided in the city if he resides in any dwelling in the city which he uses from time to time as a sleeping apartment and the fellow shall not be deemed to cease ' to reside ' in the city if there is the liberty of returning to any such dwelling and no abandonment of the intention of returning thereto, even though he is absent therefrom or has elsewhere another dwelling in which he resides."

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I have to move an amendment to clause No. 3. I think it is a very formal amendment and the reason for moving this amendment is this. Sir, we are governed by the Bombay Municipal Act of 1888, and there is already one definition in existence.

The Honourable the SPEAKER : Will the honourable member Mrs. Munshi formally move it ?

Mrs. LILAVATI K. MUNSHI : Sir, I beg to move :

" Delete the explanation to clause 3."

Question proposed.

Mrs. LILAVATI K. MUNSHI : Sir, as I said, we are governed by the Bombay Municipal Act of 1888 and there is already one definition of a person who resides in the City of Bombay in the Act, and if this new explanation becomes a part of the Bill, then there will not be one definition of a person who resides in the City of Bombay but two with different wordings. Sir, you know how lawyers fight on words and if there are two definitions of the same term, perhaps there is likely to be a quarrel. Sir, the explanation is not necessary at all in this case, and therefore it should be deleted.

The Honourable Mr. L. M. PATIL : Sir, the explanation under clause 3 is superfluous and therefore I accept the amendment.

Amendment put, and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4 (*Amendment of section 17 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 5 (*Amendment of section 30 of Bom. III of 1888*).

For sub-section (1) of section 30 of the said Act, the following shall be substituted, namely :—

“(1) An election of a councillor by fellows shall be made, subject to the provisions of section 15, in accordance with the statutes made by the Senate of the University of Bombay in this behalf :

Provided that no fellow who has not resided in the city for six months immediately preceding the date of the election shall be entitled to vote at such election.

Explanation.—A fellow shall be deemed to have resided in the city if he resides in any dwelling in the city which he uses from time to time as a sleeping apartment and the fellow shall not be deemed to cease ‘to reside’ in the city if there is the liberty of returning to any such dwelling and no abandonment of the intention of returning thereto, even though he is absent therefrom or has elsewhere another dwelling in which he resides.”

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, my amendment is :

“Delete the explanation to section 5.”

Question proposed.

Mrs. LILAVATI K. MUNSHI : Sir, I have to advance the same reasons and I think to avoid confusion this also should be deleted.

The Honourable Mr. L. M. PATIL : Sir, I accept the amendment.

Amendment put, and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, may I ask why the word “fellows” has been used ?

The Honourable Mr. L. M. PATIL : It means Fellows of the University.

Clause 6 (*Amendment of section 31 of Bom. III of 1888*.)

For sub-section (1) of section 31 of the said Act, the following shall be substituted namely :—

“(1) An election of a councillor by a chamber or association mentioned in sub-section (1) of section 5 shall be made by the members for the time being of the said chamber or association, as the case may be, subject to the provisions of section 15, in accordance with the rules made by the said chamber or association in this behalf.”

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move my amendment to clause 6.

Section 6 (1) After 15 substitute for “in accordance.....behalf” the following “at a Special Extraordinary General Meeting of the said Chamber or Association called for the purpose.”

The Honourable the SPEAKER : May I invite the attention of the honourable member Mr. Jhabvala to the original section 31 which says :

“31. (1) Elections of councillors by a chamber or association mentioned in sub-section (1) of section 5 shall be made by the members for the time being of the said chamber or association subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said chamber or association convened in accordance with the rules at the time in force in this behalf.”

[The Speaker]

The amendment seeks to restore the section as it is. Will the purpose of the honourable member not be served by rejecting the clause ?

Mr. S. H. JHABVALA (Railway Unions) : This clause is particularly brought up here and it is the duty of the legislators to enter into the merits or demerits of the clause before the House. If, as a result of this alteration, some corresponding change is effected elsewhere, naturally the same will have to be carried out there also. The clause under discussion is clause 6 for all practical purposes, and I desire that this expression should be replaced by the one I have suggested. If, as a result of this amendment, some alteration is necessary elsewhere, naturally that alteration will have to be carried out there.

The Honourable the SPEAKER : Perhaps, I was not quite clear to the honourable member. Clause 6 proposes to make a change in the existing law and it may be seen from notes to clauses 3, 5 and 6 that the procedure laid down in sub-section (1) of section 30 and sub-section (1) of section 31 of the Act for the election of a councillor by fellows of the University of Bombay or by a chamber or association mentioned in sub-section (1) of section 5 necessitates the convening of a meeting of the Senate of the University or of the chamber or association, as the case may be.

So, the provision in the Bill is a suggestion to replace the present method—which is the method the honourable member is advocating by his amendment. Therefore, it appears that his amendment, though not in form but in substance, is a negation of the original proposition. That is why I was requesting him to consider whether his purpose would not be served by voting against the clause instead of bringing in this amendment.

Mr. S. H. JHABVALA : If I were to vote against the clause, then I would not be able to explain the reason why I want to make this amendment.

The Honourable the SPEAKER : The honourable member has a right of speaking for or against the clause and he can give his reasons then. He need not move an amendment merely to get an opportunity to explain his reasons.

Mr. S. H. JHABVALA : I agree to your suggestion, Sir.

The Honourable the SPEAKER : So, I take it that the honourable member is not moving his amendment.

Mr. S. H. JHABVALA : No, sir. I will oppose the clause. Sir, I oppose this clause inasmuch as it seeks to establish a very undemocratic method of sending a councillor from a Chamber or an Association. The membership of the Bombay Corporation has a very valued and well merited right. It is required to be fought out on a scale, which those people, who have entered the lists, know very well, and the right is vested, really speaking, in the original members

[Mr. S. H. Jhabvala]

themselves, and therefore, when a councillor is to be sent from a particular chamber or association, then the original units must be consulted in the matter of such deputation. Ordinarily, it would so happen that a small body or a coterie of individuals will meet together and sanction the sending of a councillor to such an august body as the Bombay Municipal Corporation. Therefore, I request the Honourable Minister to be really democratic and to vest the right of election of a councillor on behalf of a chamber or association in the hands of those very representatives themselves and should not allow that right to go into the hands of a small coterie of individuals. All members will thus then realise the value and importance of the right of sending a representative on their behalf to the Municipal Corporation. Therefore, I have suggested that these words may be replaced by what I have suggested.

Mr. S. K. PATIL (Bombay City): I cannot understand the extraordinary logic of my honourable friend Mr. Jhabvala. I do not understand where the coterie of individuals comes in. Either he has not read the section, or having read it has not understood it. The clause says :

"An election of a councillor by a chamber or association mentioned in sub-section (1) of section 5 shall be made by the members for the time being of the said chamber or association, as the case may be, subject to the provisions of section 15."

It seems he has not read that section 15. Section 15 clearly lays down the voting qualifications. Therefore, I do not know why an extraordinary general meeting is necessary. The whole purpose of this clause is to simplify the administration. This amendment defeats the purpose for which this clause is introduced. I, therefore, do not agree with my honourable friend.

The Honourable Mr. L. M. PATIL: The intention of this clause is, as pointed out by the honourable member Mr. S. K. Patil, to simplify the administration. The amendment seeks to retain the original provisions of the present section as they are and thus wants to perpetuate the difficulties of the corporation. Therefore, I oppose the amendment.

Clause 6 (*Amendment of section 31 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 7 (*Amendment of section 39 of Bom. III of 1888*).

In section 39 of the said Act—

(a) in sub-section (1-C) for the word "he" the following shall be substituted, namely:—

"or absents himself during three successive months from the meetings of the committee, except on account of temporary illness or other cause to be approved by the committee, or absents himself from or is unable to attend the meetings of the committee during eight successive months from any cause whatever, whether approved by the committee or not, such person"

(b) in sub-section (1-D) after the word "office" where it occurs for the second time, the words, brackets, figure and letter "or of his seat becoming vacant under sub-section (1-C)", shall be inserted.

The Honourable the SPEAKER: To this clause there are three amendments, all by the honourable member Mr. Jhabvala.

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move my three amendments to clause 7. They are—

- (1) Substitute "four" in place of "three"
- (2) Delete from line 5 "months from the"
- (3) Line 9, substitute for words "during.....not" the following:—

without a reasonable cause to be approved by the Committee.

The Honourable the SPEAKER: So, the clause as amended will read as follows:

"(a) in sub-section (1-C) for the word 'he' the following shall be substituted, namely:—

or absents himself during four successive months from the meetings of the committee, except on account of temporary illness or other cause to be approved by the committee, or absents himself from or is unable to attend the meetings of the Committee without a reasonable cause to be approved by the committee, such person"

Question proposed.

Mr. S. H. JHABVALA (Railway Unions): Sir, in moving this amendment I desire to say that the Standing Committee, as it at present is worked has got sufficiently large powers and so far as those members who habitually absent themselves or who cannot work or who have become disabled or who may be sick even,—it does not matter,—those persons should not be allowed to become an encumbrance to the smooth and expeditious working of the Standing Committee. The Standing Committee is perhaps the ruling body which is vested with very important responsibilities and its work requires to be expedited, its work requires to be responsibly carried out from day to day in the spirit of democracy in which the whole Corporation is conceived. Here, according to the original arrangement, the Honourable the Minister-in-charge states that if he absents himself during three successive months from the meeting [interruption]. A member of the Committee remains absent for three successive months from the meeting of the Committee and this body consists of a very small number of people, in comparison with the Corporation itself and therefore, the absence of a few people who remain absent for three successive months from the meeting is certainly a very big gap a loss that is felt and that gap should be immediately filled in by constitutional methods. Therefore, I have stated that a latitude should be given so far as four successive meetings of the Committee are concerned, but beyond that certainly not the Standing Committee, nor the Corporation, nor the rate-payers of Bombay, would ever afford to wait and his place should be immediately filled in.

Mrs. LILAVATI K. MUNSHI: On a point of information, Sir. The honourable member is referring to the Standing Committee. In this clause there is no reference to Standing Committee.

Mr. S. H. JHABVALA: Sir, I am sorry. Wherever I have said "Standing Committee", let the honourable members understand "Schools Committee". Otherwise, my arguments are the same all

[Mr. S. H. Jhabvala]

through. My arguments apply to the Schools Committee, the arguments ought to appeal to the lady and others much more keenly because the Schools Committee has to carry on a duty which is perhaps much more responsible, much more wide, for the reason that the Schools Committee has got to build up the destiny of so many children.

Now, I have stated, "meeting of the Committee without a reasonable cause to be approved by the Committee". Under the provisional scheme of the Honourable the Minister in charge, a latitude of eight successive months has been allowed, whether approved by the Committee or not. That means that it is a very large undemocratic latitude which should not be given. The Corporation is a very serious body. The Schools Committee is a much more important body in view of the fact that they are entrusted with the care of the children and for that reason any person who is not fit physically or because he absents himself should be immediately discharged and his place should be filled in.

Therefore, I beg to move these alterations in the original clause.

Mr. S. K. PATIL (Bombay City): Sir, I oppose this amendment. The amendment lays down that instead of three successive months, four successive meetings should be the criterion. My honourable friend, Mr. Jhabvala, must not be knowing that sometimes it is possible for the Schools Committee to hold four successive meetings within a week. A member might be sick, he might be indisposed, he might not be knowing that the next day a meeting might take place. Therefore, to substitute four successive meetings instead of three successive months is really a hardship. On that ground it has got to be opposed.

The second thing is; the honourable member has not understood the purport of this section as the Act stands to-day. What happens in the Corporation is this: Under the protection of the sanction of the Corporation, several members make it convenient to remain absent either from the Corporation or these committees, not only for weeks or months on end, but sometimes years on end and if that continues, I certainly do not see any reason why a man elected on the Committee or Corporation as a representative, either of the rate-payer or the Corporation should continue for months and years on end, if he continues to be indisposed and on that account of no use either to the corporation or the committee. In a contingency like this, he should resign so that it might be possible for the constituency to elect another member.

With that view, corresponding changes have been made in this section, which have dealt with the various committees. Therefore, both these suggestions are not reasonable and they will create chaos in the working of the committees. For this reason I feel that the amendment should be thrown out.

The Honourable Mr. L. M. PATIL: Sir, I oppose the amendment for the reasons already given.

The Honourable the SPEAKER : As the amendments are all opposed, I put them together.

Amendments put, and negatived.

Clause 7 (*Amendment of section 39 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 8 (*Insertion of a new section 46A in Bom. III of 1888*) ordered to stand part of the Bill.

Clause 9 (*Amendment of section 47 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 10 (*Amendment of section 49G of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 11 (*Amendment of section 49I of Bom. III of 1888*).

In clause (j) of section 49I of the said Act after the word "committee" where it occurs for the third time, the following shall be inserted, namely :—

"or absents himself from or is unable to attend the meetings of the committee during eight successive months, from any cause whatever, whether approved by the committee or not."

Mr. S. H. JHABVALA (Railway Unions) : Sir, here too I want to effect a change on the same grounds as those I advanced in the case of the previous one and the change is :

"In line 5, clause 11, substitute for the word 'the' the following :
'five successive', and delete 'during eight successive months'."

When amended, as I propose, the clause will read as under :

"Or absents himself from or is unable to attend five successive meetings of the committee from any cause whatever, whether approved by the committee or not."

My arguments are the same as those advanced in connection with the previous one, and further to that, I am very sorry that a clear understanding in the minds of the members—some of the municipal corporators are bound to be here—has not been sufficiently raised, perhaps they may be persons who were absenting themselves off and on and they want to have a means of escape. However, my only point was that an advanced legislative body like this would certainly, in the march of time, introduce a newer and a fresher spirit into the affairs of the Bombay Municipal Corporation to expeditiously carry out its business. It is still my desire that better reason will prevail with the members present and I want to stick to my guns and all know me. I desire therefore that this amendment should be effected, namely, "absents himself from or is unable to attend five successive meetings of the committee from any cause whatever, whether approved by the Committee or not."

Question proposed.

Mr. S. K. PATIL (Bombay City) : Sir, the honourable member Mr. Jhabvala forgot that these are all recommendations that have come from the Corporation. It is not a question whether a particular member likes them or not. These have been discussed in the Law and General

[Mr. S. K. Patil]

Purposes Committee. Proper consideration has been given to them. The Corporation has approved of them and then they have come for being embodied in this Act. As I have pointed out in regard to the other amendment that the honourable member moved, "5 successive meetings" is a meaningless expression. As I said, for the last four days the Municipal Corporation has been sitting every day although it sits only twice a week ordinarily. When there are important things to be transacted, we sit continuously for days on end, and therefore, the period of 8 months provided in the Bill is the only proper remedy and not the number of meetings, because that will land us into a very great difficulty, indeed.

Mr. R. A. KHEDGIKAR : Sir, in clause 7 there is a provision as regards a member absents himself for three successive months. I fail to see why in this case it should be "absents himself continuously for 8 months" Even when a member absents himself for 8 months continuously, his name is not to be removed. If the provision were "three months successively" I would have agreed to that, but if the clause were to read that a member who absents himself continuously for 8 months is to retain his seat, it is too much and, therefore, I oppose the clause and support the amendment.

Mr. K. F. NARIMAN (Bombay City) : Sir, if I may be permitted to make an appeal to the Honourable Minister which may be taken into consideration, it is that I want to bring to his notice a certain abuse which does prevail not only in the Bombay Municipal Corporation but in all these bodies. It is this, that some of the members, even when they go on long leave to England for months together, instead of resigning their seats and giving a chance to others, leave their seats open and send one pretext or another. I have known of instances in which members have written they are now in England or Europe on holiday, touring for months together. Still, their seats are kept vacant, the constituencies lose the privilege of representation and under this particular rule which gives them a number of facilities, they apply for leave, period after period, which is a distinct disadvantage to the ratepayers. I am only making a suggestion that so far as the Corporation is concerned, we must remember that this particular recommendation is in the interests of the members themselves. It affords certain facilities and conveniences to members themselves. Therefore, it is necessary that we have to look at the matter from the point of view of the ratepayers also. It is not fair, it is wrong in principle in the case of an elected member, who has been sent there with a particular purpose—it may be all right in the case of illness or some important work to keep away from certain meetings—but the fact is that members go away for months together on leave, sometimes for eight or nine months or even twelve months, and from there every three months they ask some friend to represent that the member is on sick leave or that he is touring in America or some other far off place, and that of course is given some consideration as a matter of course. That I think is very wrong in

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principle. I do not want to disturb the present arrangements and I am only making a suggestion to the Honourable Minister that he will bear in mind that this is a practice which may be remedied as early as possible. Some way should, I suggest, be found out by which the convenience of the members can be taken care of and at the same time a check might be put on the abuse which does no doubt exist at present. This is my humble suggestion which I am making.

Mr. R. A. KHEDGIKAR (Sholapur City Textile Labour): Sir, I would suggest the following amendment:

Delete "eight" and substitute "three", instead.

The Honourable the SPEAKER: I could not follow the suggestion made by the honourable member.

Mr. R. A. KHEDGIKAR: If you permit me to move an amendment at this stage, I would move the following amendment:

Delete "eight" and substitute "three", instead.

It will then read "during three successive months".

The Honourable the SPEAKER: It seems there is some misapprehension about the provisions of the clause. It will be better, I think, if I read the proposed amendment and the original section of the Act, as sought to be amended herein. It appears that the absence of three months only from the meetings is provided for already by the clause on the ground of temporary illness or other cause when approved by the Committee, and the clause seems to check any absence longer than eight months. The clause will read as under—I will read the whole clause in the original Act incorporating therein the proposed amendment:

"Any member of the Improvements Committee who absents himself during three successive months from the meetings of the Committee, except on account of temporary illness or other cause to be approved by the Committee, or absents himself from or is unable to attend the meetings of the Committee during eight successive months, from any cause whatever, whether approved by the committee or not, shall cease to be a member and his office shall thereupon be vacant."

That will be the entire clause if the amending clause is accepted.

The Honourable Mr. L. M. PATIL: Sir, under section 17 (b) of the Act a councillor who absents himself during three successive months from the meetings of the Corporation except on account of temporary illness or other cause to be approved by the Corporation, ceases to be a councillor. The effect of this provision is that the councillor can be absent for any length of time on account of illness or other cause approved by the Corporation. It is now proposed to limit the total absence of a councillor to not more than one year. The amendment is too vague to be acceptable to Government.

Amendment put, and negatived.

Clause 11 ordered to stand part of the Bill.

Clause 12 (*Amendment of section 110A of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 13 (*Insertion of new sections 110AA, 110AB, 110AC, 110AD and 110AE in Bom. III of 1888*) ordered to stand part of the Bill.

Clause 14 (*Amendment of section 110DD of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 15 (*Amendment of section 115 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 16 (*Amendment of section 117 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 17 (*Amendment of section 123A of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 18 (*Insertion of a new section after section 125 of Bom. III of 1888*):—

After section 125 of the said Act, the following new section shall be inserted, namely :

“125A. *Classification of budget heads*—The expenditure side of a budget estimate shall be classified under major heads, minor heads, subordinate heads and primary units.

(a) ‘Major head’ means the principal head of accounts corresponding to the different services under which expenditure is classified in the budget estimate, and may be divided into two or more minor heads.

(b) ‘Minor head’ means the head of accounts immediately subordinate to a major head under which each major head is classified, and may be further subdivided into two or more subordinate heads.

(c) ‘Subordinate head’ means the head of accounts immediately subordinate to a minor head under which each minor head is classified and may be further subdivided into two or more primary units.

(d) ‘Primary unit’ means the ultimate group or groups into which individual items of expenditure in the budget estimates are arranged.”

Mrs. LILAVATI K. MUNSHI : I want to know, Sir, whether I can move my amendment now. The amendment refers to three clauses, 18, 19, and 20. These are the budget clauses, and my amendment is that clauses 18, 19 and 20 shall come into force as from the 1st of April 1939.

The Honourable the SPEAKER : Will it not come after clause 20 ?

Mrs. LILAVATI K. MUNSHI : It refers to clause 18 also. Should I move it now or afterwards ?

The Honourable the SPEAKER : I have not been able to understand the point.

Mrs. LILAVATI K. MUNSHI : There is an amendment which I have sent and which says that clauses 18, 19 and 20 shall come into force as from the 1st of April 1939. Shall I move it now or after all these three clauses are passed ?

The Honourable the SPEAKER : It will have to be afterwards. Otherwise, for each clause there will have to be a separate amendment in the same form. The amendment may be moved at the end of clause 20. When we come to clause 20, the amendment may come in.

Clause 18 ordered to stand part of the Bill.

Clause 19 (*Substitution of new section 130 in Bom. III of 1888*)—

For section 130 of the said Act, the following shall be substituted, namely:—

“130. The total sum entered under a major head, which has been adopted by the Corporation shall be termed a ‘budget grant’.”

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I make a submission with regard to the definition of “budget grant”. In section 130 of the present Municipal Act it says that “any sum entered on the expenditure side is a budget grant”. Here the words “on the expenditure side” are omitted, whether by oversight or because Government think that what is given in the new section 130 is a definition of budget grant, I cannot say. I submit that a budget grant is an expenditure grant, and therefore unless you reproduce the original words of section 130, that the total sum entered under a major head on the expenditure side is a budget grant, it will create a somewhat difficult situation, because as I understand it and as the framers of the Act of 1888 understood it, a budget grant is an expenditure grant. Therefore, with your permission if the Honourable Minister accepts it, then there is nothing further to be done. “The total sum entered under a major head on the expenditure side” should be the wording of the section.

The Honourable the SPEAKER: May I invite the attention of the honourable member to the definition of the expression “major head” in new section 125A (a) in clause 18? There the expression “major head” is defined.

Mr. JAMNADAS M. MEHTA: That does not make much difference.

The Honourable the SPEAKER: It says there, “Major head” means the principal head of accounts corresponding to the different services under which expenditure is classified in the budget estimate, and may be divided into two or more minor heads.

Mr. JAMNADAS M. MEHTA: I submit that the definition of the words “budget grant” should not hang on some other definition. There is no reason why it should not be put as a definition by itself. That is all my submission.

The Honourable Mr. L. M. PATIL: Sir, I have no objection to accept the amendment as suggested by the honourable mover.

The Honourable the SPEAKER: How will the amendment fit in? Should it read “The total sum entered under a major head on the expenditure side”?

Mr. JAMNADAS M. MEHTA: The wording should be as in the old section.

The Honourable the SPEAKER: If the honourable member moves his amendment, it will be:

The words “on the expenditure side” be added after the word “head” in line 4.

Mr. JAMNADAS M. MEHTA : That is right, Sir.

The Honourable the SPEAKER : The amendment is :

The words " on the expenditure side " be added after the word " head " in line 4.

Amendment put, and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

(The House re-assembled after tea at 4-30 p.m.)

Clause 20 (*Substitution of new section 133 in Bom. III of 1888.*)

For section 133 of the said Act, the following shall be substituted, namely :—

" 133. (1) Subject to the provisions of sub-section (1) of section 131, the Corporation may on the recommendation of the Standing Committee from time to time during an official year sanction the transfer of any amount from one budget grant to another.

(2) The Standing Committee may at any time during an official year—

(a) reduce the amount of a budget grant ;

(b) sanction the transfer of any amount within a budget grant from one minor head to another or from a subordinate head under one minor head to a subordinate head under another minor head ; or

(c) sanction the transfer of any amount exceeding rupees five thousand within a minor head from one subordinate head to another or from one primary unit to another.

(3) The Commissioner may, at any time during an official year, sanction the transfer of any amount not exceeding rupees five thousand within a minor head from one subordinate head to another or from one primary unit to another, if such transfer does not involve a recurring liability :

Provided that every transfer of an amount exceeding rupees five hundred made under sub-section (3) shall be reported forthwith by the Commissioner to the Standing Committee and that the said Committee may pass with regard thereto such order as they may think fit ; and it shall be incumbent on the Commissioner to give effect to such order.

(4) When making any transfer under sub-sections (1), (2) and (3) due regard shall be had to all the requirements of this Act.

(5) If any such reduction as is referred to in clause (a) of sub-section (2) is of an amount exceeding five hundred rupees, the Corporation may pass with regard thereto such order as they may think fit, and it shall be incumbent on the Standing Committee and the Commissioner to give effect to such order."

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, about this I have already made reference in my speech on the first reading of this Bill. I will briefly mention the difficulties that are likely to arise. The new section 133 has a proviso to sub-section (3) and also there is a sub-section (5) by which the Commissioner and the Standing Committee will be obliged to report what they have done and it shall be incumbent on them thereafter to act as they are ordered, in one case by the Standing Committee and in the other by the Corporation.

Now, both the Commissioner and the Standing Committee have power to spend some amount from the budget grant. If after this transfer is made and they have spent the amount before the orders of the next superior authority are received and those orders happen to be different from what the action was, there will be occasionally an impasse. For instance, if under the powers which the Commissioner possesses he has

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already spent Rs. 500 and the Standing Committee takes a different view, the money having been spent already, the latter's orders cannot be enforced. In that case a difficulty will arise and a wholly undesirable conflict will result between two authorities in the Corporation.

The Honourable the SPEAKER: May I invite the attention of the honourable member to old section 133, sub-section (2):

"If any such reduction or transfer is of an amount exceeding five hundred rupees, the corporation may pass with regard thereto such order as they think fit, and it shall be incumbent on the standing committee and the Commissioner to give effect to the said order."

That is the existing law. It appears that it refers only to transfers so far as the budget heads are concerned and not to actual expenditure.

Mr. JAMNADAS M. MEHTA: I quite agree. But I am submitting that the Commissioner, under his ordinary power, can spend up to Rs. 500 under a budget grant and then report to the Standing Committee. Now, if you say that the Standing Committee should issue an order which it is incumbent on the Commissioner to give effect to, and it happens that the Commissioner has already spent that transferred amount, there will be difficulty. I invite the attention of the House to a provision in the Municipal Act under section 38A. If a committee has already acted and then the orders from the Corporation happen to be different, the proviso to section 38A, sub-section (6), says that steps shall be taken to carry out any orders passed by the Corporation as may still be practicable. If action has already been taken, it becomes irrevocable, but under the proviso to which I have referred, if there is still room for taking any step which will meet with the wishes of the superior authorities, then so far as may still be practicable the committee will be required to do it. Therefore, if the words "as may still be practicable" are added at the end of the proviso to sub-section (3) and of sub-section (5) of the new section 133, any possible difficulty that may arise will be obviated. If you permit, these words may be added as I have suggested.

The Honourable the SPEAKER: On the merits, I do not think I can express an opinion as to whether those words should or should not be added, but I am prepared to help the honourable member by allowing him to move an amendment, if he wishes to press for it. So far as the form of the amendment is concerned, I will try to help the honourable member. But it will be for the Honourable Minister for Local Self-Government to say whether or not he deems any such amendment necessary.

The Honourable Mr. L. M. PATIL: I have not followed the exact wording of the amendment.

Mr. JAMNADAS M. MEHTA: At the end of the proviso to sub-section (3) and at the end of sub-section (5), I suggest to Government to add the words "so far as may be practicable", in the language of section 38A.

Mr. S. K. PATIL (Bombay City) : Mr. Speaker, Sir, although I have tried to follow the amendment of my honourable friend Mr. Jamnadas Mehta very carefully, I do not see in the proviso in this clause anything very materially different from the proviso that exists in the original section 133 of the Act. The only difference is that in this clause, instead of the standing committee, there is a reference to the Corporation. But so far as the expenditure of money or the transfer of money is concerned, the position remains the same. Here, in sub-section (5) of new section 133, it is stated :

“ If any such reduction as is referred to in clause (a) of sub-section (2) is of an amount exceeding five hundred rupees, the Corporation may pass with regard thereto such order as they may think fit, and it shall be incumbent on the Standing Committee and the Commissioner to give effect to such order.”

The House will see that both the Standing Committee and the Commissioner are mentioned in this sub-section. It is the Corporation which passes the orders. Sub-section (3) of new section 133 lays down :

“ The Commissioner may, at any time during an official year, sanction the transfer of any amount not exceeding rupees five thousand within a minor head.....”

Here is merely a question of transfer—merely a book entry. The proviso to this sub-section reads :

“ Provided that every transfer of an amount exceeding rupees five hundred made under sub-section (3) shall be reported forthwith by the Commissioner to the Standing Committee and that the said Committee may pass with regard thereto such order as they may think fit ; and it shall be incumbent on the Commissioner to give effect to such order.”

Under the original section, the Corporation passes the order, and it is incumbent on the Commissioner as well as the Standing Committee to give effect to it. Here, it is a question of the transfer being reported forthwith. As I said, it is only a book entry. I do not think any such difficulty as is contemplated by the honourable member will arise. I do not think that we should so stretch our imagination as to think that the Commissioner will act so recklessly as to spend money to which the Standing Committee may take objection. Therefore, I do not think that any change in the wording is needed.

Mr. JAMNADAS M. MEHTA : Sir, I have no right to speak again ; but, if you will permit an explanation, I am not suggesting anything new. Today, Sir, the Commissioner has no power of transfer, but he has the power of spending. You are not taking away that power and you are giving him the power of transferring. If he has done both the transfer and the expenditure and afterwards he receives orders, it will be too late. That is the only point which I wish to submit, and this is not a controversial matter. I am only submitting it for the sake of convenience so that afterwards an amending legislation may not become necessary. If the Government are not inclined to accept my submission, then I do not wish to emphasise it.

The Honourable the SPEAKER : The word in the proviso is “ forthwith”. That does not contemplate any time passing between—

Mr. JAMNADAS M. MEHTA : Between one meeting and another of the Standing Committee there is a week's interval.

The Honourable Mr. L. M. PATIL : Sir, the proviso to clause 20 only refers to the transfer and not to the expenditure and I do not think that the situation as contemplated by the honourable member Mr. Jamnadas Mehta will ever arise. So, I oppose the amendment.

The Honourable the SPEAKER : It has not been yet moved. It was suggested.

Mr. JAMNADAS M. MEHTA : Sir, if the Government are not willing, I do not press it, but my only fear is that they will have to come with an amending legislation again.

The Honourable the SPEAKER : Now, I will put clause 20 to the House and thereafter Mrs. Munshi may move her amendment.

Clause 20 ordered to stand part of the Bill.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I beg to move :

Add a new clause 20A :—

“Clauses 18, 19 and 20 shall come into force as from the 1st of April 1939.”

Question proposed.

Mrs. LILAVATI K. MUNSHI : Sir, this amendment has been moved in order to remove a little difficulty. The present Bill requires that the budget of the Bombay Municipality should be prepared in a particular way. Now, Sir, the budget of the Bombay Municipality has already been prepared and it is being discussed in the Municipal Corporation. It has to pass before a certain date, and if these clauses come into force immediately, there will be a kind of an anomaly. The Corporation cannot go on with the present budget which has already been prepared and a new budget cannot be prepared overnight. The budget of the Bombay Municipality is not a very simple affair which can be prepared in a very short time, and so there will be a kind of a deadlock. To avoid such deadlock I have moved this amendment. It is merely a formal one. There is not great substance in it, except that these clauses should come into force in 1939 when the new budget is prepared.

Mr. JAMNADAS M. MEHTA : Sir, may I know from what date the Act itself is coming into force ?

The Honourable Mr. L. M. PATIL : As soon as it is passed.

Amendment put, and agreed to.

Clause 21 (*Insertion of new section 260A in Chapter X of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 22 (*Amendment of section 269 of Bom. III of 1888*) ordered to stand part of the Bill.

(Clause 23 (*Amendment of section 271 of Bom. III of 1888*)) ordered to stand part of the Bill.

(Clause 24 (*Amendment of section 272 of Bom. III of 1888*)).

In section 272 of the said Act—

(a) In sub-section (2) for the words "from and including the ferrule on the supply main up to and including the stop-cock nearest the supply main", the word "thereon" shall be substituted.

(b) In sub-section (3) for the words "Every such new connection or renewed connection with its communication-pipes and fittings up to and including its stop-cock as aforesaid shall thereafter vest" the words "Every such communication pipe and fittings thereon shall vest" shall be substituted.

(c) For sub-section (4) the following shall be substituted, namely :—

"(4) All supply and distributing pipes and cisterns and fittings not being the property of the Corporation shall be laid and applied under the supervision and to the satisfaction of a municipal officer appointed by the Commissioner in that behalf, who shall give and sign a certificate, free of charge, when such supply and distributing pipes, cisterns and all necessary fittings have been laid, applied and executed in a satisfactory manner and when proper and sufficient arrangements have been made for draining off waste water."

(d) For sub-section (5) the following shall be substituted, namely :—

"(5) Where any supply or distributing pipe, cistern or such fitting is laid, applied, added to or altered, or any connection is made in contravention of this section the Commissioner may, with the previous approval of the Standing Committee, remove such supply or distributing pipe, cistern, fitting or connection, or additions or alterations thereto, and make good such pipe, cistern, fitting or connection; and the owner and occupier of the premises in which or for supply to which such supply or distributing pipe, cistern or fitting has been laid, applied, added to or altered or such connection has been made, shall be jointly and severally liable to pay the expenses incurred by the Commissioner in so doing."

Mr. S. H. JHABVALA (Railway Unions) : Sir, there is an amendment which I wish to move, and I was waiting to be called. Every time you used to call.

The Honourable the SPEAKER : I am sorry that the honourable member Mr. Jhabvala relied upon my calling out. Of course, I usually call out as a matter of assistance and not as a matter of obligation. However, in case I do pass on by mistake, honourable members will kindly call my attention.

Mr. S. H. JHABVALA : Sir, I beg to move :

Section 24 (5) line 39. Omit "and occupier".

Section 24 (5) line 43. Omit "jointly and severally."

Question proposed.

Mr. S. H. JHABVALA : In support of my amendment I desire to state that the obligation as laid down under this amending Bill is both upon the owner and the occupier. I do not see any reason why the occupier should be jointly and severally liable to the burden. The whole burden ought to lie upon the owner of the property himself. So far as the water supply question is concerned—I trust this is in connection with the water supply—the whole burden ought to lie upon the owner himself. Without any further comment, I desire to submit this amendment to the care of the House.

The Honourable Mr. L. M. PATIL: Sir, it is necessary to have the words "occupier" and "owner", because it is a serious matter and the Commissioner or the Corporation must have sufficient power to take suitable action against all the parties concerned and so I oppose this amendment.

5 p.m.

Amendment put, and negatived.

Clause 24 ordered to stand part of the Bill.

Clause 25 (*Amendment of section 273 of Bom. III of 1888*).

In section 273 of the said Act for the words "all communication-pipes and fittings of any existing private service connected with any municipal water-work up to and including the stop-cock nearest the supply main for the said service", the words "all or any consumer's pipes and fittings" shall be substituted.

Mr. B. M. GUPTE (Poona City): Sir, I beg to move the following amendment:—

For clause 25, substitute the following:—

"For section 273 of the said Act, the following shall be substituted, namely:—

273. The Commissioner may, by agreement with a consumer, take charge on behalf of the Corporation of all or any of the consumer's pipes and fittings;
 Commissioner may take charge of private connections.

Provided that if any of such pipes or fittings are communication-pipes or fittings only not vesting in the Corporation, the Commissioner may, if he thinks fit, take charge of the same without such agreement.

Any consumer's pipes and fittings, of which the Commissioner takes charge under this section, shall thereafter vest in, and be maintained at the expense of, the Corporation as a municipal water-work."

Question proposed.

Mr. B. M. GUPTE: For explaining the necessity of this amendment, I may point out that the Bombay Municipal Corporation some years ago had some agreement with the Bombay Port Trust, by which the private water works of the Port Trust were taken over by the Corporation. At that time the Corporation found that section 273, as it stands today in the Act, was defective and it did not allow the water-works except the communication pipes to vest in the Municipality only because the Commissioner took charge of these water works. It was, therefore, suggested by the Corporation that an amendment might be made in section 273; an amendment was made but subsequently the Corporation pointed out that the wording of the amendment, as given in the original Bill, went far beyond their original intention because it prevented compensation being paid for certain portions of the pipes. The communication pipes can be taken over by the Corporation without agreement, but the subsequent portion of the pipes, which is comparatively very much larger, should not be taken over without compensation, otherwise it would be very iniquitous to the consumer and to the private owners. Therefore, the amendment suggested by me makes it clear that some portion might be taken without compensation, but the rest of it should be taken after agreement, that is, with compensation.

The Honourable Mr. L. M. PATIL : Sir, I accept the amendment.

Amendment put, and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Clause 26 (*Amendment of section 273A of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 27 (*Amendment of section 274 of Bom. III of 1888*).

In section 274 of the said Act—

(a) For sub-section (1) the following shall be substituted, namely :—

“(1) The Commissioner may, whenever it shall appear to him to be necessary, by written notice require the owner of any premises furnished with a private water supply from any municipal water-work to provide such premises within a reasonable period which shall be prescribed in the said notice, with cisterns and fittings of such size, material, quality and description and placed in such position and with such safe and easy means of access as he think fit.”

(b) After sub-section (1), the following new sub-section shall be added :—

“(1A) The Commissioner may also in the like manner require the owner of any premises to provide such safe and easy means of access as he thinks fit to any existing cistern which on an examination under section 278 is found to be not easily accessible.”

(c) In sub-section (2)—

(i) for the words “pipes, taps, cocks and other fittings”, the words “pipes and fittings” shall be substituted;

(ii) for the word “purposes” the word “purpose” shall be substituted.

(d) In sub-section (3) for the words “pipes, taps, cocks and other fittings”, wherever they occur, the words “pipes cisterns and fittings” shall be substituted.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move my last amendment and it is this :

“In line 10, after the word ‘and’ take the word ‘anti-malarial.’”

Question proposed.

Mr. S. H. JHABVALA : The whole clause is intended for protection against malaria and there is nothing in the body of the clause suggesting the fact that the fittings and the other appurtenances should be of a character which should prevent the disease, against which this clause is intended. Therefore, I have suggested the expression “anti-malarial”.

The Honourable Mr. L. M. PATIL : The whole clause is meant for removal of malaria in the city, and I do not understand why the honourable member wants to add the word “anti-malarial” before the word “fittings”. I therefore oppose the amendment.

Amendment put, and negatived.

Clause 27 ordered to stand part of the Bill.

Clause 28 (*Insertion of new section 274-A in Bom. III of 1888*) ordered to stand part of the Bill.

Clause 29 (*Amendment of section 275 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 30 (*Amendment of section 278 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 31 (*Amendment of section 279 of Bom. III of 1888*):

In section 279 of the said Act—

(1) in sub-section (1)—

(a) in clause (a) after the words "sum due for water" the words "or hire of meter" shall be inserted;

(b) for clauses (b) and (c) the following shall be substituted, namely:—

"(b) if the owner of the premises neglects within the period prescribed in this behalf in any notice given under sub-section (1) or (1A) of section 274 or under section 274A, to comply with any requisition made to him by the Commissioner regarding the provision of any cistern, fitting, lock or key or any means of access to such cistern;

(c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to comply with the terms of such notice or fails to use articles of the kind prescribed under sub-section (3) of section 274;"

(c) for clause (e) the following clause shall be substituted, namely:—

"(e) if the owner or occupier of the premises wilfully or negligently injures or damages any meter, pipe, cistern or fitting or lock thereof in such premises;"

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, in the notes on the various clauses—in the note on clause 31 it has been pointed out that this is intended to empower the Commissioner to cut off the water supply from the premises in cases of (1) failure to pay meter hire for a meter on the premises and (2) failure to provide safe and easy access to a cistern or to provide a lock and key for the same. So far as the failure to pay for the meter hire (for a meter on the premises) is concerned, the man should suffer if his water supply is cut, but if there is a failure to provide safe and easy access to a cistern or to provide a lock and key for the same, this is obviously the fault of the owner and the power taken is that in that case the water supply should be cut and the occupant or the tenant shall have to suffer for the default of the owner. As the Government are not inclined to consider seriously any amendment that I may suggest, I shall only state my point here.

The Honourable the SPEAKER: It is not an amendment. The honourable member has simply made a suggestion for the Honourable Minister.

Mr. JAMNADAS M. MEHTA: I agree, Sir, to the power being given, provided that notice shall be given to the owner before the water supply is cut off and the fact is brought to the notice of the occupants also. Because, even if a notice is given, the occupants might not know and so long as you do not restrict this right of cutting water supply for a default of providing even access to a cistern, the tenants will suffer more often than the owner. Therefore, before water supply is cut, both the occupants and the owner should get sufficient notice.

Mr. K. F. NARIMAN (Bombay City): Mr. Speaker, Sir, I will join with my friend, Mr. Jamnadas Mehta, in requesting the Honourable Minister to consider the clause as it stands today. It works very great

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hardship on the tenants because the landlord may be living at a different place, but the water supply of the tenant is cut off and it is a very great hardship on the tenant; although the tenants pay their rents and dues, because the landlord makes a default in his payments, not the water supply of the landlord, but the tenants' is cut off. That provision would work great hardship on the tenants. Sometimes the landlords harass the tenants to pay their dues, so that the tenants may be put to this hardship and made to vacate. Do not continue that hardship, which this clause seeks to do, by going to the length that even if the landlord makes a default the water supply should be cut off; it is not only a great hardship to the tenants but a great danger to public health. In cases where there is flush system, without water it would be very insanitary. Therefore, this clause requires modification, so far as the cutting off of the water supply is concerned.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I do respectfully protest against this method of moving amendments. No notice is given to the Treasury Bench and at the last minute something is stated which appears to be different in the section, as well as in the amendment. If my honourable friend wants to move an amendment, he cannot get up at the last minute and say, "This is my suggestion Will the Government benches take it?" I do submit, if there is any point in it, he should move it. We would not mind waiving notice of time, but surely he must have a draft ready now.

Mr. JAMNADAS M. MEHTA: Sir, I plead guilty to the charge of suggesting an amendment and the inconvenience caused. I read the Bill only last night.

The Honourable the SPEAKER: I understand no amendment is sought to be moved now and I shall put the clause to the House.

The Honourable Mr. K. M. MUNSHI: I can assure the House that if any of the sections works a hardship on any person—most of the honourable members who are taking interest in this Bill are members of the Corporation and can say whether it works hardship—Government—

Mr. JAMNADAS M. MEHTA: I would suggest these amendments to an honourable friend in the Upper House so that in the meantime the Government may not be inconvenienced.

Clause 31 ordered to stand part of the Bill.

Clause 32 (*Amendment of section 284 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 33 (*Amendment of section 286 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 34 (*Amendment of section 287 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 35 (*Amendment of section 287A of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 36 (*Amendment of section 287B of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 37 (*Insertion of new section 313B in Bom. III of 1888*):

“313B. Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain, use his skill in any handicraft or in rendering services to and for the convenience of the public in any public place or public street.”

Mr. S. H. JHABVALA (Railway Unions): Sir, I rise to oppose clause 37. In my general remarks I have already offered certain observations with regard to the people against whom this clause is intended. Already much harm has been done by the existing clause in the Municipal Act in connection with the plight of the persons who number several thousands in the City of Bombay. In addition to that if Government are desirous by the introduction of this clause to impose further hardship upon more people then certainly it would be to the discredit of the Congress Government for the Congress Government have always said that they have the interest of the worker at heart. Now, in the interest of or better organisation of a highly capitalised town like Bombay, they are shoving them away in a corner by elbowing them out—this honest labouring community who have to keep themselves in existence either by retailing or by mending shoes or by blacking the shoes or in a number of any other ways. Even those will be brought in who can create a certain amusement in the streets like the young Japanese boys or like the wrestlers, jugglers and junkers. Even they will be debarred from coming into the street, having their exhibitions in hand. It should be remembered that even though the Congress Administration in their manifesto have stated that they are going to give protection to the poorer masses, they have consistently gone on defeating my amendments meant in the interest of the masses but it is not a defeat to me. Every defeat to me to-day, Sir, is the future defeat but to themselves, and they will soon realise the power of this my defeat to-day. I am also one of their fraternity and if they cause me a defeat, it will be a defeat to themselves also.

Coming to my point, Sir, much harm has been done by the present stringent clauses; I say let not matters be rendered further worse. I am also going to oppose clause 38 on the same grounds. Let clause 37 be deleted so that a certain class of poorer people may be able to earn for their existence. I do not want to dilate further upon the issue, because I have already made my remarks. I am sorry I have also noticed that the whole House appears to be in a very pliant mood accepting everything that is served to them by the Government. Under such circumstances, to go on protesting is to plough the lonely furrow. I do understand and

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realise it, but I shall carry on so long as I have a head upon my shoulders—I have a mission to fulfil in this House and I will struggle on to the bitter end. It has been stated, Sir, that the Congress Government have done nothing for the workers and this seems to be a step further in that negative direction. Let them not do their worst, and therefore, I suggest and I fear that this clause is intended to prevent poor people from being able to eke out their very living. If they prove an obstruction on the road, the police have sufficient control over them. The Municipal Commissioner issues licences. The licences of course are very costly to these people considering their means and their earnings and not easy to obtain. These people earn their daily wage honestly in order to keep body and soul together. In spite of that, they have to pay a fee for their licences and I do not think that now any further step in the destructive direction than what has already been done by the Corporation should be taken by the present Administration. Therefore, I appeal to them and say “let them desist from the harm they have so far done to these poor people. Do not proceed further worse.

Mr. K. F. NARIMAN (Bombay City): Sir, my honourable friend Mr. Jhabvala has referred to a very thorny question which troubles the Corporation as it often troubles this House, namely, the question how to adjust the rights and privileges between two conflicting people, and I must say that it is the interest of the Congress and the duty of the Congress not only to protect one section of the public but to protect and see all sides and sections of the public. Here the conflict is between the general public, the right of the pedestrians to use the pavements on the roads, as against the right of a particular class of hawkers to occupy the pavements so as not to disturb the right of the former class of citizens. The Corporation, after a very careful consideration, found out a *via media* whereby, as my honourable friend suggests, they are trying to see that the poor hawkers' reasonable right is exercised in a manner which will not obstruct the general primary right of the pedestrians to use the pavements on the roads. As a matter of fact, if he will consider this matter from the other point of view, he will see that this is a measure which is also for the protection of the hawker and I will tell him how. If there is no licence, if there are no spaces allotted to them on the pavements or the roads for hawkers to sit upon, they are not entitled to occupy any places and they will be harassed and hunted out by the police wherever they sit. As a matter of fact, that happens today. If they will not pay a small licence fee, a legitimate fee, to the municipality, they have got to pay something illegitimate and unauthorised to somebody else in order to retain illegitimately some part of the roads. In order to legalise that procedure, what has happened is that the Commissioner and other people have tried to find out what is the most convenient from the hawkers' point of view and the least inconvenient from the public point of view places which can be safely occupied by the hawkers, and these places are marked out as the limits and licences are issued to hawkers who are then allowed to carry on their trade there without disturbance by the police. If there

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are no such licenced places, the hawkers themselves will be liable or open to disturbance by the police and the hawkers will have no protection. Therefore, Sir, the important thing to do is to see how best to reconcile the rights of the pedestrians with the claims of the hawkers. We have seen in many crowded streets and congested areas particularly old women and children being driven out of the pavements because they are occupied by hawkers and these old women and children are obliged to go on to the roads where there is heavy motor traffic or other kinds of vehicular traffic and their lives are thus exposed to serious dangers of grave accidents. As it is, we find that hawkers, by making illegitimate and illegal payments to some persons, occupy any places anywhere unrestricted by any control and become a veritable and dangerous nuisance to the public, the pedestrian public which uses the pavements. When the hawkers do not resort to these illegal payments, they lay themselves open to harassment by the police. For all these reasons, it is considered advisable from all points of view, the point of view of the hawkers, the point of view of the public and the point of view of the Municipal Corporation, that definite places should be assigned to the hawkers, that these hawkers should be controlled and they should be allowed to carry on their trade or ply their work without disturbance or extortion by the police.

Then, Sir, as regards the licence fee to be charged, I think it should be a very nominal fee, just intended to control and to restrict and not with a view to make this licencing business a source of revenue. The fee may be very nominal, one rupee per year or one anna per month. It is often said that licence fees are sometimes made a source of revenue. That should not be allowed to happen. I hope the amendment for the deletion of the power as regards removal of tools and implements will be insisted upon and I am sure the Government also will consider it sympathetically.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City, North, and Bombay Suburban District): Sir, I rise to raise my voice of protest against this clause which has come to me as a surprise. I expected that the Congress Government, when it proposed an amendment to the Municipal Act, would not be in favour of extending all these penal clauses to barbers and shoeblocks and so many other people who are following different sorts of humble professions to eke out a meagre livelihood, but I expected in fact that that clause would be done away with, because I believe that all those who are aware of the political life of Bombay know that there are about 15,000 to 20,000 hawkers in the City of Bombay who have been clamouring and who have been passing resolution after resolution and taking out procession after procession and raising their voice against the treatment that has been meted out to them by the municipal officials and specially the Encroachment Department of the municipality. The abuses are so current and so well known that they need no telling on my part on this occasion. Sir, the Encroachment Department of the Bombay Municipality has become a first class scandal

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and however much it may look on paper to be justified, when we come to the practical details of life, we find that the officials of the Encroachment Department never do their duty honestly but they are always harassing innocent people who want to carry on their trade and want to earn their honest livelihood. If any one thinks that by extending these penal clauses to barbers and shoeblacks and others, the rights of the pedestrians will be safeguarded and the footpaths or the pavements will become clear, I think he is mistaken, because bribery in the police department is so rampant that, licence or no licence, the footpaths are always crowded by these hawkers. The hawkers' problem is a great economic problem and

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you cannot do away with that so easily, because as unemployment increases in the city the number of hawkers goes on increasing. You may go on prohibiting them from sitting on the footpath, you may go on penalising them, you may go on fining them or imprisoning them, but in spite of the thousands of imprisonments and fines that take place the hawkers are there and they will remain there as long as the problem of unemployment remains unsolved in the city. Therefore, to look to one side of the picture only, by claiming to safeguard the right of the pedestrians, I think, is a crime against these people who have no other means of livelihood, except to sit on the footpath, because they find they can do nothing else. You have penal clauses in the Act, but 8 annas or one rupee to the policeman every day—that is what is happening—makes the penal clause inoperative. With the 8 annas or 1 rupee that these poor people have to pay to the policemen out of their earnings, the penal clause is done away with in practice. What purpose does this penal clause serve? It serves only this purpose, that it gives a handle to the police to harass these poor people, and the policemen do not care what the law says; they are always trying to exact more and more from these hawkers, and I think that so long as the problem of unemployment remains unsolved we should, as men of practical common sense, look at this problem not only from the point of view of those who live at Malabar Hill, far away from the humdrum of Bombay city life and who have not experienced the pangs of poverty and do not know what earning a livelihood like that of a hawker means. We should not look at this question from those people's point of view. We should also realise the situation of the hawkers. However much you penalise them, I assure you that the footpaths would remain crowded and you are only giving a handle to the policeman to harass the hawkers. Sir, the hawkers may be a nuisance, but they are not a nuisance that you can do away with by passing such an Act. It is a definite problem to be solved, and can be solved in a way different from the one in which you are trying to solve it. The barbers never sit in a place where they hamper the traffic, because the profession of a barber is of such a nature that they would not like to sit in a place where they can be interfered with. Otherwise, as just now mentioned by my friend Mr. Nariman a situation would be created which I think nobody wants to be created. It was pointed out by the honourable member what would happen if the encroachment department officials came and tried to snatch

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razors from barbers. Sir, I beg to submit that this clause should be deleted. It imposes difficulties in the way of those who want to earn an honest livelihood, and it certainly is very surprising that the Congress Government should try to enact such a clause. It was hoped that when the Congress Government came into power there would be some proposals for the amelioration of the condition of the hawkers who are in such large numbers in the city. Nobody expected that there would be an extension of these penal clauses to other people. Therefore, I oppose the clause.

Mr. S. K. PATIL (Bombay City) : Sir, I am sorry that my honourable friends Mr. Jhabvala and Mr. Ali Bahadur Bahadur Khan have very much exaggerated the issue. I do not understand what sin of omission or commission there is for which the Congress Government is attacked in this fashion. My honourable friends have proceeded on the assumption that this is a penal clause. My submission is that it is not a penal, but a protective measure. So far as the hawkers are concerned, to whom a reference was made, they are covered by section 313 of the Act. By clause 37 we are trying to remove some of the difficulties that are already there. So far as clause 37 is concerned, far from being a penal clause, it is a protective clause. Under section 313 of the Act, if any hawker who has not got a license plies his trade on a footpath, or anywhere else in a place which is not assigned to him, he is arrested and put to hardship. On the other hand, if a license is issued to him and he is assigned a place where he can carry on his business, no policeman dare go and interfere with him. I want to explain why this clause became necessary. Under the definition of "hawker", barbers, cobblers and shoe-blacks, the people that have been so eloquently described here, are not covered, because they do not sell anything like a hawker. They earn a living by their skill. While a hawker sells vegetables, fruit, or other articles, a cobbler or a shoe-black or a barber does not. They ply their skill, and that is why they are to be found on the footpath. The difficulty is that they are not covered by the definition, and the object of the clause is to protect them by licensing them. I quite agree with my honourable friend Mr. Nariman that so far as the licensing fee is concerned—it is not going to be a revenue measure—it should be very small. The picture is rather overdrawn by my two honourable friends who opposed this provision as if there is something wrong with the process of licensing. There is nothing wrong in it, and all the hue and cry that is raised against the encroachment department has nothing to do with the license fee. The license fee is as small as it can be imagined, and if any efforts are made in the direction of reducing the present license fee, the Corporation, I am sure, will sympathetically consider that matter. So far as the activities of the encroachment department are concerned under the penal clause, if a hawker is found contravening the provisions of section 313A, the encroachment department takes away his articles and keeps them for two or three days. In many cases the articles are perishable and when the hawkers come to take them back most of these articles have perished and on the top of it

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they have to pay something as fine. All that is covered by clause 38 of the Bill, and not clause 37, which is merely for the purpose of enabling licenses to be issued. Therefore, it is not proper for my honourable friends to rely on clause 37 for painting that lurid picture and suggest to this House as if the hardship is due to licensing. Licensing has always been regarded as a protective measure. The object is to permit these artisans to carry on their profession by obtaining a license by paying a small fee. In the case of barbers, I think, licensing is necessary on sanitary and hygienic principles. I do not know whether other artisans will come in that category. If there is licensing, they will be brought under proper control; that is what is aimed at, not that there should be additional harassment. A license fee of 1 rupee per year, I do not think, is a harassment in the case of a barber who certainly must be spending much more for his luxuries and necessities. I am not contending for a moment that they are really well off and we should do something to harass them. I am only suggesting that the process of licensing by itself is by no means a harassment. It is a protective measure, and therefore it should be supported even by those who have sympathy for the hawkers and these poor artisans. That can be dealt with when you come to clause 38, which is a different proposition altogether. With these words, I have to say that I do not agree with my honourable friends.

The Honourable Mr. L. M. PATIL: For reasons already given by the honourable member Mr. Nariman and the honourable member Mr. Patil, I oppose the amendment.

Amendment put, and negatived.

Khan Saheb FAIZ MOHAMED KHAN: The honourable gentleman who spoke before the Honourable Minister in charge described shoe-black as an article. Is that a fact?

The Honourable the SPEAKER: The honourable member was referring to the skill used in handicraft.

Khan Saheb FAIZ MOHAMED KHAN: I have nothing to say to that; but he was describing shoe-black as an article. I want to know whether it is a fact.

The Honourable the SPEAKER: Nothing will turn on the interpretation of that.

Clause 37 ordered to stand part of the Bill.

Clause 38 (*Amendment of section 314 of Bom. III of 1888*):

After clause (c) of section 314 of the said Act, the following new clause shall be inserted, namely:—

“(d) any tools, implements or other articles used or intended to be used in any public place or in any public street by any person acting in contravention of the provisions of section 313B.”

Mr. S. H. JHABVALA: Sir, I oppose the whole clause.

The Honourable the SPEAKER: Order, order.

Mrs. LILAVATI K. MUNSHI : Sir, before I move my amendment, I request your permission to allow me to move the other amendment also, because both of them relate to section 314.

The Honourable the SPEAKER : I have my own view with regard to the admissibility of both these amendments. To me it appears that the first amendment about the deletion of clause 38 is a direct negative of the clause. The clause can be opposed. About the second amendment, which I think will follow after clause 38, as it stands, is either opposed or rejected, I feel a difficulty as to whether that amendment is within the scope of the present Bill.

Sir ALI MAHOMED KHAN DEHLAVI : May I bring one point to your notice ? I should like to be enlightened on it. The amendment to section 314 of the Act brings the whole section 314 under discussion. Therefore, that section is open to amendment. If that is so, the honourable member Mrs. Munshi will be in order in moving her amendment. I hope I am correct.

The Honourable the SPEAKER : I should express to the House as to what difficulty I feel. I have looked into the question and tried to consider it. I know, it has been laid down previously that, whenever a Bill amending a section of the Act is placed before the House, the House gets jurisdiction over that section ; and, therefore, the mover of an amendment is not to restrict himself only to the matter or scope of the provisions of the clause seeking to amend the original section, but the whole original section can be amended in any manner the House thinks proper. I have seen the rulings carefully which lay down that, if a section of the original Act is before the House, any amendment to that section can be brought in. That is how the previous rulings generally lay down the rule. The difficulty which I have been feeling is this. When only one point or matter is contained in a section and when that section is amended, that section can be said to be within the jurisdiction of the House ; but where a particular section deals with a large number of different matters—matters entirely of a different character and not inter-related to each other—could it be said that, because for the convenience of grouping and numbering, they have been brought under one section, the whole section is before the House ? That is the difficulty I am feeling. I shall illustrate my point. In the District Municipal Act and the Municipal Boroughs Act, there are sections prescribing the discretionary as well as the obligatory duties of the municipality. Thirty or forty matters are bundled up in a section. Some one part of it is sought to be amended. Will it be competent for the House to introduce any matter not related to that particular sub-section, simply because a particular sub-section of that section is brought before the House to be amended ? What is intended by the previous rulings is that the entire subject matter in that particular section comes within the scope of the amending Bill ; but, where that section deals with different matters by reference to the obligatory and discretionary duties bundled up into one section, to my mind, it could not have been intended to lay down that the entire section is to be open for amendments. Simply because one number of the section

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is given for the purpose of grouping, it cannot be said that every inch of it is within the jurisdiction of the House. Unless this interpretation is given, the difficulty will be that in sections of this type, any and every matter can be brought in without any consideration of relevancy or scope. That is the difficulty which I have been feeling. The present Bill seeks to amend section 314 and it is in a technical sense, no doubt, an amending one, because something is sought to be put in in that section which the section does not originally contain; but the Bill does not make any changes in the section as it stands. It does not try to alter any of the clauses (a), (b) or (c). This section contains three separate sub-sections dealing with entirely different subject matters. All these are put in as (a), (b) and (c) in one section for the convenience of drafting and grouping. I would like to place my viewpoint before the House, so that honourable members may enlighten me on the difficulty I am feeling. Assuming for the sake of argument that, because section 314 is mentioned in the Bill, any part of section 314 can be touched, will it be permissible to have an amendment relating to a different matter? I shall first read the section :

“The Commissioner may, without notice, cause to be removed—

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force;”

This refers to the powers of the Commissioner with reference to something done under section 312. It is entirely a different subject. The powers of removal are there but the substantive provision will be found in section 312 which is a separate subject matter. Then, clause (b) of the section says :

“any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached, or suspended in, upon, from or to any place in contravention of sub-section (1) of section 313;”

Section 313, which is grouped here for the purpose of vesting the Commissioner with certain powers of removal, is again an entirely different subject matter. It has nothing to do with what has been provided for in section 312. Clause (c) of section 314 reads :

“any article whatsoever hawked or exposed for sale in any public place or in any public street in contravention of the provisions of section 313A.”

This, again, is a power with reference to the powers vested in the Commissioner in an entirely different section. So, the power to remove being common with reference to all the other powers exercised under these three different sections, they are grouped together in one section, namely, section 314. It does not mean, therefore, that section 314 deals with one matter; it refers to so many matters, the common point being power of removal. Now, if by the expression “section” in previous rulings it is interpreted that all these provisions are open to the jurisdiction of the House, I shall have perhaps to go to the length of even holding, if there is any amendment brought in here for preventing

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the Commissioner from removing a dangerous wall or a dilapidated building, that such an amendment is admissible during a discussion on this Bill. To my mind, it is rather a very hard thing to maintain that simply because section 314 is mentioned here because it puts several matters as one group, therefore an amendment seeking to delete something which is not the subject matter of this Bill could be brought in. That is the difficulty I have been feeling. I would, therefore, like to be enlightened on this point, if honourable members have anything to say on the subject.

The Honourable Mr. K. M. MUNSHI : Sir, let me with great respect make my submission on this point. Our Standing Order says, if I remember aright, that the amendment must be relevant to and within the scope of the motion. The question therefore is this. When a section is sought to be amended in part, what is the motion ? Is the motion to introduce only a clause, or to remove a clause, or is the motion to amend the section ? That is the first point. It is not a question, I respectfully submit, whether an amendment to a section comes merely as an effort to insert a sentence or to cut it out. The section is one unit as it stands in the Act, and whenever you seek to amend any part of it you seek to amend the section as a whole ; you do not seek to add to or alter or deduct from one or the other of the provisions incorporated in the section, because a section is not only a unit of language, but a unit in conception. Therefore, when an amendment has been brought forward, it alters the nature of the whole unit of conception and language. If I may refer to section 314, the first part runs as follows :

“ The Commissioner may, without notice, cause to be removed—”

Then follow clauses (a), (b) and (c). The section empowers the Commissioner to do half a dozen things. Therefore, when you add to or deduct from it something, you either extend the scope of the power of the Commissioner or you restrict it. Any amendment to this section, therefore, would have the effect of not merely adding or subtracting a sub-clause, but either extending or restricting the scope of the section. “ May cause to be removed ”—that is the power, in the first part of the section, which is sought to be affected. Suppose section 314 stood as it is ; then the power would extend over a certain jurisdiction ; that jurisdiction is sought to be either extended or taken away. Therefore, the motion before you is the amendment of the section ; in other words, the amendment seeks to amend the scope of the power of the Commissioner which is contained in the section. It would follow that if you are going to amend the whole scope of the power, then anything which further extends or further restricts that scope would be relevant to and within the scope of the motion and would be in order according to the Standing Order. If this were not, numerous difficulties would arise. Suppose, for instance, an amendment is brought and carried incorporating clause (d) in this section. It would conceivably require some change in any other part of the section. Then, Sir, if the whole section were not before the House, it must simply add that sentence, however

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inconsistent it may be with the previous part of the section. Not only that; even if the different provisions are so conflicting that a change might become necessary to adjust them, it cannot be done. So, if the subject matter of the motion is treated as relating, not to the whole section, but only to that little part which is sought to be added, the House will find itself in the difficulty of being able to do nothing to the rest of the section. In this case, the first part of the section reads, "The Commissioner may, without notice, cause to be removed—". Suppose there were some other words instead, you must, when this clause is added, see whether the first part of the section runs properly into the succeeding clauses and that this clause fits in with the scheme of the section. Therefore, you cannot forget the section as a whole and say that the amendment does not touch it but only adds a little clause at the end of it. The rulings since 1924 are uniform. The remarks of the Honourable the President in the July-August 1924 session deal exhaustively with this point, namely, that as soon as a section is sought to be amended in any way whatsoever, the whole section is before the House. If I may read the relevant portion :

"I do not think I need allow the discussion to proceed any further. A point of order has been raised on two issues. The first issue is that the proposed amendment is not within the scope of the bill, and as an argument in favour of that contention it is urged that the House can only deal with the actual amendment proposed in the amending bill and nothing else. In regard to that issue I should like to point out what has been the procedure uniformly followed in this House for the last many years: that is, that when a bill proposing amendments to certain specific sections of an existing Act is brought before the House, all the sections proposed to be amended are submitted to its jurisdiction, and this House is entitled to alter or amend those sections in a manner which may appear in their considered judgment to be in the best interests of the people. They cannot however go beyond the sections which are submitted to their jurisdiction, and all amendments proposed to other parts of the Act are out of order. Assume that Government introduce legislation for amending one section of an Act like the Bombay City Municipal Act, which contains over 500 sections. It must be obvious that the House cannot be allowed to go over all the sections of that Act. It can deal with only one section which is submitted to its jurisdiction, and in regard to it, it is entitled to do what it thinks is in the best interests of the people." (Bombay Legislative Council Debates, Vol. XII, pp. 97-98.)

This is a clear authority to establish the proposition, because, I repeat once more and respectfully that it is the section as a whole which is sought to be amended and not any parcel of it. This ruling was followed again in the October session of the same year. I am reading from Volume XIII, page 547 :

"It has been held that when by means of an amending bill any honourable member submits certain sections of an existing Act to the jurisdiction of the House, the House is entitled to make any amendments other than those which may be embodied in the amending bill to that section. Therefore, it would be perfectly open to the House to make an amendment of section 54 of the Municipal Act....."

There also it was the City of Bombay Municipal Act.

If that was not so, Sir, when amending a sentence, the House would not be justified in either looking at the other sentences and correlating them. The House is, therefore, entitled to look not merely at this particular amendment but at the preamble of the section which

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gives the right to the Commissioner to remove certain things. Suppose, some member just now desires to move an amendment to the effect that "as to (a), (b) and (c) nothing need be said, but as regards (d) removal should be after due notice of 15 days", I submit it would be relevant, and ancillary to the amendment. Therefore, I submit that it is within the jurisdiction of the House to consider the section as soon as any part of it is amended. Of course, there is the danger of a snatch-vote being taken on the floor of the House indirectly on a different matter, but if it comes to that, the majority in the House will have to take the consequences. That is my submission.

The Honourable the SPEAKER : I may make the point clear. I am not concerned with the danger either way. It is not from that point of view that I am looking at it. It is only from the point of view of the scope of the Bill and relevancy that I am looking at it.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I simply want to add that the Honourable Mr. Munshi has defended the honourable Mrs. Munshi's amendment more substantially than I could have, and that was but natural. [*Laughter.*] Sir, I think the point of view that I raised and which has been so valiantly supported by the honourable member is relevant because it refers to similar articles. Now section 314 (c) says :

"any article whatsoever hawked or exposed for sale in any public place or in any public street in contravention of the provisions of section 313A."

and as we are talking of the subject matter which is of the same kind, the point of view would be relevant. Sir, you might perhaps consider this point while giving your ruling.

The Honourable the SPEAKER : The exposition of the Honourable Minister for Law and Order has not taken me away from my doubts. I have read the rulings myself carefully and I would not like, so far as possible, to differ from the precedents laid down. Now, in this particular case from which the Honourable the Minister for Law and Order read, the clause before the House was for the amendment of section 179 of the District Municipal Act. My point is that if there is a section which, though divided into a few parts, consists of a certain matter which makes up a homogeneous whole, then the House can touch any and every part of it in an amending Bill, because the matter is one entire composite whole and not a bundle of matters grouped together. I will illustrate it by a reference to a section in the Municipal Boroughs Act. Suppose, for example,—I am quoting an illustration—that it is sought to amend a section by giving the Municipality power to present addresses without the previous consent of the Collector or the Commissioner and an amendment only for this purpose is sought to be made. Now, simply because an amendment is sought to be made in a certain section of the Act which prevents the Municipality from giving addresses

[The Speaker]

without the consent of the Collector or Commissioner, will it be competent to any member to move amendments relating to other matters running over practically the whole of the Act? If a member on such an amending Bill, the object of which is only to give the Municipality power to present addresses without the previous consent of the Collector, were to move an amendment, so far as the object of primary education is concerned or so far as the object of milk supply is concerned or so far as the object of sanitary improvements is concerned, would it be said that all these provisions in the Municipal Act relating to education, sanitation, milk supply, housing and what not, will all be before the House for the purpose of any amendment that the member might choose to move? That is the difficulty which I have been feeling. The particular ruling referred to speaks of a "section" no doubt, but all these rulings were given in respect of sections in which one composite homogeneous matter was there and not different matters grouped together in one section. To my mind, these rulings have to be read in the light of facts and the circumstances under which they were given. I will not go the length of saying that if an amendment in one particular is made in any section, no other amendment to that section can be moved. That is not the point that I am urging. I am very clearly of the view that if there is a section which can be said to be a homogeneous one and not consisting of different matters grouped together—if I may use an expression, a section which is not a physical mixture as distinguished from a chemical compound, and if an amendment is moved to it, then certainly the whole section is before the House, but my difficulty is whether, if different matters are grouped together in one section, practically the whole Act itself can be said to be before the House. Unfortunately, that difficulty has not been overcome by the arguments of the Honourable the Home Minister.

Then, in the subsequent rulings also the word "section" has been used and this particular ruling has been followed. I quite agree there. Therefore, I am not, really speaking, departing from the old precedents, but I am interpreting the old precedents in the light of facts and circumstances under which these rulings were given. Taking this view, I am still of opinion though I formally do not declare—

The Honourable Mr. K. M. MUNSHI: I am sorry to interrupt you, Sir. But your ruling on this amendment—

The Honourable the SPEAKER: I want to give my ruling formally, as it is an important precedent and may enlarge or curtail the rights of the House. Before I finally and formally give my ruling, I want to make it clear as to what is passing in my mind so that arguments to the contrary may be advanced. As I said, I do not want to go the length of saying that amendments will be restricted only to the proposals in the amending Bill. In a homogeneous whole section, the amendments can refer to the whole of the matter, that is, the subject matter of the particular section, and it may also extend to other sections of the Act, though

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not mentioned in the amending Bill, if they are so correlated that consequential amendments in the other sections become necessary. This is with reference to the point which was referred to by the Honourable Minister for Law and Order, viz., that it would result in a hardship if the other sections also cannot be touched.

The Honourable Mr. K. M. MUNSHI : Other parts of the same section.

The Honourable the SPEAKER : But I go further. Not only other parts of the same section can be touched, but if it becomes necessary that by an amending Bill a homogeneous whole section is placed before the House, and it becomes necessary to touch the other sections for the purposes of amendments which are purely consequential to the amendments to the section, it might be done because such other changes will be mainly verbal and necessary to give effect to the permissible amendments. But if the subject matter is different and there are different clauses, I do not see as to how the matter would be relevant merely because of being grouped under one section. Here the question was of the power of the Commissioner. But the matter does not merely rest at that. The powers are given under different sections for different occasions and merely because the powers are grouped by one section, it does not become a common question merely of removal of powers. Suppose we take another instance. A section authorises or gives a rule-making power and if that is sought to be amended in one respect by either taking away the power in one clause or giving power by another, could it be contended that because a section groups together the powers of rule-making, under different sections of the Act, all the sub-sections dealing with different sections and various matters in the Act are before the House ? To my mind, it could not be argued that way. That is the difficulty which is still present to my mind.

Rao Bahadur G. K. CHITALE : I wish to make one submission, Sir. I take it that section 37 and the amendment, namely 313B proposed, is passed and adopted by the Assembly.

The Honourable the SPEAKER : I have not followed the honourable member.

Sir ALI MAHOMED KHAN DEHLAVI : Clause 37 has been accepted and 313B also has been accepted.

The Honourable the SPEAKER : That difficulty did come to my mind in the beginning, but I may invite the honourable member's attention to clause 42.

Rao Bahadur G. K. CHITALE : I am just coming to that.

The Honourable the SPEAKER : But, at present, I am not concerned with how the Bill will appear on merits.

Rao Bahadur G. K. CHITALE : No, Sir, I am not making any submission as regards merit, but as regards a point of order and the difficulty that you have felt. I am pointing out that now that the clause 313D will be adopted by the Assembly and as it extends the scope of the previous section by bringing in such persons who, "for purposes of gain, use their skill in any handicraft or in rendering services to and for the convenience of the public in any public place or public street", that having been adopted, how would the clause which originally stood as (c) namely, any article whatsoever etc., if it were to be added with this, stand? The position then is that the interpretation that you wish to put that it is only under this clause and under this clause alone that the amendment would be admissible would lead to this—if I understood you properly—that you wish to lay down that when an amending Bill is brought which seeks to amend a particular section, if there are different parts pertaining to which the powers have already been given separately, then in that case that particular power which is introduced in the amending Bill alone is open and not others. That is the view that you wish to put forward and my submission to that is that it would lead to this that as regards the present, the fact of the matter is that we are seized of the whole section 314, as in the previous Act, section 14—in the amending Act XIX of 1930, this clause was put in CC. CC has been put by the amending Act of 1930. Now, what the Government propose to do, if I have understood their intention correctly, is that they wish to add another clause, namely, D. So, this particular section 314 has been before the legislature. So also the original section 313 by the amending Bill and the scope is being slightly extended, and it must be understood that on all these two or three occasions, the whole section was open, especially as the qualifying words are "the Commissioner may without notice cause to be removed". Remove what? A, B, C and now D, and I should therefore submit that it is not only that part of the section that is now before the Assembly but it must be held consistently with previous section having regard to the facts in this particular case. I quite agree that if it were not connected in the way in which I am now trying to connect it, in that case it is quite conceivable to argue as a point of order that that particular matter being quite distinct may not be allowed to be amended, but here that point is put before the House as the view that we are trying to extend the scope of it and therefore I should think that the interpretation or the point of order for which the Honourable Minister for Home Department is trying to put an interpretation is a matter which must be given very serious consideration.

The Honourable the SPEAKER : What is the particular aspect of this section that extends the scope? That argument, I have not been able to follow.

Rao Bahadur G. K. CHITALE : You will see, Sir, that in the original Act the section was 313 only. Then section 313A was added by Bombay Act I of 1925, section 19A. Then section 314 was amended by another Act, Bombay Act XIX amending Act, section 14. So, what I am pointing out on this question of point of order is this; that this particular

[Rao Bahadur G. K. Chitale]

section 313 and this section 314 have been amended, and the scope is being extended slowly as practical difficulties were felt. Now, a practical difficulty is felt and therefore we have adopted 313D. If we had not adopted that, that would have been another matter, but now that we have adopted 313D, then surely the present section, namely, clause D, becomes open to discussion, and therefore, the whole section is to my mind correctly under discussion now.

The Honourable the SPEAKER: I think there is some misapprehension. The point at present for argument is not—and I am not contesting the point—that clause D as proposed to be added cannot be added. That is not the point. By the amendment of the honourable member Mrs. Munshi, she says that section 314, clause (c), of the original Act should be deleted. A sub-section which is part of a section already in existence in the Act should be deleted—that is the amendment now. The provision in the amending Bill is for the addition of clause (d). I am not saying that the discussion on clause (d) will be out of order. That is perfectly in order, because the amending Bill is to that effect. The only point is, when the amending Bill itself does not touch clauses (a), (b) and (c), which are entirely different matters, is it now competent to delete clause (c)? It can be done by another amending Bill, but that is another matter—not that it can never be done.

There is another point also, that whatever decision we take now will become important from another point of view. Here it is a question of deleting certain powers of the Commissioner. Therefore, if this liberty is given, it can also be imagined that by way of amendment, further powers may also be sought to be taken by moving amendments. That is also another aspect. The House has to consider its privileges, and I have also to consider them from both points of view. At present it might be deemed agreeable to see that (c) goes. But if a ruling is given and the word "section" in the former rulings is interpreted in this way, it may also be possible for Government to introduce by way of amendment any further powers that they want. Therefore, the principle has to be looked at from both points of view, and not only from the objective that members may have at present before their minds.

Rao Bahadur G. K. CHITALE: I only wish that the Chair appreciates the point that I have brought forward. The words in section 314 (c) are "any article whatsoever", while the proposed addition (d) mentions the articles. How can it be said that the words "any article whatsoever" which are already there cannot be interpreted to mean and include the few articles which are the subject matter of clause (d)?

The Honourable Mr. K. M. MUNSHI: Sir, may I respectfully submit that I realise the difficulty that you are feeling? The distinction appears to me to be this. An amendment must be relevant to and within the scope of the motion; that is the Standing Order. It really must mean therefore that it must be relevant to or within the scope of the subject

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matter of the motion. My submission was, and it is the submission of the honourable member who spoke last and of the Leader of the Opposition, that "subject matter" means the section, when the section is sought to be amended. The view that was expressed by you, Sir, was that "subject matter" was not the section, but the matter about which the motion is brought. That appears to be the distinction. But I submit that even then this amendment is in order, even in the restricted view of the point of order. If you see section 313A, it says :

"Except under and in conformity with the terms and provisions of a license granted by the Commissioner in this behalf, no person shall hawk or expose for sale in any public place or in any public street any article whatsoever, whether it be for human consumption or not."

Under this section the Commissioner today actually gives licenses, not merely to hawkers but to persons who for purposes of gain use their skill on the public street. That you will find in the notes on clauses 37 and 38.

The Honourable the SPEAKER : It is stated in the notes that that is the practice. I am not concerned with the practice, as to what the Commissioner is doing. The view which I may put forward is, either the powers sought to be given are already there, in section 313A, or they are not. If they are there, no amending clause is necessary. If they are not, then 313B becomes necessary, and obviously the provision contained in clause 38 is consequential to the acceptance of section 313B.

The Honourable Mr. K. M. MUNSHI : I think I have not made myself clear. I am not relying on the practice. I am trying to point out that both section 313B which is added and clause (c) of section 314 which already exists deal with the same subject matter. As a matter of form only they are put in as separate sections. Both clauses deal with the same subject matter, viz., certain persons who are carrying on business in a public street can have a right to do so by license, but not otherwise. Then again, sub-sections (c) and (d) of section 314 are the same : where they carry on business without license the articles which they have got in their possession can be taken away. Taking it on the footing of the point of view which you were pleased to mention, I ask you, Sir, not to look at the linguistic division but look at the homogeneity of the subject matter. From this point of view, assuming the House throws out clause 38, the articles of persons falling under 313B cannot be taken away, whereas the articles of persons mentioned in section 313A can be taken away by the Commissioner. It is the same subject matter, it is the same right of the Commissioner to license certain people to carry on business ; the same right, if they carry on business without license, to get them punished, and take away the articles they are using for the trade. It is one idea. It could be drafted as one section in some such form. Except under and in conformity with the terms of the license granted by the Commissioner, no person shall hawk or expose for sale, or carry on business for purposes of gain, and, if they do it, their articles can be taken away. If, therefore, clause 38 is lost, the result will be, that, with regard to the same right

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of licensing, the Commissioner can take away articles of persons mentioned in 313A but he cannot do so in regard to those mentioned in section 313B. Both are germane to each other. Even according to your standard, Sir, it is not the same right of the Commissioner relating to the same class of persons, who are carrying on business in public street without license: What is to be done with their goods? Even from a restricted point of view, so far as this amendment is concerned, it is perfectly in order. Otherwise, in order to make these two sections uniform, Government will have to bring in a Bill to delete section 314C.

The Honourable the SPEAKER: It is nearly 6-30. I think it is not proposed to continue the sitting late to finish the Bill.

The Honourable Mr. K. M. MUNSHI: Finishing is not possible.

The Honourable the SPEAKER: In that case, I too want to have time to consider. Though I feel I am not shaken as regards the first part, so far as the nature of the two sub-sections is concerned, even within a restricted sphere, the argument appeals to me. I want to consider.

Sir ALI MAHOMED KHAN DEHLAVI: After stating that you want to have time to consider, you say you are not shaken. It is disappointing.

The Honourable the SPEAKER: I am not shaken as regards the first part.

The Honourable Mr. K. M. MUNSHI: There was no intention to shake the Chair, Sir.

The Honourable the SPEAKER: I will give my ruling tomorrow.

TIME OF MEETING ON SATURDAY.

The Honourable the SPEAKER: Now, about the time when we should meet tomorrow.

The Honourable Mr. K. M. MUNSHI: During the Poona session we sat from 10-30 to 2-30.

An Honourable MEMBER: Half-past one.

The Honourable Mr. K. M. MUNSHI: Yes; half-past one. Sir, there is one thing which I should like to mention to the House. Bill No. I of 1938, which has been kept back, will be the first on the agenda tomorrow. It is essential, from the point of view of Government, that it must be passed tomorrow, because the elections in the various districts are pending on account of this Bill being before the House.

Sir ALI MAHOMED KHAN DEHLAVI: The Honourable Minister means that it must be gone through tomorrow.

The Honourable Mr. K. M. MUNSHI : Yes ; I am sorry. I apologise. I did not realise the distinction. But I am afraid it will not make much difference, I can assure you. I am only mentioning this, that it may not be possible to finish it by half-past one. Therefore, if it is convenient to you, we may have to sit for a little longer time.

The Honourable the SPEAKER : If the House is agreeable, I am prepared to sit from morning till evening. Suppose we meet tomorrow at 11 instead of at 10-30—from 11 to 1 and from 2 till we finish ?

An Honourable MEMBER : On Saturdays, instead of curtailing the time, we are lengthening it.

The Honourable the SPEAKER : It may be an incentive to curtail speeches. As the Honourable Minister for Law and Order has pointed out, Government are anxious to have the Bill gone through because of the elections being held up. For that reason it is necessary that we must sit even longer hours for the convenience of the entire Province. Do I take it that we meet tomorrow at eleven ?

Honourable MEMBERS : Yes.

The House then adjourned till 11 a.m. on Saturday, the 22nd January 1938.

Saturday, the 22nd January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Saturday, the 22nd January, at 11 a.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAPURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FIRODEA, Mr. K. S.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.

GIRASEY, Mr. G. B.
 GIRME, Mr. R. B.
 GOKHALE, Mr. K. G.
 GOLDING, Mr. C. F.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARVADE, Mr. R. K.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LALCHAND HIRACHAND, Mr.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.

NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAFU
 SINGAPORI, Mr. A. E.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.

TYABJI, Mrs. FAIZ B.
VAGHELA, Mr. B. U.
VINCHOORKAR, Sardar N. G.
WADEKAR, Mr. R. B.
WAGH, Mr. P. W.
WALVEKAR, Mr. B. B.
WANDREKAR, Mr. D. N.

ALLEGED DELAY IN ANSWERING OF QUESTIONS.

Mr. G. K. PHADAKE (Thana South) : On a point of information, Sir. I have the misfortune to bring to your notice that the questions which we have submitted have not yet been answered though six months have passed. I want to know whether it is possible for you to help us in getting answers to our questions, or if it is not possible for you, will Government be pleased to enlighten us ?

The Honourable the SPEAKER : I have not been able to hear what the honourable member says.

Mr. G. K. PHADKE : Questions have not been answered during the course of six months. May I know whether it is possible for you to help us in any way in getting over this irregularity ? If it is not possible for you, will Government be pleased to enlighten us on the point of this delay in answering the questions ?

The Honourable Mr. MORARJI R. DESAI : May I explain, Sir ? I believe the honourable member refers to some short notice questions.

Mr. G. K. PHADKE : No, Sir. I refer to ordinary questions. It is nearly six months since we have submitted the questions and there is no answer yet.

The Honourable the SPEAKER : I cannot say exactly what I shall be able to do, and whether, whatever I may try will be successful or not, but all that I can say is that I will just request Government to give replies as early as possible. I think it should be sufficient for the present ; we will deal with the matter later on.

The Honourable Mr. B. G. KHER : May I say a word, Sir ? There is no intention to delay the answering of any question deliberately. I do not know exactly what question the honourable member has in view ; but, Sir, may I just state to you that some of the questions are asked in such a manner that they entail a very elaborate enquiry by reference to the districts, to the Commissioners and to other people, and it naturally takes some time to get all the information ? But I will assure the honourable member that questions will be answered with the utmost despatch. Although we do not desire unduly to delay the

[Mr. B. G. Kher]

answering of questions, I do find that some of the questions that are put are of this character, e.g., "How many men have 10 acres of land, can you say how much land he cultivates himself, how much of it is let out to the tenants, whether his income is only derived from that land or whether he also supplements it by another occupation", and so on. Without elaborate enquiries, it is almost impossible for us to supply such information. Unless the questions are of a character which involve elaborate enquiries, Government will certainly answer them with the utmost despatch.

Mr. G. K. PHADAKE : The questions described by the Honourable the Prime Minister are very few. There are other questions which do not ask for such information and which are not yet replied. What about such questions ?

The Honourable Mr. B. G. KHER : I have answered.

BILL No. I OF 1938 (A BILL TO AMEND THE BOMBAY LOCAL BOARDS ACT, 1923).

The Honourable the SPEAKER : I will now put to the House amendment No. 12. The honourable members have got with them the revised list of amendments, and amendment No. 12 is the amendment moved by the honourable member Mr. Phadake. The amendment is as under :—

"Delete sub-clause (2) of proposed section 6."

Sub-clause (2) of the proposed section 6 reads as under :

"Notwithstanding anything contained in sub-section (1), the Muhammadans in the area constituting a Muhammadan constituency who have attained the age of 21 years may either unanimously or by majority declare in the manner prescribed under clause (a) of section 133 that the said Muhammadan constituency be abolished."

This amendment is identical with amendment No. 13 of the honourable member Mr. Chundrigar which has not been formally moved. I will now put the amendment No. 12 to vote. Those in favour of the amendment will say "Aye", those against it will say "No".

Sir ALI MAHOMED KHAN DEHLAVI : Before you say anything further in this connection, Sir, I would like to know whether the amendment of the honourable member Mr. Chundrigar will be put to the House.

The Honourable the SPEAKER : The honourable member Mr. Chundrigar's amendment, being the same as that of the honourable member Mr. Phadake's amendment, was not formally moved. When more than one member tables the same amendment, for the sake of convenience only one amendment is to be moved. That was the

[The Speaker]

procedure followed. The honourable member Mr. Phadake's amendment was, therefore, moved. The amendment of the honourable member Mr. Chundrigar is not before the House at all.

Sir ALI MAHOMED KHAN DEHLAVI: I simply wanted to know whether the amendment of the honourable member Mr. Chundrigar would be put to the House, but now I understand the position.

The Honourable the SPEAKER: The position is clear that the same amendment tabled by the honourable member Mr. Chundrigar for different reasons was not moved from the beginning. Therefore, there is no question of that amendment coming before the House for voting. The voting has been on the amendment of the honourable member Mr. Phadake, and I will now declare the result. So far as this amendment is concerned, the "Noes" have it and the amendment is lost.

Sir ALI MAHOMED KHAN DEHLAVI: I ask for a division, Sir.

Question put. The House divided: Ayes, 38; Noes, 78.

Division No. 3.

Ayes.

DALE, Mr. J. S.	KAZI, KHAWAJA BASHIRUDDIN KHAWAJA MOINUDDIN
AMBEDKAR, Dr. B. R.	KAZI, Mr. AZIZ GAFUR
BHAGAT, Khan Saheb ABDULLAH HAJI ISSA	KILLEDAR, Mr. MAHOMED MUSA
BHATANKAR, Mr. R. G.	MITHA, Mr. MAHOMED S. C.
BHOLE, Mr. R. R.	MOHAMEDALLY ALLABUX, Mr.
BRAMBLE, Mr. C. P.	PATEL, Mr. ISMAIL MUSA
CHITRE, Mr. A. V.	PATEL, Mr. MAHOMEDBAWA M.
CHUNDRIGAR, Mr. ISMAIL I.	PATEL, Mr. MUSAJI E.
DEHLAVI, Sir ALI MAHOMED KHAN	PIKE, Mr. G. O.
FAIZ MOHAMED KHAN, Khan Saheb	PRATER, Mr. S. H.
FRENCH, Mr. F. H.	RAIS, K.B. Sardar HAJI AMIRSAHEB
GAIKWAD, Mr. B. K.	MOHIDDIN SAHEB
GREWALE, Mr. A. A.	ROHAM, Mr. P. J.
GOLDING, Mr. C. F.	RUSSELL, Mr. W. W.
GREAVES, Mr. J. B.	SAVANT, Mr. K. S.
HAKHEM, Khan Saheb A. B.	SHAIKH JAN MAHOMED HAJI SHAIKH
HANAGI, Mr. ABDUL KARIM AMINSAB	KALLA, K. B.
HASAN, Mr. SHAIKH MOHAMAD	SIDDIQI, Mr. ISMAIL HASAN BAPU
JADHAV, Mr. D. G.	TYABJI, Mrs. FAIZ B.
KALE, Mr. R. S.	WAGH, Mr. P. W.

Tellers for the Ayes: Messrs. SHAIKH MOHAMED HASAN and R. R. BHOLE.

Noes.

ALI BAHADUR BAHADUR KHAN, Mr.	DESHMUKH, Mrs. ANNAPURNA GOPAL
ANTROLIKAR, Dr. K. B.	DESHPANDE, Mr. G. H.
ARADHYE, Mr. D. T.	FIRODEA, Mr. K. S.
BHAJI, Mr. M. M. A.	GAVANKER, Mr. S. K.
BHARTIYA, Mr. S. R.	GAVIT, Mr. D. P.
CHAWDHARI, Mr. D. N.	GHAJ, Dr. C. J.
CHAWHAN, Mr. P. L.	GILDER, the Honourable Dr. M. D. D.
DABHI, Mr. FULSINHJI B.	GIRME, Mr. R. B.
DANDEKAR, Mr. V. V.	GOPI, Mr. M. G.
DESAI, the Honourable Mr. MORARJI R.	GUPTA, Mr. B. M.
DESAI, Mr. RANDHIR P.	HALLIKERI, Mr. N. F.
DESHMUKH, Mr. K. B.	HIRAY, Mr. B. S.

Noes—contd.

JADHAV, Mr. T. S.	PATEL, Mr. MANOESH B.
JHABVALA, Mr. S. H.	PATIL, Mr. ATMARAM N.
JOSHI, Mr. JINABHAI P.	PATIL, Mr. KALLANGOUDA S.
JOSHI, Mr. N. G.	PATIL, Mr. LAXMAN G.
JOG, Mr. V. N.	PATIL, the Honourable Mr. L. M.
KANCOA, Mrs. VIJAYAGACHI BALVANTRAI	PATIL, Mrs. NAGAMMA
KARANDIKAR, Mr. S. L.	PATIL, Mr. S. K.
KARAVADE, Mr. R. K.	PHADAKE, Mr. G. K.
KARGUDRI, Mr. S. S.	RAJMAL LAKHICHAND, Mr.
KESHWAIN, Mr. S. N.	RANE, Rao Saheb B. N.
KHER, the Honourable Mr. B. G.	RANE, Mr. B. R.
KHIMJI, Mr. BHAWANJI A.	RAUT, Mr. D. W.
KUNTE, Mr. D. K.	SATHE, Mr. S. H.
LALA, Mr. BHOGILAL D.	SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB
MAGANLAL NAGINDAS, Mr.	JAGDEORAO
MANDLIK, Mr. R. N.	SHIRALKAR, Mr. P. K.
MASTER, Mr. NAGINDAS T.	SHRIKANT, Mr. L. M.
MEHTA, Mr. H. P.	SUGANDHI, Mr. M. S.
MERTA, Mr. JAMNADAS M.	TALKAR, Mr. K. R.
MUKADAM, Mr. W. S.	THAKOR, Mr. B. P.
MUNSHI, the Honourable Mr. K. M.	THUSE, Mrs. LAXMIBAI GANESH
NAIK, Mr. V. N.	TULPULE, Mr. H. V.
NARIMAN, Mr. K. F.	VINCHORKEAR, Sardar N. G.
NESSI, Mr. T. R.	VYAS, Mr. ISHVARLAL K.
NURIE, the Honourable Mr. M. Y.	WADEKAR, Mr. R. B.
PATASKAR, Mr. H. V.	WALVEKAR, Mr. B. B.
PATEL, Mr. BABUBHAI J.	WANDREKAR, Mr. D. N.
PATEL, Mr. BHAILALBHAI B.	

Tellers for the Noes : Messrs. D. N. WANDREKAR and K. S. FIRODEA.

Dr. B. R. AMBEDKAR : Sir, I would like to ask whether the mover of the amendment has voted in this division, if you can tell from the report that has been submitted to you ?

The Honourable Mr. B. G. KHER : May I know whether it is the right of any honourable member to know in what particular way a person has voted ?

Dr. B. R. AMBEDKAR : The reason why divisions are called is because not only the House but the public at large should know how members have voted.

The Honourable the SPEAKER : I cannot be expected to read the list of all members who have voted, just for the information of one honourable member.

Dr. B. R. AMBEDKAR : This House is entitled to know on which side the honourable mover of the amendment has voted, because I think I may say that the House is entitled to know whether any particular member has abused the process of this House.

The Honourable the SPEAKER : I think that, in the light of what has fallen from the honourable member Dr. Ambedkar, before I give out the name, I must clarify the position and it is this ; that the mover of the amendment, Mr. Phadake, moved his amendment from the point of view of abolition of separate electorates for the Muhammadan community. The same amendment was tabled by the honourable member Mr. Chundrigar with the object of doing away with the option

[The Speaker]

which the Bill proposes to give to the Muhammadan community, keeping intact the separate electorates. So, in this particular instance, what has happened is that though the amendments, in form and wording, of both these honourable members have been the same, the object of each was different. It was only an accident that the honourable member Mr. Phadake's amendment came to be taken up for discussion and therefore the honourable member Mr. Chundrigar was not able to move his amendment. If the honourable member Mr. Chundrigar's amendment had been moved, the honourable member Mr. Phadake's amendment would not have been moved, and perhaps the difficulty which the honourable member Mr. Phadake might be deemed to have been placed in at present, might have been felt by the honourable member Mr. Chundrigar. So, with this explanation, I think I shall say, on referring to the division list, whether the honourable member Mr. Phadake has voted at all and, if so, whether he has voted for the Ayes or for the Noes.

Mr. ISMAIL I. CHUNDRIGAR : May I clear a possible misunderstanding, Sir? It is not correct to say that I did not move my amendment. As a matter of fact, Sir, you ruled that it was not necessary for me to move my amendment as an amendment in the same words was already moved by the honourable member Mr. Phadake.

The Honourable the SPEAKER : I did not intend to say that the honourable member Mr. Chundrigar declined to move or that he was not anxious to move his amendment. Not that. He was anxious to move; but it has been the practice in this House that when the same motion is moved by a number of members, only one moves it for the sake of convenience; not that Mr. Chundrigar declined to move it.

Now, I find that the honourable member Mr. Phadake, the mover of the amendment, I again repeat, with the object of the abolition of separate electorates, and having found that his first amendment was lost and that separate electorates do continue, has voted against the amendment.

Dr. B. R. AMBEDKAR : I would like to ask one more question and ask your ruling in the matter, whether it is open to a member of the House, who has moved an amendment, to vote against it.

The Honourable the SPEAKER : I think the point to my mind is obvious. It is always open to a person to change his mind up to the last. [*Laughter.*]

Khan Saheb FAIZ MOHAMED KHAN : May I know, Sir, when did the honourable member Mr. Phadake express himself on this point?

The Honourable the SPEAKER : It has been made clear to the House more than once that there have been three sets of amendments moved by the same two honourable members with diametrically opposite objectives; and, as a point was raised by one of the honourable members desiring that his name should be declared to the House for the

[The Speaker]

benefit of the public as to how members are voting, in fairness to the member it is necessary that the Chair should state the facts fully, so that there will be no misunderstanding at all as to the attitude of any honourable member of the House, and that is why I thought it necessary to specify his attitude and also the attitude which Mr. Chundrigar might have taken if he had moved his amendment.

The Honourable Mr. B. G. KHER : Sir, as a matter of fact, I was
 11-30 a.m. rather curious to see how the voting would be,
 and I took the trouble to enquire of the honourable mover of the amendment and he told me that in the circumstances he had no other option but to vote in the way he did, and so far as I was concerned, when I found that a member of the Hindu group and a member of the Muslim group were moving a particular amendment, I thought—

Mr. JAMNADAS M. MEHTA : We are an Indian group.

The Honourable Mr. B. G. KHER : When I found both moving the same amendment with two different objectives, the best course was the one which was followed by Government.

Mr. JAMNADAS M. MEHTA : We are not a Hindu group, Sir; we are the Indian group, and we stand for joint electorates. I do not know what group the Prime Minister belongs to.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, presuming that Government intend to proceed with the Bill after this stage,—I suppose my presumption is correct—I have a painful duty to announce, that I deplore what I consider to be the lack of statesmanship on the part of Government in not accepting our amendment and proceeding along with the other part of the Bill. In that position, we feel that we are justified in leaving the House, walking out, until the Bill is finished.

The Honourable the SPEAKER : I think it is not for me to regulate or advise as to the course which the members of this House should follow, if one side does not accept or does not like to accept what the other side wants. The only thing that I would point out would be that, in view of the proposed "walk-out", it would be proper for the group led by the leader of the Opposition to offer the Prime Minister a chance of saying something in reply to what has fallen from the honourable member, and then follow whatever course they may have decided upon. As it has been declared in the House that it is "lack of statesmanship" on the part of Government, it is but fair that the Prime Minister's point of view may be heard. Whether it should be accepted or not is a different point, but he must have an opportunity of making any statement that he wants to make, and that should be made in the presence of the party which made the allegations.

Sir ALI MAHOMED KHAN DEHLAVI : I never knew, Sir, and do not even now accept the suggestion made from the Chair, that the Honourable the Prime Minister intended at all to make a statement.

[Sir Ali Mahomed Khan Dehlavi]

He did not ask for it at all, and therefore I think that there is no statement. If he makes a statement which would call for remarks from this side, then it would go on at length. I therefore need not wait for whatever statement the Prime Minister chooses to make, and ask your leave to walk out.

The members of the Muslim group having left the House—

The Honourable Mr. B. G. KHER: It is only fair, Sir, that even in the absence of the honourable members who have chosen to walk out, I should say a few words, and I do hope that I will have permission to do so in view of what has fallen from the Chair.

Rao Bahadur G. K. CHITALE: That has not been the practice in this House so far—when a walk-out is staged, to give any answer.

The Honourable the SPEAKER: I did not know whether the Prime Minister wanted to make a statement or not. In fact, till the remarks fell from the Leader of the Opposition I did not know even that they intended to walk out. I only felt at the moment that when a declaration of that type is made, it is only fair to any opponent to hear what he has to say with reference to the position. That is the reason why I suggested that if the Prime Minister wanted to make a statement, he might make it, and therefore I requested the Leader of the Opposition to give the Prime Minister a chance to say anything he might wish to say in explanation.

The Honourable Mr. B. G. KHER: As it is, even before anything fell from the Chair I was trying my level best to say a few words in explanation of what has been done on the part of Government, if I may repeat the expression which was used by the Leader of the Opposition, to bring about a better frame of mind. I do submit, Sir, that the clause which is under discussion has absolutely no communal tinge about it at all. Attempts were made to connect it with the Communal Award. There is nothing connected with the Communal Award as to what should be done in the local bodies. Sir, what is the effect of the clause? It is merely to put the principle of the democratic choice of the people into operation; and I am not committing any breach of confidence when I say that when first the principles of a Bill like this were discussed, members of the party of the honourable member Sir Ali Mahomed were quite willing—in fact, I believe I am quite correct in saying that they suggested—that a clause of the nature such as is now in the Bill should be put into the Bill. I do not know whether this statement was made to the House or not, but I think it is a matter of common knowledge that a number of members met the Minister in charge and discussed the principles that should govern these things. I think it was in Poona; I was myself not present, but I was immediately told by persons of the different groups who attended that this was the suggestion which had come.

And, Sir, what after all is the effect of it? Can anybody even suggest faintly that there is any attempt to bring pressure upon any people in the suggestion that is contained in the clause? If in a constituency the majority of the people decide that they want a joint electorate, or

[Mr. B. G. Kher]

that they want to join the remaining members of the constituency, they are being given the liberty by this clause to make a declaration to that effect and to have what is a natural consequence of democratic representation. But it is very unfortunate that although Government made attempts to discuss with the leader of the Opposition any fair and reasonable way in order to meet his wishes, our proposals were not entertained at all, and therefore, Sir, we had no other alternative but to do what is being done all over the country. Take the District Local Boards Act in Bengal and in Madras, one a Province where there is a Muslim majority and another a Province where there is a Hindu majority. If I may read out to the House the section in the Madras Act, this is what section 9 says :

“In any district board the local Government may in their discretion by notification from time to time reserve seats for Musalmans, Indian Christians, Adi Dravidas, Europeans, Anglo-Indians and women, and to determine the number of such seats.”

There is no question of separate electorates at all. Take the Bengal Act. In Bengal the Mussalmans are in a majority. In the Municipal Act we have section 19 which provides for the representation of minority communities. It says :

“The local Government shall by rule provide for the representation of a minority community within the municipality by reserving seats for wards to which commissioners are to be elected under section 16 or 17.”

Now, the whole history of this Bill is known to the House, namely, that long before the Bill was drafted suggestions had been made to this effect as a course which would be acceptable to the opposite party ; and when that principle finds a place in the Bill, that any attempt should have been made to charge Government with raising any communal issue in these local self-governing institutions is, to say the least, very, very unfortunate. For myself, Sir, as I observed, in matters of this nature, when I find that those who represent the Hindu Sabha and those who represent the Muslim League are both dissatisfied, then I think that ordinarily for Government that must be a course which conforms to fair play and rational principles of democracy and of proper government.

I find that the honourable member Mr. Jamnadas Mehta wanted to know what I was. When I am here, as he observed, certainly I am an Indian ; there is no question about it and there is nothing wrong in my saying that those who represent the Hindu Sabha point of view and those who represent the Muslim League point of view are different people. And when I find that a representative of the Muslim League proposes an amendment to the same effect and a representative of the Hindu Maha Sabha view also brings an amendment to the same effect, the course we have followed, namely, leaving it to the wish of the people concerned as to what should be the electorate, giving them the liberty to decide, not compelling them in any way, was a course which ought to appeal to any rational thinker. That has happened in this case.

[Mr. B. G. Kher]

I deplore more than I can say that an attempt of this nature should have been made. After all that has been stated as the origin and history of this Bill, I am extremely sorry that the representative of the Muslim League has read into this Act an attempt to bring in the communal issue. I do hope a better frame of mind will, in future, prevail.

Mr. R. R. BHOLE (Poona West): Sir, one matter I wish to clear in view of the statement made by the Honourable the Prime Minister, because I happened to be one of the members at the informal conference at the bungalow of the Honourable Minister in charge of Local Self-Government. If the Honourable Prime Minister refers to that conference, I was a party to that and as such I thought I might say this. As far as I can remember—I consulted my honourable friend Mr. Gaikwad also—the Muslim members did not, in any way accept the principle of joint electorate nor did they agree to have a compromise in the form of the clause which Government have now brought. If the Honourable the Prime Minister refers to the written statements received in answer to the circular issued by Government, it is a different matter. If he refers to the informal meeting which took place at Poona in the Honourable Minister Mr. Patil's bungalow, then I should like to state that I was one of the party and, as far as I can remember, that was not the attitude of the Muslim members present at that time.

Mr. ALI BAHADUR BAHADUR KHAN: Sir, in view of the statement that has been made just now, may I ask Government information on one point? When the consideration of this item was postponed last time, it was understood that there would be some negotiations between the Muslim League party and Government. May I know from the Government if any further attempt was made to accommodate the Muslim League party and, if so, what was the result?

The Honourable Mr. B. G. KHER: On a point of explanation. I have already made it clear to the honourable member that I was not present at any formal or informal meeting. I told the House what was told me immediately after the discussion at that conference. Naturally, the Honourable Minister and other members who were present are in a better position to say what happened there. But we made our best attempts possible, long before the Bill was drafted, to get the average point of view in order that we may not unwittingly cause any kind of difficulty in the way of members of the different groups.

Mr. S. L. KARANDIKAR: Sir, may I know under what Standing Order all this discussion takes place?

The Honourable the SPEAKER: It is not a discussion but statements of fact in view of the grave event which happened just now. In view of the statement made by the Leader of the Muslim League party, it was essential and proper that I should give an opportunity to Government to explain their point of view. I only allowed statements on points of information and I do not propose to allow any discussion.

The Honourable Mr. B. G. KHER: We are not anxious to carry on any discussion. The best course would be for the Honourable Minister who carried on negotiations to make a statement. With your permission, I will ask the Honourable Minister for Law and Order to make a statement.

The Honourable Mr. K. M. MUNSHI: Sir, I will only make a statement as to the facts. After the deliberation of this question was adjourned, I met the honourable member the Leader of the Opposition and wanted to discuss it with him and come to an agreement. He was not anxious to make any offer, but asked me as to what offer I would make. After due consultation with my honourable colleagues, I offered to him that, in view of the complaint that the constituency would be only a small section of the whole district, Government would be prepared to extend the option to the Mahomedans of the whole district. After some discussion, he said that he would give me his decision this morning. Another leading member of the Muslim League party—I do not want to mention his name—asked me whether Government would be prepared to accept another clause to the proviso that, if after the Muslims of the district or constituency had exercised their option to have joint electorate, they found that it was not working properly, they would be permitted to go back to separate electorates. I told him that it was an extraordinary provision, but if this could satisfy the other members of his group, I would try my best to persuade my colleagues. Thereafter no further opportunity was given to Government to discuss anything at all. This morning, the honourable member, the Leader of the Opposition, came and told me that they were not prepared to consider any offer except a deletion of the clause.

Mr. B. K. GAIKWAD (In Marathi): Sir, I was also present at the conference held in the bungalow of the Honourable Minister Mr. Patil in Poona. What the honourable member Mr. Bhole said is quite correct. I do not remember that any member of the Muslim League Party present at the conference agreed to the joint electorate as proposed in the Bill.

The Honourable Mr. B. G. KHER: I consider that, instead of speeches, a mere statement of facts may be allowed. About 30 people were present at that conference and each one would perhaps like to make a speech. Unfortunately, I was not present and I would not naturally make a statement. I submit what should be permitted must be a statement of fact by the representatives of groups. Otherwise, it will end in a long discussion again on the merits of the question.

The Honourable the SPEAKER: The honourable member Mr. Gaikwad supports the statement of the honourable member Mr. Bhole.

The Honourable Mr. L. M. PATIL: Sir, it is my bounden duty to state the facts as they happened. At the informal meeting I called at my bungalow in Poona, important members of the Muslim League and Independent Labour Parties were present. Because the questions, as you know, regarding joint electorate and other similar problems are important I just wanted to know their minds in the matter.

[Mr. L. M. Patil]

While I was discussing the question of joint electorates with them, the members of the Muslim League Party were opposed to them, not on principle but because they said they had certain misgivings in their minds and unless those misgivings were removed, they would not like to have joint electorates. Then, to my great satisfaction, one of those members suggested, "If you are so eager about the principle of joint electorates, you can provide in the preamble or in some part of the Bill that when the Muslim community is ready for joint electorates it should be given such electorates." This is what happened. This was a suggestion made by the member of the Muslim League Party himself. I took the hint and spoke to my honourable colleagues of the Cabinet. I remember also that I spoke about this to many of the correspondents of newspapers.

The Honourable the SPEAKER: We will now proceed with the further amendments. In view of the decision on amendment No. 12, amendments Nos. 16 and 22 (revised number) fall through; they are consequential amendments. So, I will now put the question that the Bill be read a first time.

Question put, and agreed to.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923) 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. VI of 1923*):

In section 3 of the Bombay Local Boards Act, 1923, hereinafter called "the said Act", after clause (c), the following shall be inserted, namely—

"(cc) 'Backward tribe' means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.

(dd) 'Harijan' means a person belonging to any of the Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936."

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*): Mr. Speaker, Sir, I beg to move the following amendment:

"In clause 2, delete sub-clause (dd)."

Question proposed.

Mr. B. K. GAIKWAD: Sir, the proposed sub-clause (dd) defines the word "Harijan" in the following terms:

"'Harijan' means a person belonging to any of the Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936."

[Mr. B. K. Gaikwad]

My amendment seeks to delete this definition. Honourable members may be surprised at this amendment which wants to prevent the sweet name "Harijan" being embodied in the Local Boards Act, but I shall give the reasons which prompt me to take this step. According to Government of India Act, these "Harijans" are known as Scheduled Castes. Now, by the definition proposed in this Bill, it is sought to substitute the word "Harijan" for the term "Scheduled Caste".

Now, Sir, I may make it clear that our objection to the word "Harijan" did not begin in this House. We have expressed ourselves on the subject through various conferences and meetings. We do not like the word "Harijan". The word "Harijan" has no doubt been freely used during discussions on non-official motions and at other times; but in this case, it is sought to give statutory recognition to the word by embodying it in the Local Boards Act, and we think that we cannot allow it without raising a protest. Honourable members may ask, "The word 'Harijan' is a very good word. It means the people of God. What is your objection to it?" I will answer that question. The word "Harijan" has come to be associated with the untouchable classes. Now, if the so-called untouchable classes are to be called the people of God, what about the touchable classes? Are they to be assumed to belong to the monsters? In that way it makes a distinction between the touchables and untouchables. If all the people were to be called Harijans, we should not object. But the word "Harijan" has, as I said, come to be associated with the so-called untouchables, and we object to giving statutory recognition to that word with that meaning. It is no use only giving the untouchables a sweet name. Something practical should be done to ameliorate their condition. We do not want only a good name; we want something concrete in the shape of amenities for the untouchables. We do not expect that any good result will come out of giving them a beautiful name.

I know that my amendment stands no chance of being passed. But on the analogy of the motion passed in this House the other day requesting His Majesty's Government not to introduce Federation in the Provinces, we the members of the Independent Labour Party representing the Scheduled castes make a request to the Government not to give statutory recognition to the word "Harijan" by including it in the Local Boards Act. Sir, I do not understand why you should
 12 noon. force that word "Harijan" upon us in spite of our disapproval.

I want to speak about one other thing. In India we are called by different names in different Provinces. In Madras we are called "*Adi Dravids*." The Prime Minister himself has told us that this term is used in the Act itself. Now, Sir, the Congress is in power and they consider this term "Harijan" as a good one. But tomorrow the *Mahasabhaitis* or the Savarkar Party may come in power and they might change this term "Harijan" for some other one. When in the Government of India Act itself the term "Scheduled Castes" is used, I do not see any

[Mr. B. K. Gaikwad]

necessity of putting any other term in its place. I therefore think that this clause is unnecessary and should be deleted, and I trust that my amendment will be accepted by the House.

Sir, simply good words cannot satisfy us. Our position has become just like “नांव सेतुबाई आणि हर्ती कथलाचा वाळा.”

Wherever we tell that we are “Harijans” these caste Hindus look down upon us, as they used to do, when we told them that we are “mahars”, “chambhars” or “mangs”. So, I fail to understand what improvement would be made by calling us “Harijans”. Instead of being called “Harijan” we would much prefer to be called “Scheduled Castes”. The masses really do know what is meant by “Scheduled Castes”. The word “Harijan” is now quite familiar to the villagers, and, Sir, you might be knowing the familiar saying “Tell a slave he is a slave and then he will revolt”.

I therefore earnestly request Government to delete the clause, and accept my amendment.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I rise to give my wholehearted support to the amendment moved by my honourable friend Mr. Gaikwad. He is perfectly right when he says that today the Congress is in power and it calls the Depressed Classes by this term “Harijan”, but tomorrow the *Mahasabhaits* or the Savarkar Party may assume power and then they might give some other name. So, why not keep the term as it is in the Government of India Act of 1935, namely “Scheduled Castes”? Sir, the Government considers the wishes of the Mohamedans whether they want joint or separate electorate, and I do not see why they should not take into account the views of the “Scheduled Castes” in this matter.

I therefore support the amendment, and trust that Government will accept it.

The Honourable Mr. L. M. PATIL: Sir, the word “Harijan” is put here not in order to come in the way of the progress of Harijans or the Scheduled Castes as they are called. I know that mere change of the names will not improve the deplorable conditions of the Scheduled Castes materially. But there is a sort of odium attached to the word “untouchables” and we wanted to remove it and to give dignity to that community. With this good intention we have substituted the word “Harijan”. I hope that the members of the Independent Labour Party will not simply quarrel over the word “Harijan”. I oppose the amendment.

Amendment put, and negatived.

Dr. B. R. AMBEDKAR (Bombay City): I am very sorry, but I think I cannot help saying that this is a matter on which the wishes of this group ought to have prevailed with Government. Nobody would have been hurt, the interests of the country would not have been injured if the amendment moved by my honourable friend Mr. Gaikwad had

[Dr. B. R. Ambedkar]

been accepted. In view of the fact that Government wishes to use its majority in a tyrannical manner, I am afraid we must show our dissatisfaction by walking out in a body and not participating further in the day's proceedings.

The Honourable Mr. B. G. KHER: I hope the honourable member (Dr. Ambedkar) will give me an opportunity of saying a few words.

It is a very sad commentary that feeling in this country, where even the slightest question of caste or creed is concerned, is so very touchy. As the honourable the Leader of the Independent Labour Party knows, since a long time an attempt has been made to take away from currency in our language the word "Asprishya", because the very idea is a reminder of the most painful associations, of what has been universally now admitted to be a stain on Hinduism. If he takes a dispassionate view of the whole situation, I think, knowing him as I do, he will co-operate with us in our attempts to obliterate from our languages, from our literature, and from our life all references to this most deplorable custom that has prevailed for centuries, which it is, I hope the honourable Leader of the Independent Labour Party will agree, our sincere and most cherished object to remove from our society. I quite agree with the honourable member Mr. Gaikwad that by merely changing the name we will not achieve this object, but I do hope that even he will admit that ever since we assumed office we have been trying our level best, in consultation with the leader of their group as also in consultation with members of their party, to do whatever is possible by legislation or otherwise to remove the very obnoxious features of this custom in our society. The present section is an attempt in that direction. We tried an alternative expression; we wanted to say "Parishishta Varga". But "Parishishta Varga" is the translation of the English expression "scheduled class", and we thought that "Parishishta Varga" would be a very inappropriate expression to introduce into the Marathi language. If instead of using the English expression "scheduled classes", we wanted to have a synonym for that expression, we had to accept this expression "Parishishta Varga" as the only alternative to denote what class was meant. All along we have thought that the best course to obliterate from the minds not only of the Hindus but also of the other communities any trace of this great stain on Hinduism was to give currency to an expression which would be generally accepted as polite and capable of expressing the desired meaning. I can quite understand, feeling as they do, that they do not like any attempt to differentiate them from the rest of the Hindus, but even for the purpose of legislation, to achieve this result even for bettering the condition of this class, we have to designate them as apart from the other Hindus—we may call them Ashprishya or by any other name, and the fewer the expressions we use to differentiate and classify as different such a large body of Hindus the better; but I know that since the last 4 or 5 years the word "Harijan" has now gained a currency

[Mr. B. G. Kher]

in the whole—if not in the whole of the country, at least in many parts of the country. This is an attempt to substitute a word for the expression “scheduled class” which ought to have met with the approval of the honourable member, the Leader of the Independent Labour Party. It is extremely unfortunate that he does not look at this question in that light, but if he suggests an alternative which is suitable for the expression “scheduled class”, I do expect it will be possible to spare his feelings. In the alternative, I do appeal to him, at any rate, to read into this section no desire to hurt the feelings of a large class of people, who are unfortunately known as “untouchables”, but merely a desire to recognise an expression which has, for such a long time, gained currency. I do not know exactly what the origin of this word “Harijan” is, but I think it is in one of Narsi Mehta’s beautiful songs where a person, who was trying to do penance, thought that he had become a Harijan, and the song begins, “Thou hast not yet become a Harijan”. I am not familiar with the history as to how in literature this word has gained currency, but I can assure the honourable member that it has the most respectable and reputed associations. It has now gained currency in all our literature and journals; the most respected journals, unobjectionable even from his (Dr. Ambedkar’s) point of view, have used this expression, and I would appeal to him not to object to this, an attempt of using that expression which has gained currency, as a convenient substitute for the expression “scheduled class”. The Harijan Sevak Sangh is a well known body and I believe the honourable member Dr. Ambedkar was himself a member of it. If he can suggest an alternative, I will assure him that we will bring another Bill and give currency to that expression; but, in the meantime, I would appeal to him not to see in the word “Harijan” and in the definition, an attempt to cast any reflection on his community.

Dr. B. R. AMBEDKAR: Sir, as you have ruled that this is not an occasion for making speeches, I will not make any speech. All that I will say is this that I am not in a position to suggest any better name, but I must say that the name “Harijan” has now become practically equivalent to the term “Asprishya”; beyond that there is nothing remaining in that name, and I would think that if the Honourable the Prime Minister had felt in the same way in which we feel that the word “Harijan” has now become identical with the expression “scheduled class” then it was his duty, for the moment, to have withdrawn that word, and later on he could have discussed the matter with us with a view to find out some alternative term. His arguments, however, have not carried any conviction to us. I will, therefore, leave the Hall.

Dr. B. R. Ambedkar and other members of the Independent Labour Party then walked out of the House.

Clause 2 (*Amendment of section 3 of Bom. VI of 1923*) ordered to stand part of the Bill.

Clause 3 (*Amendment of section 5 of Bom. VI of 1923*).

In section 5 of the said Act,

(1) for sub-section (1), the following shall be substituted, namely:—

“(1) Every district and taluka local board shall, subject to the provisions of sub-section (5), consist of elective members.”

(2) sub-sections (3) and (4) shall be deleted.

Mr. B. M. GUPTE (Poona City): Sir, I beg to move the following amendment:

In clause 3, sub-clause 2 insert the figure “(2)” between the words “sub-sections” and the figure “(3)”.

Question proposed.

Mr. B. M. GUPTE: My amendment seeks to delete sub-section (2) of section 5 which deals with the ex-officio members. As it is decided to have an entirely elected body, the ex-officio members must go, and I, therefore, suggest that the sub-section which provides for them ought to be repealed.

The Honourable Mr. L. M. PATIL: It was through oversight that sub-section 2 was not excluded, and this amendment rectifies the mistake. I, therefore, accept the amendment.

Amendment put, and agreed to.

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move my amendment—

The Honourable the SPEAKER: About that amendment I have been feeling two difficulties. One is of language—to understand exactly what is meant by that amendment—and the other is that the honourable member is trying to move an amendment in the alternative. That is not permissible.

Mr. S. H. JHABVALA *rose*.

Mr. D. W. RAUT: I think, Sir, you have given a ruling that it is not permissible.

Mr. S. H. JHABVALA: I owe you an explanation, Sir. The amendment proposed by the Government is in clause 3 and if you read it, it will be found that it is proposed that in section 5 of the said Act, for sub-section (1), the following shall be substituted, namely:

“Every district and taluka local board shall, subject to the provisions of sub-section (5), consist of elective members.”

Now, Sir, I have stated that this sub-section (5), which is a subjective clause, must be amended as follows, namely, that the last expression “may be filled by appointment by Government” must be changed into “may be filled by co-option from among the elected members”. Subject to this, which is a part of the amendment suggested by the Government,

[Mr. S. H. Jhabvala]

the whole may be altered. That is my point. But if it was proposed that it was not possible, then my point was that in the same clause, that is, in clause 5, sub-clause (5) of the original Act, this alteration should be made. But I do not think that this kind of alteration is possible. I have now myself found that it is not possible in view of the fact that here was an amendment and I was not going to propose an amendment to the Local Boards Act. My point was to propose an amendment to the Amending Bill in the way in which I have stated. Sub-clause (5) is a part of the suggestion made by Government which falls under clause (3), in which it is stated that it should consist of elective members. Then, Sir, I have arranged like this and if you will permit me to do so—

The Honourable the SPEAKER: I have not been able to understand the point of the honourable member at all if I may say so. He tries to make out that he is moving an amendment to what is proposed by the Government. He is entitled to move an amendment to sub-clause (5) in any way he likes and sub-clause (5) of the original section runs thus. I will read that and will explain to the honourable member my difficulty:

“Any vacancy due to failure to elect at any election or by-election the full number of elected members may be filled by appointment by the Government.”

What the honourable member wants by this amendment is that instead of the words “by appointment by the Government”, he wants these words, “by co-option from among the elected members”. That is what he wants, so far as the original sub-section 5 of the original Act is concerned. He has placed two alternatives. I have not been able to follow what those two alternatives are. He should specifically move any one he wants. I cannot allow any alternative amendments. The honourable member may make his own choice and move whatever he wants.

Mr. D. W. RAUT: His suggestion says, “by co-option from among the elected members”. I do not see how it is possible.

The Honourable the SPEAKER: That was the difficulty of language which I pointed out first. If vacancies have to be filled, that means more members have to be brought in and you cannot fill a vacancy by members already elected. What he really means is by co-option by elected members. But whatever it may be, that is a difficulty of language with which I am not at present concerned.

Mr. D. W. RAUT: The point is this that members by co-option may be taken from outside.

The Honourable the SPEAKER: The language may be rectified afterwards when we know what the clear intention of the mover is. I want to know what he specifically wants.

Mr. S. H. JHABVALA : I want, Sir, co-option and the right of appointment by Government to go in that particular way. I want co-option by the elected members and then the other alternative. I offered this alternative simply to facilitate matters of arrangement.

The Honourable the SPEAKER : Will the honourable member clearly specify what he wishes to move ?

Mr. S. H. JHABVALA : Yes, Sir. I would like to move :

Keep section 5 of the said Act as it at present stands and substitute in sub-section (5) for the words 'by appointment by the Government' the following words :—'by co-option by the elected members'.

The Honourable the SPEAKER : The form of the amendment would be this :

Add the following as sub-clause (3). In sub-section (5) delete the words "by appointment by the Government" and substitute, instead, the following :—

"by co-option by the elected members."

The honourable member may move that.

Mr. S. H. JHABVALA : You are right, Sir.

The Honourable the SPEAKER : It is not a matter for opinion
12-30 p.m. of a member as to whether the conduct of the Chair
is right or wrong.

Mr. S. H. JHABVALA : Sir, I move the amendment :—

In sub-section (5), instead of the expression "by appointment by Government" the following words be substituted, namely, "by co-option by the elected members".

That is my amendment.

The Honourable the SPEAKER : I will put it now with a little verbal alteration again. The motion is :—

Add the following as sub-clause (3) to clause 3 of the Bill :—

In sub-section (5), delete the words "by appointment by the Government" and substitute instead the words "by co-option by the elected members".

Mr. S. H. JHABVALA : Sir, before I speak a few words, I offer you my best thanks for correcting me and putting me right, but we are not expert lawyers, we are only well-meaning citizens with a pinch of sincerity in us and, even if we blunder, it is up to guides like yourself to correct us and for us to be corrected, but I may assure the House that even if my amendment fails, I am not going to stage a walk-out. Yesterday, Sir, if there was any party in this House who would have been right in staging a walk-out, it was my own self because the House went on giving me defeat after defeat, but even so, I am encouraged to move another today. I am here to fight through till the last.

Sir, if you were to read the whole section in the original Act, namely, section 5, it will be found that there are certain sub-clauses in which the power of nomination has been given to Government, but those sub-sections

[Mr. S. H. Jhabvala]

have now been wisely deleted or offered to be deleted by Government, on the basis of the new policy that Government propose that nominations should be done away with. But, Sir, Government was on the one hand proposing that nominations should be done away with and on the other hand in a particular clause they were still maintaining a certain phase of nomination, namely, that the right of filling up vacancies falling due is vested still in the hands of Government. It is against this that I protest, because this will involve the nullification of the very large original policy. Government create a stunt and give it a large name, viz., "Policy" to it; in the same way here, Government have created a stunt, namely, abolition of nominations and they say that a new policy has been formed, but ultimately we find that somewhere or other a hole or a corner is kept where Government can escape the principle by maintaining that right. It is because in this amending Bill this clause is still maintained, that I have got up to put it right.

Sir, under the existing conditions, the right of appointment is vested in the hands of Government. Government has always been a suspected body, whether it is a body holding national control or a body not having a large volume of public following behind it; but still, Government everywhere in the world is a body that is universally suspected, even abhorred and it is, therefore, as far as possible that a particular right is always sought to be taken away from the hands of Government and is vested in the hands directly of the public so that the principle of true democracy can still be maintained intact. I, therefore, move that the words "by appointment by Government" be taken away and the right of co-option given to elected members. I do not think there is any particular reason to grumble against this. In the case of villages or small towns, it is highly necessary that this kind of power should be given to the elected members even by way of self-training. It has been found that in case a man is not elected by the voters or in case of a vacancy falling due to failure at any election or bye-election, then instead of the Government being given the right, the people who are elected and who already are on the body itself may be given that right. Supposing the larger mass fails, at least the smaller mass of the House may be given the right of electing a member for their common board. It is with these words, Sir, that I beg to move the amendment.

Question proposed.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I can very well appreciate the feelings of my honourable friend Mr. Jhabvala when he found the words "appointed by Government" and he desires to substitute something better in the original clause. Of course, I agree with him that Government cannot be relied upon in such matter—not this particular Government only but generally—and therefore some machinery by which the voice of democracy could be heard better would be desirable. From that point of view, Mr. Jhabvala has suggested co-option as a substitute for "appointment by Government". I will

[Mr. Jamnadas M. Mehta]

tell him the experience of the Bombay Municipal Corporation and then I will leave him to judge whether sometimes things cannot be worse than appointments by Government. We had some years ago, the right of co-opting ten members ourselves, and we thought that we were getting some valuable right; but we found later on that only four or five first single votes could secure a man a seat in the Bombay Municipal Corporation and several people preferred to come in by co-option than spending time and sometimes money in fighting a Ward election and it paid people to enter by co-option than to come in by election. And, Sir, if it had paid them only, it would not have mattered, but it paid some other people also and we found that individuals were not wanting who were in the habit of buying two or three first votes from the elected members which, on the whole, cost them less than the expenses of a Ward election and they got in, and one scandalous case, which is still remembered in the Bombay Corporation, was that of an individual (at least there is a strong suspicion) who purchased a seat by co-option by making a gift of a motor car, and that was so much known that from that year the Corporation went to Government to surrender their right of co-option. I think there is a great deal of force in the argument that when there is a smaller body and the co-option is to be made by a few people, the chances of corrupting these few people are more. Of course I do feel that appointment by Government is not an unmixed evil and election would be better, but co-option would be worse in a small body. If the body was big, it might not, but in a small body the evil of getting elected through corruption remains; our experience in Bombay should be a warning and therefore I would ask my honourable friend Mr. Jhabvala whether he would not reconsider the position in the light of the considerations that I have placed before the House.

The Honourable Mr. L. M. PATIL: Sir, sub-section (5) of section 5 reads as follows:

"Any vacancy due to failure to elect at any election or by-election the full number of elected members may be filled by appointment by the Government."

This situation is not likely to arise often. It is only in the case of an emergency that the power is taken by the Government to fill in the full number of the members, when in the election itself the full quota is not filled as is required by the law. The remedy suggested in the place of this power of the Government by the honourable member Mr. Jhabvala is co-option. But as the honourable member Mr. Jamnadas Mehta has rightly pointed out, the evil of the system of co-option is that it leads to corruption and favouritism, and gives rise to all sorts of bickerings amongst the different parties in a small board. So I oppose the amendment.

Amendment put, and negatived.

Mr. JAMNADAS M. MEHTA: Is the amendment of Mr. Gupta carried?

The Honourable the SPEAKER: Yes.

Mr. JAMNADAS M. MEHTA : Can I speak on the whole clause as amended, because I want to ask Government some question? I am sorry I was out. Now when the whole clause is to be put, I think it is open to me to offer a few observations.

The Honourable the SPEAKER : The honourable member can do so.

Mr. JAMNADAS M. MEHTA : I will speak at a later stage.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4 (*Amendment of section 6 of Bom. VI of 1923*).

For section 6 of the said Act, the following section shall be substituted, namely :—

“6. *Elective members of local boards, by whom to be elected.*—(1) The elective members of local boards shall be elected by general and Muhammadan constituencies. The number of members to be elected by each constituency, and the number of seats to be reserved in general constituencies for the representation of women or of any caste, community or tribe shall be as prescribed by orders made by the Provincial Government under clause (a) of section 133 :

Provided that no seat shall be reserved for the representatives of any caste, community or tribe,

(a) other than—

(i) Harjians,

(ii) a backward tribe, 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 caste, community or tribe in the area constituting the general constituency.

(2) Notwithstanding anything contained in sub-section (1), the Muhammadans in the area constituting a Muhammadan constituency who have attained the age of 21 years may either unanimously or by majority declare in the manner prescribed under clause (a¹) of section 133 that the said Muhammadan constituency be abolished.

(3) On such declaration, the Provincial Government shall direct that the said Muhammadan constituency be abolished from such date as may be specified in the notification in the Official Gazette and may make orders under clause (a²) of section 133 for the purpose of securing representation in general constituencies of the Muhammadans in the area constituting the said Muhammadan constituency.”

Mr. G. K. PHADAKE (Thana, South) : Sir, I move my amendment, as follows :

In clause 4, section 6 (1), in the second sentence, before the words “The number of members” add the words “the number and extent of such constituencies”.

Question proposed.

Mr. G. K. PHADAKE : Sir, my amendment is a very short and simple one. But it is also a very necessary amendment. Section 6 of the Local Boards Act is sought to be amended. The original words in the section are “The elective members of local boards shall be elected by general and Mahomedan constituencies and the number and extent of such constituencies and the number of members”, etc. In the amended section the words “the number and extent of such constituencies” have been omitted, and it is prescribed there that the number of members to be elected by each constituency and the number of seats

[Mr. G. K. Phadake]

to be reserved in general constituencies, etc. would be prescribed by the Provincial Government. It is provided that the number of members for a constituency will be declared by Government, but nowhere is it stated how many constituencies there will be for a district local board and what will be the boundaries of those constituencies. After the abolition of taluka local boards the present constituencies are going to be changed. They are going to be split up, and it will be very necessary to determine the extent and the number of these constituencies. Since it is very necessary, it must either be prescribed by the Government or a district local board. My amendment says that it should be prescribed by the Government. So I recommend that this amendment should be accepted by the Government, and I hope that I shall not be defeated on this point.

The Honourable Mr. L. M. PATIL: Sir, the amendment makes the meaning of the section more clear, and so I accept it.

Mr. JAMNADAS M. MEHTA: Is not the word "and" necessary at the end of the words proposed to be added?

The Honourable the SPEAKER: A comma will serve the purpose. Amendment put, and agreed to.

Mr. D. W. RAUT (Thana, North): Sir, I move my amendment, which is as follows:

In clause 4, line 5, delete "The number of members to be elected by each constituency, and the number of seats to be reserved in general constituencies for the representation of women or of any caste, community or tribe" and substitute for the same "Every constituency should elect one member but in case where the seat would be reserved in general constituency that constituency should elect two members only. The number of constituencies and the number of seats to be reserved in general constituency, for the representation of any caste, community or tribe shall be on the basis of their population and also for the women."

Question proposed.

Mrs. LILAVATI K. MUNSHI: On a point of information. I do not know what the honourable member means by saying "also for the women." Does he want to give reserved seats for women on a population basis? Then he should amend this clause accordingly and say that for the women also the same procedure should be followed. Otherwise, it is not quite clear.

The Honourable the SPEAKER: Let us see what the honourable member has to say in support of his amendment. Then his point will be clear.

Mr. D. W. RAUT: अध्यक्षमहाराज, मी आपणापुढे जी उपसूचना मांडली आहे ती उपसूचना शेतकरीसमाजाच्या अत्यंत हिताची आहे. स्थानिक स्वराज्य संस्थांतून त्या संस्थेच्या भागांतिल जनतेचे खरे प्रतिनिधी निवडून येणे जरूर आहे व तो त्यांचा हक्क आहे. लोकलबोर्डांचे मतदारसंघ हे अतिशय मोठे

[Mr. D. W. Raut]

असले तर त्यामुळे गरीब व जनतेचे खरे प्रतिनिधि येऊं शकणार नाहीत तर ज्यांचे जवळ पैसे आहेत असेच लोक जास्त निवडून येतील. एका तालुक्यांतून जर चार किंवा पांच सभासद लोकलबोर्डाला निवडून द्यावयाचे असले व तालुका हा जर एकच मतदारसंघ केला तर प्रत्येक उमेदवाराला तालुक्यांतील सर्व मतदारांना भेटलें पाहिजे व त्यांचीं मते मिळविण्याचा प्रयत्न केला पाहिजे व प्रत्येक तालुक्यांत सुमारे पांच हजारांपासून दहा हजारापर्यंत मतदार असतील व इतक्यांना भेटून त्यांचीं मते मिळवावयाचीं व त्यांना मतदानाचे ठिकाणीं आणावयाचें ही गोष्ट साध्या शेतकऱ्यांना खर्चाचे दृष्टीनें अशक्य आहे. कारण अशा निवडणुकीकरितां कमीतकमी ५०० रुपये तरी खर्च येईल व हल्लींच्या परिस्थितीत मध्यम स्थितीतला शेतकरीहि हा खर्च करूं शकणार नाही. परंतु माझे उपसूचनेप्रमाणें जर एक मॅबर निवडून देणारा मतदारसंघ तयार केला तर ज्या भागांत शेतकरी राहत असेल त्या भागांतील २०।२५ खेड्यांचा तो होईल व त्यामुळे अगदीं कमी खर्चात खरे लोकांचे प्रतिनिधि निवडून येतील ; व लोकशाहीच्या तत्त्वाचे दृष्टीनें एकमॅबराचा मतदारसंघ असणें जरूर आहे. ही गोष्ट सरकारला २ महिन्यांमागें मान्य होती व तसे हुकूमहि त्यांनीं काढले होते परंतु ही सूचना सरकारनें पुन्हां कां मागें घेतली हें कळत नाही.

माझे उपसूचनेचा दुसरा भाग म्हणजे शेड्यूल क्लासेस व बॅकवर्ड ट्राइब वर्गेंरे लोकांच्या जागा ज्या मतदारसंघांत ठरविल्या जातील त्या मतदारसंघानें मात्र दोन मॅबर निवडावे. हा भाग घालण्याचा मुख्य उद्देश म्हणजे ज्याठिकाणीं जागा रिझर्व असतील तो मतदारसंघ जर एकच मॅबर निवडणारा असला तर ज्यांच्याकरितां जागा रिझर्व केली असेल त्या जातींशिवाय इतर जातींना आपला प्रतिनिधी केव्हांच पाठवितां येणार नाही ; व ज्यांच्याकरितां जागा रिझर्व असेल त्यांचे मनुष्य नेहमीं जाईल. ही अडचण दूर करणेसाठींच अशा ठिकाणीं मात्र दोन मॅबर निवडून देण्याचें सूचविलें आहे.

माझे उपसूचनेचा तिसरा भाग म्हणजे शेड्यूल क्लासेस, बॅकवर्ड ट्राइब वर्गेंरेना ज्या जागा द्यावयाच्या त्या त्यांचे लोकसंख्येच्या प्रमाणांत द्याव्या असा आहे. सरकारनें दोन महिन्यांमागें या गोष्टीला मान्यता दर्शविली होती परंतु बिलामध्ये याबद्दल उल्लेख नसून फक्त स्टेटमेंट ऑफ ऑब्जेक्ट्स व रीझनसमध्ये मात्र “शक्यतोपर्यंत लोकसंख्येच्या प्रमाणांत” असे शब्द घातलेले आहेत. याचा कायद्याचे दृष्टीनें कोणतेहि प्रकारें उपयोग नाही व ज्या जातींकरितां जागा रिझर्व ठेविल्या जाणार त्यांच्या हिताकरितां त्यांच्या लोकसंख्येच्या प्रमाणांत जागा

[Mr. D. W. Raut]

मिळणें अत्यंत जरूरीचें आहे. स्त्रियांनांही कांहीं जगा रिसर्व ठेवाव्या असेंहि माझे उपसूचनेनें सूचविलें आहे. अशाप्रकारें माझी उपसूचना अत्यंत महत्त्वाची व जनतेच्या खऱ्या प्रतिनिधित्वाचे हक्काची असल्यामुळें आपण सर्वांनीं तिला पाठिंबा द्यावा अशी विनंती आहे.

The Honourable the SPEAKER: I would like to know the wishes of the House about the recess hour. Yesterday, we decided that we should sit from 11 to 1, adjourn for tea for one hour, re-assemble at 2 and sit till we finish. If we are likely to finish earlier, we can sit and finish, or, if honourable members want to adjourn, we may have half an hour for recess, then re-assemble and sit till we finish the Bill. I would like to know the desire of the House.

Mr. D. W. RAUT: Looking to the important amendments tabled, I think we will take at least 2 hours. It is better we adjourn now.

The Honourable Mr. B. G. KHER: I submit that we should carry out the programme, because it appears that it will not be possible to finish the Bill immediately. Honourable members have tabled amendments and speeches may be made on other clauses. I think the best course will be to adjourn for lunch and meet again. If it is the wish of the Chair that the recess should be half an hour, I have no particular views on that point. I think it would be convenient to adjourn now and meet again.

The Honourable the SPEAKER: The House now adjourns to meet at 1-30 p.m.

(The House re-assembled after recess at 1-30 p.m.)

The Honourable the SPEAKER: With reference to the amendment moved by the honourable member Mr. Raut just before the recess, I find that the honourable member Mr. Phadake has submitted an amendment to this amendment. It is No. 4 on the list circulated to honourable members.

Now, about tabling amendments, I wish to repeat to-day what I said yesterday. Ordinarily, seven days' notice is necessary for tabling amendments. Amendments are being tabled even on the floor of the House at the last moment; and, as I said yesterday, sometimes it does become necessary, in the light of the discussion that has taken place, to waive notices of these amendments. But I must make it clear that I do not propose to make the waiver of notice a rule; it is only in exceptional circumstances that I shall permit amendments without proper notice. I may again repeat the difficulties that are found in the waiver of notice. I do not get sufficient time to consider as to how far the amendment fits in, as to whether it is relevant and within the

[The Speaker]

scope, and so on. Again, there is no time left for the mover in charge of the Bill to consider the amendment and have a discussion with the mover of the amendment with a view to accept or reject it; and then some time of the House is taken up while discussions are going on between groups of members. As, however, the practice of waiving notice has been followed very frequently, I do not propose, just for the day, to enforce the provision requiring notice. But I would intimate to honourable members that from Monday onwards they should not expect me to waive notice so easily. It will be only an exception and not a rule that I shall waive notice to-day and exercise my discretion in favour of waiver and permit the honourable member to move his amendments. The honourable member Mr. Phadake handed in last evening—at 6-44, as the Secretary informs me—four or five amendments. From that list I find that he wishes to move an amendment to the amendment moved by the honourable member Mr. Raut just now. But his amendment has not been clear to me; it does not fit in with the amendment of the honourable member Mr. Raut. Will he kindly explain what he means? Is it an amendment to the amendment, as he describes it, or is it an independent amendment?

Mr. G. K. PHADAKE: It is an amendment to the honourable member Mr. Raut's amendment, No. 7 in the list. That amendment seeks to substitute the following words in clause 4, line 5:

"Every constituency should elect one member but in case where the seat would be reserved in general constituency that constituency should elect two members only."

To that amendment, I want to suggest the amendment of which I have given notice.

In this connection, Sir, I should like to say something by way of personal explanation. It was on account of shortness of time that we could not send in notices of amendments in time. If we are to observe the rule of 7 days' notice, the Bills should come to our hands at least 15 days before they are introduced in the House. The Bills have to be read carefully and the original Acts also have to be read carefully. Unless we do that, it is not possible for us to suggest amendments. These Bills came to our hands after the session began—

The Honourable the SPEAKER: May I interrupt the honourable member? So far as the provision requiring seven days' notice is concerned, in the proposed rules three days are sought to be substituted for seven days. When I say that waiver of notice will be an exception, I will recognise amendments given notice of three days before also. But the difficulty is as regards amendments that come in as the first reading or second reading proceeds. A line will have to be drawn somewhere. When I consider the admission of amendments, I will take all those difficulties of late publication or late delivery into consideration before I refuse to waive notice.

[The Speaker]

I now want to know from the honourable member Mr. Phadake how the amendment to the amendment fits in with the original amendment. I can see what he wants, but I think the phraseology is not correct. Will he please put it in proper form and show how he wants to correct the amendment proposed by the honourable member Mr. Raut—what particular words he wants to take out, or what particular words he wants to add ?

Mr. J. B. GREAVES: May I ask whether your remarks apply to fresh amendments or to amendments to amendments ? If it is an amendment to an amendment, is it necessary to give notice ? I understand that the rule applies, in fact, to a fresh amendment. If it is an amendment to an amendment, it would naturally have to be submitted after the original amendment is published.

The Honourable the SPEAKER: If it is an amendment to an amendment, no notice is necessary. It is true that the honourable member has handed in an amendment to the amendment of the honourable member Mr. Raut; but there are three other fresh amendments along with it. So my remarks were general, with reference to all the amendments.

Mr. J. B. GREAVES: I understood that you made your remarks with reference to the fresh amendments. With regard to amendments to amendments, they would come after the amendments already tabled. Do I understand that you are admitting only the amendment to the amendment from among the batch of four, of which three are fresh amendments ?

The Honourable the SPEAKER: For the day I am permitting all.

Mr. J. B. GREAVES: As fresh amendments or as amendments to amendments ?

The Honourable the SPEAKER: Three of them are fresh amendments, and the last one is an amendment to an amendment.

Mr. J. B. GREAVES: So far as that last one is concerned, no notice is necessary. But if you permit all of them as fresh amendments, would not notice be necessary ?

The Honourable the SPEAKER: There seems to be some misapprehension in the mind of the honourable member. So far as the last one is concerned, it is an amendment to an amendment, and I am permitting the honourable member to move it. But, as I pointed out, he handed over four amendments of which this amendment to amendment was one. I made a general statement in regard to all of them, and permitted all of them to be moved.

Mr. G. K. PHADAKE: Sir, I want to explain my amendment. Mr. Raut's amendment is: "Every constituency should elect one member" etc. Instead of that my suggestion is that every constituency shall be a plural member constituency. The word "member" has been dropped somehow.

The Honourable the SPEAKER : Will the honourable member kindly specify it in a proper form as to which particular words are to be deleted and which words are to be added and substituted ? That would be the best form of the amendment. As it is, the drafting seems to have been left to the Chair. I do help honourable members in placing before the House as to what they wish to place. But the drafting has essentially to be done by the members themselves and not left to the Chair, by stating what the substance of a particular amendment is.

Mr. G. K. PHADAKE : Sir, there is no question of deletion. The wording is altogether different. "Every constituency shall elect one member," and for that, I put "Every constituency shall be a plural member constituency". Perhaps, it might be worded in this fashion "Every constituency should elect more than one member".

The Honourable the SPEAKER : I think I will put the motion in this form : "From the amendment of Mr. Raut delete the words beginning from the words 'Every constituency' and ending with 'for the women' and substitute instead the following". Will the honourable member Mr. Phadake now move the amendment ?

Mrs. LILAVATI K. MUNSHI : Sir, is it not a direct negation of the principle that is given in this amendment, namely, a single member constituency should now be a plural member constituency ? Sir, I do not think Mr. Phadake's amendment is in order.

The Honourable the SPEAKER : There are many other matters in the amendment and not only substitution of "plural member constituency" for "single member constituency". One of the matters being to delete the section, the whole matter, in fact, becomes new. The first mover wants single member constituencies, and it is perfectly competent for another member to say that he wants plural member constituencies. There are other matters too.

Mr. G. K. PHADAKE : Sir, I beg to move that in the amendment No. 7 of Mr. Raut delete the words beginning from the words "Every constituency" and ending with the words "for the women" and instead substitute "Every constituency shall be a plural member constituency. The number of seats to be reserved for the representation of any caste, community, tribe or women shall be on such a basis as would not materially affect the interests of the general constituencies."

Question proposed.

Mr. D. W. RAUT : Sir, the honourable member by his amendment has deleted the whole of my amendment. Is it in order, Sir ?

The Honourable the SPEAKER : It is in order.

Mr. G. K. PHADAKE : Sir, there are two portions in the honourable member Mr. Raut's amendment. He has told us that by the first portion he wants a single member constituency and by the other portion he wants the representation of the aboriginal tribes and women on population basis. I shall first deal with the first portion. There is some

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misapprehension about the local bodies. There is a vast difference between the legislative bodies and the local bodies. In a legislative body it is absolutely necessary to have a good majority, because the executive is responsible to the popular vote and that executive has to run an administration. But that is not the case about these local bodies. Executive officers are appointed by Government in these local bodies, and these executive officers function by law. Therefore, it is not necessary that there should be an absolute majority. Then, Sir, the points of view of the minority must be represented on that body. I am not talking of a minority community but I am talking of a minority point of view. The effect of this amendment will be that minority view will not be represented on these local bodies. It is generally the case that single member constituencies do not give adequate voice, or adequate representation to the minority. I shall illustrate this by an example. Let us suppose that there are five constituencies in a taluka,—this is a theoretical example,—and in each constituency there are 500 voters. Out of these in four constituencies 300 voters are of one opinion and 200 are of a different opinion. And in the 5th constituency—let us describe the opinions as A and B; in the first four, 300 voters are of the opinion of A and 200 of B—300 voters are of the B opinion and 200 are of A opinion. The result of the election will be that 1,400 voters will get 4 seats while 1,100 voters will only get 1 seat. Sir, this anomalous position has already been admitted in many of the countries and we find that now there is an improvement in the system and they have introduced proportional representation as a substitute for the general constituency system.

Then, Sir, it is necessary to have representation of special interests in these local boards. We have special interests represented in this legislature, for example, Commerce, Industry, University, Labour etc. These interests are represented by separate electorates in this legislature. That is not at all the case in the local bodies; they will not be represented. So, in order that there should be representation of the minority views, plural member constituencies should be resorted to, instead of single member constituency. Since there is no responsibility in the majority, it is generally found that the majorities sometimes act in a very irresponsible fashion, and therefore, it is very necessary to have representation of these minority views. There is no single member constituency for the local bodies in any country. It has been introduced only by the Government of India Act of 1935, and perhaps the Congress members are likely to accept this amendment, because they have won the election by this method. They have got a majority on account of this system. (*Interruption.*) But we must understand that in democracy, a majority party is never popular for a long time, and if the party which has come in power becomes unpopular, that party will be swept off by this very system after a time. So they should not be enamoured of this system. My point is that minority views should be represented in these local

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bodies. It is not necessary to have an absolute majority of a party in these local bodies. The Special interests ought to be represented in these bodies, and, therefore, instead of having a single member constituency, plural member constituencies must be introduced as in the original Act.

Then, as regards the other part. My honourable friend (Mr. Raut) proposed that there should be representation of minorities on a population basis. Representation of minorities on a population basis has not been accepted by the Government. You will find that in our legislature minorities have not been represented on a population basis. Mahomedans are not represented on a population basis; they are represented according to the communal award, and there is a weightage also given to them. Then the Scheduled Class people have been given representation according to the Poona Pact and not on the basis of population. Christians have not been given representation on the basis of population; otherwise they will get more seats. Europeans are not given seats on the population basis; they are given seats on account of their importance. Similarly, these aboriginal tribes have also not been given representation on population basis. Had they been so given, the districts of West Khandesh and Thana would have returned 4 members of these tribes but we find only one member, representing these tribes, in a House of 175 members.

I shall just illustrate to you the effect of this amendment. My honourable friend (Mr. Raut) has proposed 65 seats after the abolition of taluka local boards for the district local board of Thana. The district of Thana has a population of 7 lakhs; out of these 7 lakhs of people, 2 lakhs belong to the aboriginal tribes. On a certain basis these seats have been distributed, and on that basis these aboriginal tribes will get 16 seats out of 65 seats. Then 7 seats are already given to minorities like the scheduled castes, Christians and Mahomedans. That makes 23. Then women, who are to be given representation on the population basis, will get 16 seats. With that it comes to 39; so, out of 65 seats, 39 seats will be reserved seats, and the remaining will be the general seats. Similarly, the district local board of Kolaba has proposed 32 seats after the abolition of the taluka local boards. On this basis, it has been found that there will be 26 reserved seats and only 6 general seats.

The first interest to be safeguarded is that of the cess-payer or the tax-payer. They must have adequate representation, and if this amendment is accepted, people who do not pay anything will get more representation than people who do pay. Therefore, I have proposed that the number of seats to be reserved for the representation of any caste, community, tribe or women would be on such a basis as would not materially affect the interests of the general constituency. As I told you before, if Mr. Raut's amendment is accepted, it will have this effect that there will be less general seats than reserved seats. The

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honourable member Mr. Raut has said that a circular was sent by the Government in which certain proposals were made. Well, we are all aware that this Government has recently come into power and the Honourable Minister in charge of this department has, I think, never been in any local board or a municipality, and therefore, if I am allowed to say so, he has not got sufficient knowledge. I beg your pardon—I would say experience of the working of these bodies. But in order to get the views of these bodies and in order to have discussion on some points he must have proposed this thing. And after getting the views of the District Local Boards, Presidents of the District Local Boards and other persons interested in this matter, it is not unnatural that his views would be changed.

Then, Sir, the aim behind this amendment is really to eliminate the element of the advanced class communities from these bodies. If a taluka is divided into smaller constituencies, you will find that local people only will be elected. People who live in towns will not be elected and, in that case, I submit that there will be a mockery of these local bodies. We have got an experience about these things in the School Boards. There, the representation of intelligent, proper and sincere workers is not adequate.

After all these considerations, I think, Government should come to the conclusion that there should be plural member constituencies and seats should be reserved, as I have proposed, in a way which will not affect the interest of the general constituencies.

I recommend, therefore, that the amendment should be accepted.

Mrs. LILAVATI K. MUNSHI (Bombay City): Sir, I rise to oppose the amendment moved by the honourable member, Mr. Raut, and that is on two grounds. Firstly, because the principle of reservation is a bad principle and assuming that there is some merit in it, then, secondly, so far as women are concerned, it does not go to its logical extent. When the honourable member moved his amendment, I was not quite clear about the meaning so far as his last sentence was concerned, that is, "also for the women". I thought that the honourable member was a very liberal-minded person, who, not only wanted to create reserved seats on population basis for different castes and different tribes and so on, but also he recognised that women also were as much entitled to that equitable distribution, because women are half the population. So, if the principle of reservation on population basis is recognised, then surely half the number of seats must automatically go to women and I am sure that at some future day you will find in this House half the benches occupied by women. But, alas, when I heard his explanation, I found it, to my regret, that he was not so inclined to recognise the claims of women. What he wanted to do was merely to safeguard the interests of men population. For the women he had

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lip sympathy, but that was all. As I said, Sir, in future a time may come when half the number of seats will be occupied by women, but not by reservation. We do not claim any reservation, but we will take places by merit. [*Applause.*]

The Honourable Mr. L. M. Patil rose.

The Honourable the SPEAKER: Does the Honourable Minister propose to reply ?

The Honourable Mr. L. M. PATIL: Sir, I will take the opportunity to explain the position of the Government. The honourable member, Mr. Raut, has referred to a circular which was issued by the Government. The circular contained certain suggestions regarding questions like formation of the constituencies, reservation of seats, etc. Those suggestions were merely tentative proposals. They were not final orders. We called for the reports of the Collectors and Commissioners on those questions and also tried to have the views of different communities in the matter. So, in the first place, I must clear his misunderstanding that they were the final orders. Up to this time, in our Presidency, the system of plural member constituencies exists in local bodies. We only wanted to know the views in the matter of single member constituencies. We now propose to continue the old system of plural member constituencies. I hope this will satisfy the honourable member, Mr. Phadake.

Then, the honourable member, Mr. Raut, wants the reservation of seats for the various minority communities exactly on population basis and he also wants to make this compulsory. But, under the present clause, discretion is given to Government and this is always done in other Presidencies also, because if we provide, by law itself, to reserve seats for the various communities on the population basis, it will really mean a great hardship for the minorities concerned and it will also create various difficulties in the administration. For example, the Christians are given reserved seats under this clause for the present. Suppose in future Christians say that they do not want reserved seats, then, as long as the law providing reserved seats peremptorily stands, it will be compulsory for the Government to provide reserved seats for them. That is why the discretion is provided for the Government. Though in the clause it is not stated that all these minorities will be given reserved seats on exactly population basis, in the statement of objects and reasons it is said that they will be given reserved seats on the population basis, as far as possible. I may, however, inform the House that we will try to give sufficient number of reserved seats for Harijans, backward tribes and other communities, in order to give them adequate representation on the population basis as far as possible. This will not affect, really speaking, the interest of the general constituencies as is feared by the honourable member, Mr. Phadake, because the minorities will get seats on the population basis, not more than what they deserve on that basis.

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The interests of the general constituencies will not be affected because the communities other than minorities will get the remaining seats which will also be proportionate to their population. The extent and nature of the constituencies and the number of members to be elected by each constituency is decided at present by orders. It is the intention of these two amendments to determine the system as well as the extent and nature of the constituencies by legislation. But here I would like to point out to the honourable members that if it is provided to determine these matters by legislation it will be really hard for Government to get on with the administration, because these things are so changing and there are so many difficulties in the way of the villagers and the people concerned that it is not reasonable to tie down the hands of Government in this matter. The only principle involved in the amendments moved is whether we should have a system of single member or plural member constituencies and, as I have said in the beginning, we intend to continue the old system of plural member constituencies and that is in the best interests not only of minority communities but of political parties who are in a minority. I hope this explanation will satisfy both the honourable members.

Mr. G. K. PHADAKE : Sir,—

The Honourable the SPEAKER : The mover of an amendment to an amendment has not got any right of reply. The honourable member Mr. Raut is the mover of the amendment and will have his right of reply. Mr. Raut.

Mr. D. W. RAUT (Thana, North):—अध्यक्षमहाराज, माझ्या उपसूचनेला माझे मित्र रा. फडके यांनी जी उपसूचना आणली आहे व नामदार मिनिस्टरसाहेब यांनी याबाबत जें स्पष्टीकरण केलें त्याला उत्तर देणेंसाठीं मी आपणापुढें उभा आहे. मि. फडके यांना सिंगल सीट कॉन्स्टीट्यूएन्सी केली तर पुढारलेल्या वर्गाचे लोक विलकूल येणार नाहींत अशी भीति वाटते व म्हणून त्यांनीं जास्त मेवरांचे मतदारसंघ सूचविले आहेत; परंतु त्यांची ही भीति अनाठायीं आहे, कारण प्रत्येक तालुक्यांत मुख्य गांवाचा म्हणजे तालुक्याचे गांवाचा गट असणार व त्यामुळें पुढारलेल्या समाजाचा मनुष्य येईल यांत संशय नाहीं. त्यांचें दुसरें म्हणणें असें आहे कीं, शेतकरीसमाजांत ज्या अल्पसंख्यांक जाती आहेत त्यांचे प्रतिनिधी सिंगल सीट कॉन्स्टीट्यूएन्सीमुळें येऊं शकणार नाहींत. परंतु हेहि म्हणणें बरोबर नाहीं कारण शेतकरीसमाजातील सर्व जातींचे लोक आज लोकलबोर्डांतून असलेले आपणांस दिसतील. परंतु शेतकऱ्यांतील अल्पसंख्यांक जातीची काळजी मि. फडके यांना कां वाटावी हें मला कळत नाहीं. मी तरी असें समजतो ही दुही पाडून राज्य करण्याची पद्धत आहे. मि. फडके यांनीं

[Mr. D. W. Raut]

ठाणेबोर्डाचा उल्लेख करून त्या बोर्डाचे व्यवस्थेविषयी सांगितलें. मी त्यांचे असें नजरेस आणतो कीं ठाणेबोर्डांत पुढारलेल्या लोकांचें बहुमत असतांना एकहि सुपरवायझर मागासलेल्या अथवा मध्यमवर्गाचा नव्हता; परंतु मध्यमवर्गाचें म्हणजे शेतकरीसमाजाचें बहुमत झाल्यामुळें खालच्या व मध्यमवर्गाचे दोन सुपरवायझर येथें दिसत आहेत. यावरून शेतकऱ्यांचे प्रतिनिधी जास्त जाणें जरूर आहे; व ते फक्त सिंगल सीट् कॉन्स्टिट्यूयन्सीमुळेंच जाऊं शकतील. मि. फडके हे शेव्बूल क्लास, बॅकवर्ड ट्राईज यांना त्यांचे लोकसंख्येच्या प्रमाणांत जागा देण्याचे विरुद्ध आहेत व त्याचें कारण जनरल जागा कमी होतील असें दाखवितात; परंतु लोकसंख्येच्या प्रमाणांत जागा दिल्यास जनरल कॉन्स्टिट्यूयन्सीच्या जागा कमी होणेचें काहीं कारण दिसत नाहीं: मात्र अशा लोकांना त्यांच्या लोकसंख्येच्या प्रमाणांत जागा न देतां त्यांचा न्याय्य भाग आपण गिळंकृत करणेचा मि. फडके यांच्या उपसूचनेचा विचार दिसतो व तें न्याय्य नसलेमुळें माझा तिला विरोध आहे.

भगिनी लीलावतीबाई मुनशी यांनीं स्त्रियांना लोकसंख्येच्या प्रमाणांत जागा मी सूचविल्या नाहींत म्हणून स्त्रियांचे बाबत माझी सहानुभूति वरवरची आहे असें सांगितलें; परंतु इंटरमिजिएट समाजांतिल आगळे व कुणबी अशांसारख्या अत्यंत मागासलेल्या समाजाकरितां रिझर्व जागा मागितल्या नाहींत ही गोष्ट लक्षांत ठेविली पाहिजे. इंटरमिजिएट क्लास अगर स्त्रिया यांजकरितां जर रिझर्व जागा ठेविल्या तर मग जनरल जागाच रिझर्व राखाव्या लागतील कारण या दोघांची लोकसंख्या ८० टक्क्यांपेक्षां जास्त आहे. वरील स्पष्टीकरणावरून स्त्रियांविषयी मला सहानुभूति नाहीं असें म्हणतां येणार नाहीं. इतकें बोलून मी रजा घेतों.

The Honourable Mr. L. M. PATIL: Sir, really speaking, the system of single member constituencies is not in the interests of the advanced classes. It is specially meant for safeguarding the interests of the minorities just like the communities of Agris or Kunbis to which the honourable member Mr. Raut belongs.

Mr. D. W. RAUT: I do not belong to either of those castes.

The Honourable Mr. L. M. PATIL: If there is a certain community which has an overwhelming majority, the other communities will be crushed and they will be swamped by that major community. So, it is not fair that we should have single member constituencies in our presidency.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Sir, before you proceed to put the amendment to the House, may I request the Honourable Minister in charge of the Bill whether he would consider a slight correction which I think is necessary in view of what has happened up till now ? In clause 4 of the Bill the words as printed are I mean in line 2—"elected by general and Muhammadan constituencies". Now, as regards the principle that has been accepted now, supposing the Muhammadans in one constituency accept the principle of joint electorates, still there might be some constituencies where separate constituencies for Muhammadans exist. Now, all throughout the presidency there will be two kinds of constituencies and here provision has been made only for one. This second alternative that has now arisen as the result of what has happened just now is not provided for there, and I believe that it will have to be corrected. Unless an amendment of the Bill is introduced at a later stage, two kinds of constituencies shall have to be provided for. There may be a constituency in which Muhammadans have separate electorates, a general constituency plus a separate constituency for Muhammadans. There may be another constituency where there is no separate constituency for Muhammadans and there the Muhammadans will come under the joint constituency, and both these shall have to be provided for in this clause and, therefore, before we proceed to vote upon the several amendments, I would request the Honourable Minister in charge whether he thinks it necessary to incorporate this necessary correction.

The Honourable the SPEAKER : The point, I believe, is met by sub-section (3), which says "On such declaration, the Provincial Government shall direct that the said Muhammadan constituency be abolished from such date as may be specified in the notification," etc. So, that is the provision made for it. The wording in sub-section (1) is "elected by general and Muhammadan constituencies". The words "general and Muhammadan" are descriptive of the nature of the constituencies.

Mr. S. L. KARANDIKAR : My point has not been sufficiently understood. As a result of what has happened at the first reading, another contingency has arisen. There will not be only one kind of constituency. There will be a general constituency or a joint electorate constituency for the Mahomedans and also a separate constituency for the Mahomedans. In some constituencies the Mahomedans may choose to join with the others and have a joint electorate, while in others they may not. Therefore, you have to envisage two kinds of possibilities, and provision in this clause has to be made for both. Here, as I understand the wording of the clause, provision has been made only for one kind of state of things, and I think another kind of state of things that might arise has to be provided for.

The Honourable the SPEAKER : Do I understand the honourable member to suggest that there will be three kinds of constituencies, general, joint and separate ?

Mr. S. L. KARANDIKAR : No. By general, I understand it is joint.

The Honourable the SPEAKER: As provided in sub-section (1), there will only be Muhammadan and non-Muhammadan or general constituencies. The third contingency contemplated by the honourable member does not arise.

Mr. G. K. PHADAKE: I ask for leave of the House to withdraw my amendment to the amendment, in view of the explanation and assurance given by the Honourable Minister.

Amendment to the amendment, by leave, withdrawn.

Mr. Raut's amendment put, and negatived.

Mr. D. W. RAUT (Thana, North) (Addressed the House in Marathi): Sir, with your permission, I should like to make a statement. The amendment which was just lost involved the interests of the agriculturists. As it has not been accepted, the members of my party, the Peasants' and Workers' Party, have decided not to continue to take part in the discussions on this Bill.

The members of the Peasants' and Workers' Party then left the Assembly Chamber.

Mr. G. K. PHADAKE (Thana, South): Sir, the amendment which I move is as follows:—

In clause 4, section 6 (1), in the last but one line of the first paragraph, the word "orders" be substituted by the word "rules".

Question proposed.

Mr. G. K. PHADAKE: Sir, while opposing the first reading of this Bill, the honourable member Dr. Ambedkar complained that this Bill is only a shell and much has been left to be done under the cover of orders and rules. The Honourable Minister for Law and Order, while giving his explanation, cited the Government of India Act and pointed out to us that in that Act also much is left to be done by orders and rules. But, Sir, he forgot to make a distinction between orders and rules. A rule requires previous publication under section 133 (h) proviso of the Local Boards Act. With your permission, I shall read the proviso. It says:

"Provided that rules made under this section shall be made after previous publication."

Orders require no previous publication. If rules are published, we shall get the opportunity of amending them. But it is not possible to amend or modify orders. After the abolition of taluka local boards, many new things are going to be introduced in the revised constitution of the district local boards, and in order that the people concerned should know what is going to take place under these modifications and revisions, it is necessary that they should have previous knowledge of these things. But if these new things are introduced by an order, we shall be deprived

[Mr. G. K. Phadake]

of this opportunity of modifying the orders. It is very likely that the Congress Government will introduce these orders after consulting the people. But another Government may not act in such a democratic fashion. Once the power is there, it may be taken advantage of and any new thing may be forced on any district local board which is not acceptable to it. Therefore, my point is that no arbitrary power should be given in this section to the executive. It may be pointed out to me that the word "order" is in the original Act: but, Sir, that Act was passed by an irresponsible Government. Ours is a responsible Government, and it intends now to change, to revise and also to liberalise the Acts passed by an irresponsible Government. With that view, and in order that there should be no arbitrary powers given to the executive, the word "order" should be substituted by the word "rules", and I hope my amendment will be accepted.

The Honourable Mr. L. M. PATIL: Sir, the regulation of election and the system of voting are at present determined by rules; and these rules are called the Local Board Election Rules issued under section 133, after previous publication. I am explaining this, because some members are under a misapprehension that Government have reserved to themselves all powers with regard to franchise, system of voting and regulation of election. It is not so. If any change in the rules regulating election and system of voting is contemplated, the rules will have to be published and the objections from the public have to be invited. Therefore, the House need have no fear that the public will not be consulted, if any change is contemplated.

At present, the system of cumulative voting is followed. If there is to be a change, the change will be notified and the public will be consulted.

As regards franchise, there is a change made according to amended section 15 of the District Local Boards Act. If any change is to be made in franchise, that cannot be done unless and until the Act is amended. The power of issuing orders is only with regard to the formation of constituencies. I do not see why the honourable member Mr. Phadake should have still misgivings in his mind. I oppose the amendment.

Mr. G. K. PHADAKE: In view of the explanation given, I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. G. K. PHADAKE (Thana South): Sir, I beg to move:

"In section 4, sub-section 6 (1), add after the words 'section 133':
Provided that, after the abolition of taluka local boards....."

The Honourable the SPEAKER: About this I have been feeling a difficulty. There are two amendments tabled by the honourable member. Both of them do not seem to fit in at the same time. Am I right in understanding that?

Mr. G. K. PHADAKE : If this is not accepted, I shall move my next amendment.

The Honourable the SPEAKER : The question is whether they are independent amendments. To me, they appear to be the same.

Mr. G. K. PHADAKE : Practically the same.

The Honourable the SPEAKER : Which one is sought to be moved now ?

Mr. G. K. PHADAKE : No. 2. I move the following amendment :

In section 4, sub-section 6 (1), add after the words ' Section 133 ':

" Provided that, after the abolition of taluka local boards, due regard shall be given to the population, number of voters and income from cess and other sources of a taluka.

Explanation.—The population of a taluka includes the population of minor municipalities in that taluka."

Question proposed.

Mr. G. K. PHADAKE : To cut the matter short, if the Honourable Minister tells me that these points will be taken into consideration when allotting seats, I shall withdraw my amendment.

The Honourable Mr. L. M. PATIL : All these facts will be taken into consideration as far as possible.

Mr. G. K. PHADAKE : I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. B. M. GUPTE (Poona City) : Sir, I beg to move :

In clause 4, sub-clause (1) (b) for the words "in the area constituting the general constituency" substitute the words "in the local board area".

Question proposed.

Mr. B. M. GUPTE : It is laid down here that, whether a particular tribe or community is entitled to reservation, is to be determined by reference to its population. But the wording, as it stands, does not make it quite clear as to which would be the unit for calculation of population, whether it would be the constituency or whether it would be the entire area which is covered by the jurisdiction of the local board. I suppose it would be conceded that it would be the proper method, even in the interest of minorities, to take into consideration the entire district, because otherwise, the population may be small in individual constituencies. If we take it as a whole, it may amount to a sufficiently large proportion so that they will get a seat. I, therefore, submit that this amendment be made, as it is the proper method and in the interest of minorities.

The Honourable Mr. L. M. PATIL: I accept the amendment.

Amendment put, and agreed to.

Mr. J. B. GREAVES (Bombay Chamber of Commerce): Sir, I beg to move the following amendment:—

In section 4 of the Bill, in the proposed new section 6 (2) of the Act, for the words "have attained the age of 21 years" substitute the words "are qualified electors".

Question proposed.

Mr. J. B. GREAVES: Sir, I move this amendment to the clause because I think the clause as drafted is indefinite and therefore dangerous. I propose to show how it is dangerous, but I do not want anybody to think that what I say is what we expect will happen; it is what we fear might happen. In a Bill of this kind one must consider all types of government being in power—good governments and bad governments. If one takes the clause in the Bill, it reads "the Muhammadans in the area". Now, taking the word "in", "in" means in the area at any time—it might mean on the day on which it is decided to hold a referendum or election or whatever Government decide to hold under the rules on a certain day. That word "in" means that any Mahomedan in that area could vote—not a Mahomedan resident in the area, but a Mahomedan who came in on that day. Now, Sir, "Mahomedan" means a member of a certain religion; he might be an Arab; he might be a Persian; or he might be an Afghan. He might be imported into that area on that day. So, by the inclusion of the words "Muhammadans in the area", you have got the possibility of importing total strangers into that area on the particular day and allowing them to settle the destiny of that area.

The next ambiguity is one of age. Age in this country is largely a matter of opinion and not a matter of fact. This clause legislates for both men and women being allowed to exercise the right of deciding whether a particular constituency should be abolished. What happens if you get a hundred women in *burkha* about five feet in height? Who is going to decide whether they are 21 or 13 or 19 years of age? That is another possible ambiguity in this clause.

Take the parallel case of a university constituency. Applying the same principles as are laid down in this clause, you get this position: you get the inmates of a university being able to determine whether that constituency should be abolished. "Inmates" will presumably include the menial staff, the wives of the menial staff and all the undergraduates. Obviously, it is too wide. Therefore, I suggest that by the inclusion of the words "qualified elector" you will determine exactly what you mean. I want to make it clear that I am not attacking the principles of general franchise. When the franchise is extended, as we hope it will be, my amendment to this clause will still stand as a good amendment. Sir, I move.

The Honourable the SPEAKER: I was just referring to the previous sections to see whether the word "elector" or "voter" was used, so that the phraseology of the amendment might be consistent with the phraseology of the Act.

The Honourable Mr. B. G. KHER: Sir, it is rather awkward that the members opposite are not present here so that we might have the benefit of their views as to this amendment also. Might I inquire if the honourable mover has ascertained the wishes of that group or whether he has any knowledge as to their views on this point? Personally, I think we should have no objection to accepting this amendment at all. But as the representatives of the class immediately affected are not here, just on a point of information I desired to know whether he had any idea as to what their feeling on this particular amendment was.

Mr. J. B. GREAVES: I also regret the absence of the group chiefly concerned with this amendment, but I understand that they have no objection to the amendment and that they did intend to support it. Of course, I cannot speak for them, but that is my understanding.

The Honourable Mr. B. G. KHER: Now that the honourable member says that his understanding is that the amendment is acceptable even to the group opposite, I personally think that we could have no objection, because it is a fairly reasonable suggestion.

The Honourable the SPEAKER: May I suggest a little verbal alteration? Instead of the words "electors", the word "voters" might be substituted, because I find that the word "voters" is used in the other sections.

Mr. J. B. GREAVES: Yes, Sir.

The Honourable the SPEAKER: The amendment will then stand as follows:—

In clause 4 of the Bill, in the proposed new section 6 (2), for the words "have attained the age of 21 years" substitute the words "are qualified voters".

The amendment, I understand, is accepted by Government. Is that so?

The Honourable Mr. L. M. PATIL: I accept it.

Amendment put, and agreed to.

Mr. J. B. GREAVES: May I inform you, Sir, that I am leaving the House now, but I am not staging a walk-out? [*Laughter.*]

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 (*Insertion of new section 15A in Bom. VI of 1923*) ordered to stand part of the Bill.

Clause 6 (*Amendment of section 130 of Bom. VI of 1923*) ordered to stand part of the Bill.

Clause 7 (*Amendment of section 133 of Bom. VI of 1923*):

In section 133 of the said Act,—

(1) in clause (a) for the words beginning with the words "the proportion" and ending with the words "each constituency" the words and figure "the number of members to be elected by each constituency and the reservation of seats in general constituencies for women or for any caste, community or tribe specified in section 6" shall be substituted:

(2) after clause (a) the following clauses shall be inserted, namely:—

"(a¹) prescribing the manner in which the Mahomedans in any area for which a Mahomedan constituency is constituted may declare that the said constituency be abolished;

(a²) determining the mode in which the representation of the Mahomedans in the area for which a Mahomedan constituency is abolished under section 6 shall be secured."

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move an amendment to clause 7 which stands in my name. I want to delete from line 6 of the clause the words "and the reservation of seats in general constituencies for women or for any caste, community or tribe".

The Honourable the SPEAKER: In view of the previous decision of the House on the question of reservation of seats, this amendment falls through.

Mr. S. H. JHABVALA: Now that the Congress Government have accepted the principle of reservation, I want to move my second amendment, namely, to delete sub-clause (2) of clause 7.

The Honourable the SPEAKER: I am afraid this too must fall through. It will be seen that by clause 4 as adopted it has been provided:—

"The number of members to be elected by each constituency, and the number of seats to be reserved in general constituencies for the representation of women or of any caste, community or tribe shall be as prescribed by orders made by the Provincial Government under clause (a) of section 133:"

There are also further provisions in the effective clause, which is clause 4, proposed section 6. Sub-clause (2) of clause 7 merely says:

"After clause (a) (in section 133) the following clauses shall be inserted, namely:—

(a¹) prescribing the manner in which the Mahomedans in any area for which a Mahomedan constituency is constituted may declare that the said constituency be abolished;

(a²) determining the mode in which the representation of the Mahomedans in the area for which a Mahomedan constituency is abolished under section 6 shall be secured."

Mr. S. H. JHABVALA : Sir, you have ruled that my amendment falls through. Will I then be able to oppose part 2 ? Will that be in order and will that be constitutional ?

The Honourable the SPEAKER : The honourable member Mr. Jhabvala can speak against a part of the clause, but I shall not put to vote sub-clause by sub-clause again. The clause as a whole will be put to the House.

Mr. S. H. JHABVALA : Then, I oppose the clause, Sir. From the discussion that has taken place so far in the course of the day, it must have been evident that the very introduction of this amending Bill has been a very unfortunate event in the Congress history. Sir, it has always been an accepted fact that the Congress Party was presumed to have a very broad vision, but here unfortunately they have not exercised their vision as far as it ought to have been exercised, and the benches on my right are deserted including that of my honourable friend Mr. Greaves. I admit he has not joined the walk-out and may have left owing to some other engagement.

There is one particular point that I want to bring home at the time when the Bill is almost nearing its end and probably getting passed. Firstly, the Congress Government has stood for democracy as a whole, but they seem to have given up this principle by accepting the reservation clause, then by giving option, and then also by accepting the fact that there should be separate electorates. In the first place, the very fact that separate electorates should be accepted is a very grave blunder. I do not know, Sir, what conciliatory measures were followed yesterday or the day before that by the Congress in the matter—

The Honourable the SPEAKER : That is not relevant to the point raised.

Mr. S. H. JHABVALA : I wanted to hint at this point that if the conciliation had been based upon the suggestion that I have been continually hammering at in this House—

The Honourable the SPEAKER : The only question is that certain powers—rule-making or order-making powers—have been given to Government. Whether they should be given or not is the only question.

Mr. S. H. JHABVALA : I protest against the inclusion of the idea that there should be reservation for particular communities. I also protest that particular communities should be marked out and a kind of option should be given. It might so happen when a particular community—

The Honourable the SPEAKER : Order, order. All that is irrelevant. The House has come to a decision and the present clause—

Mr. S. H. JHABVALA *rose*.

The Honourable the SPEAKER : Will the honourable member take his seat ? What this clause purports to do is to vest Government with certain rule-making powers. The merits of the subject on which rules are to be made have already been discussed and decided upon. So they are not open for discussion again. The only point would be whether Government should be given the power of rule-making or no. That is the only question to which the honourable member will confine himself.

Mr. S. H. JHABVALA : Then I reserve my remarks for the third reading.

Mr. B. M. GUPTE (Poona City) : I beg to move a consequential amendment which has become necessary, owing to the acceptance of the amendment which was moved by the honourable member Mr. Greaves. We have decided that, instead of Mahomedan citizens, Mahomedan voters should determine whether a particular constituency shall be transferred to the general constituency. Sir, I beg to move :

In clause 7 (2) (a1) for the word "Mahomedans" substitute the words "Mahomedan voters."

Amendment put, and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Mr. B. M. GUPTE : Sir, before we proceed to clause 8, I should like to bring to your notice that I have suggested one amendment to add a new clause, and if the amendment is accepted then the subsequent clauses will have to be renumbered. My amendment, therefore, may be allowed to be moved at this stage.

Sir, I beg to move :

After clause 7, the following new clause as clause 8 shall be inserted and the present clause 8 shall be renumbered as clause 9 :—

" 8 (1) Notwithstanding anything contained in this Act or the rules or orders Provision for increase of reserved seats for backward tribes in certain districts.

(a) of a district which includes a partially excluded area, or in respect of which the Provincial Government is of opinion that the population of the members of backward tribes residing therein is sufficiently large to justify reservation of seats being made for the purpose of giving them representation, and

(b) which is constituted on a date next following the commencement of this Act, the Provincial Government may, at any time during the term of office of such board direct by notification in the Official Gazette, that the total number of members of such board prescribed by rules or orders under section 133 of the said Act shall be increased to such number as it deems necessary for the purpose of providing seats for the members of backward tribes or adding to the number of seats already reserved for such members under the said rules or orders.

(2) On the publication of such notification, elections shall, for the purpose of filling the number of seats so increased, be held in the manner specified in the said Act or the rules or orders thereunder subject to such modification as the Provincial Government may direct.

(3) The period for which the members elected to fill the said seats shall hold office shall be coterminous with the term of office of such board under section 28 of the said Act.

[Mr. B. M. Gupte]

(4) Nothing herein contained shall affect the constitution of any committee which may have been constituted or the election or appointment of any officers who may have been elected or appointed, before the election of the additional members under sub-section (2).

Explanation.—For the purpose of this section, a partially excluded area shall be any of the areas in the Province of Bombay specified in the Schedule to the Government of India (Excluded and Partially Excluded Areas) Order, 1936.”

Question proposed.

Mr. B. M. GUPTE (Poona City): As I said, this is a provision of an unusual character; and therefore, I must give the House some explanation about the set of unusual circumstances which have necessitated this amendment. The triennial elections of a number of local boards were due to take place on the 31st March but Government was contemplating to bring this measure for the abolition of nomination; they were also contemplating the abolition of taluka local boards, and these seats were available for increasing the number of seats in the district local boards. Then there was another consideration also. Owing to the amendment passed in the Legislative Council of the old regime, the franchise has been widened, and naturally the number of electors to the district local boards has increased largely; therefore, there was a good case for the increase of seats in the district local boards. The Government, therefore, thought that in view of these impending changes, which were so near in sight, it was not proper to hold the elections and deprive these boards of the benefit of these changes. Naturally, therefore, Government have extended the period of these boards, for a brief tenure, up to the end of June this year. Now according to the time-table laid down in the Act, the district local boards will have to publish the voters' lists three months before the election; so, if we have to keep to the time-table, and we must keep up to it, orders about constituencies will have to be passed immediately on passing of this Bill. There is thus very little time. We have decided that, as far as possible, the population basis shall be taken into consideration in determining reservation, but this principle presents considerable difficulty in its application to the backward tribes. These tribes are concentrated in certain areas, and reservation of seats for them on population basis may result in this that we shall be sending a large number of members of these backward tribes into the boards, members who cannot be expected to take any intelligent and independent part in the proceedings of district local boards; and perhaps the presence of such weak units may become a source of weakness to the Board itself. It was, therefore, thought that it was not proper to give representation to these backward tribes on the basis of population. Unfortunately, today there was not sufficient material before Government to come to a positive and final conclusion in this matter. So, two courses were open to Government: one was to extend the period of these local boards for six months more, because if the elections are to be held they must be held before the monsoon sets in or after the monsoon is over.

[Mr. B. M. Gupte]

Naturally, therefore, either the period should be extended or some other arrangement must be found, and Government have come to the conclusion that this arrangement is both equitable and advantageous to all concerned; because it is not fair to extend the period of the boards and thus unnecessarily delay giving them the benefit of the improved situation—improved by the enlarged representation and by abolition of nomination. Government, therefore, propose that these backward tribes should provisionally be given, say, about 50 seats—they have not laid down any hard and fast rule—they should be given some representation, and subsequently we should call for reports on the proposal from the district officers and the backward class officer. If it is found that the increase is warranted, then naturally we should get the power to increase the seats. It is definitely laid down in the interests of the backward classes that their seats could be increased—the change could not be by way of decrease.

As I pointed out, though it is unusual, it is in the interests of these backward tribes; and yet, at the same time, because it was extraordinary provision, Government do not wish to put it on the statute book on a permanent basis. This will apply to such boards only as will be constituted on the day next following the commencement of this Act, i.e., this will apply only during the life of the boards that will come into being after passing of this Bill.

In view of these circumstances, I hope the House will accept this proposal.

Mr. L. M. SHRIKANT (Panch Mahals East): Sir, I take this opportunity—I know it is the fag end of the day—of congratulating the Honourable Minister on his boldly and bravely piloting this Bill No. I of 1938, and the credit for recognising the representation of the backward tribes for the first time goes to the Congress Ministry in the history of the Bombay Legislature. It is the first time that I find that the words “backward tribes and reservation of seats” for them occur in a Bill. So far, the position of these backward tribes, who number 5 lakhs in partially excluded areas of the Bombay Presidency, was never thought of. It was never imagined that such a kind of people existed. The administration was run ignoring altogether a big population of 7 lakhs, who lived in jungles. Nobody took any interest in them. I think it is all the same due to the Congress Ministry, for the first time in the history of the Legislature not only to come forward with proposals like nominations, a seat here and a seat there, but with a proposal quite democratic and that is the reservation of seats on population basis, as far as possible. I hope the words “as far as possible” would not take away the principle underlying population basis. Section 93 of the Government of India Act is well known to be a mischievous section, but unfortunately sections 91 and 92 that precede section 93 are as mischievous as section 93. Sections 91 and 92 give certain powers to the Governor, but I think there will not be any

[Mr. L. M. Shrikant]

opportunity for His Excellency to intervene. Therefore I say that the area which comprises about 15 talukas with a population of about 5 lakhs have been marked out rightly or wrongly. (*Interruption.*) That is a good element out of evil indeed because it has rivetted the attention of all concerned and ultimately, the backward tribes have found some representation in this Bill. I think I may not be misunderstood that I want protection generally for backward tribes, but I cannot resist the temptation of expressing my joy and I can say that so far as restricted areas are concerned, any legislation that is brought forward here in this Assembly, I am quite sure and confident that the Congress Ministry that has made a beginning will follow it up and apply all considerations equally to those areas because people there also deserve a seat rightly.

One more thing and I have done. With regard to the special provision in the clause that is being added by the amendment, I am in entire agreement. It is only for an emergency, as it has been said and well said by a member from Poona and Parliamentary Secretary, Mr. Gupte. I do not think it will last permanently. If it is not going to last for three years, it may be found possible to do away with this clause after the first elections of the local boards on lines of new constitution are over. That is my conception. My anxiety about it is this, that the special arrangement in the absence of any Pact, like the Yeravda Pact or the Communal Award, will endure as nobody is coming forward from the tribal area to question it. We therefore take reserved seats as practical politics, but in future the population basis should not be forgotten altogether. I agree that they are backward, but backwardness should not deprive the 7 lakhs of people of their birth-right, the fundamental right and the right of representation, and therefore I once more congratulate the Minister and wish him success in the piloting of this Bill.

The Honourable Mr. L. M. PATIL: Sir, for the reasons that are advanced by the honourable mover, I accept the amendment.

The Honourable the SPEAKER: I need not read this long amendment again.

Amendment put, and agreed to.

Clause 8 (*Saving*), renumbered as clause 9, ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. L. M. PATIL: Sir, I move that Bill No. I of 1938 (A Bill to amend the Bombay Local Boards Act, 1923) be read a third time and passed.

Question proposed.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, we have now reached a stage when we might review this new legislation briefly and see what we have achieved; and in doing so I wish to congratulate the Government on the first step they have taken in the right direction. I congratulate you, Sir, all the more for the remarkable patience, I would call it angelic patience, with which you have allowed amendments at the almost twelfth hour without any stint and this contrasts somewhat strikingly with the impatience of the Honourable Minister for Law and Order yesterday when one or two amendments were given by me, at a late hour. He must have realised that the Government find it necessary occasionally to revise their own considered judgment and need to propose amendments sometimes which may even be of substance and, as you have allowed all these amendments, I feel that this acknowledgment from us is due to you.

When I say that this Bill is one step in the right direction, I am not oblivious of the serious blemishes which it contains and the great progress that still remains to be made in the direction in which this first move has been taken. As the front Opposition Bench, except for myself, is almost vacant, for one reason or another, I wish Government to take a lesson to heart from what has happened. I am sorry the Honourable the Prime Minister is not here, but I am bound to say that he, without meaning it I am sure, cruelly misrepresented the situation that arose on the amendment of Mr. Phadake. I only wished to make a brief reference to it and not to make any capital out of it. In moving that amendment Mr. Phadake was simply indicating the direction in which the Government have still to move; to call that progressive outlook as an extreme, and for Government to pose as the arbiter between one section and another was, to say the least, wholly inaccurate. These benches, small as they are, stand for unequivocal nationalism and will never try or ask for anything which they are not prepared to give to the rest of their countrymen. Therefore, I hope, Sir, in future Government benches who have still to live up to their reputation of nationalism, will beware before they criticise these benches on a matter of this kind and make any allegation that these benches stand for anything except for unalloyed nationalism and it is from that point of view that Mr. Phadake moved his amendment.

I agree with Mr. Jhabvala that this Bill contains many blemishes. We have put up with them for the time being because the first step taken may accelerate the process and this single step taken now will proceed at an accelerated pace until the whole attitude of Government becomes unalloyed nationalism. Today, we see there is separate representation for one section, reservations for others, appointment by Government, choice for this and discretion for that, but there is no constituency which stands for citizens as a whole. Even in the small district local board elections are still to be disfigured by these blemishes and spots of communalism. Instead of Government resting content with what little they have done, they should remember that they have still a large leeway to make and the less they compromise with reactionary forces the

[Mr. Jamnadas M. Mehta]

better; the less they apologise for the slightest good thing that they are doing the better; the more they retain their foot firmly on the true ground of nationalism the better; and I hope before this Government goes out, they will have removed from the statute book these blemishes and these black spots of communal representation. I say this for this reason that communal representation in local bodies is not to be found even in the wretched Communal Award, nor was it sanctioned by the Lucknow Pact of 1916. This Bill is yet another excursion into communalism which is not justified even on the basis of the Lucknow decision of 1916 and this Communal Award of 1935, and if Government had taken courage in both hands, as some Governments outside this provinces have taken, they need not have apologised and gone down on their knees and almost prostrated and rubbed their noses before the reactionaries for doing this little bit of a good thing. If they take a lesson from all this, the better for all of us.

Then, Sir, they have taken an enormous power of rule-making under this legislation. It is true that such powers existed under the old Act, but now that nominations have been discredited, and abolished, I agree with Dr. Ambedkar's protest made the other day that too much of rule-making power should not be left in the hands of Government and with his demand that the rules to be made, must be placed on the table of this House and until they are adopted, they should not be operative. I do not know whether Government will voluntarily do this or not, but if they believe in democracy, they will do so, so that it cannot be said that they have used what amounts to the power of nomination after having done away with nominations from the statute. I do hope that they will do so. Otherwise there is every danger of gerrymandering the electorates, the constituencies, and defeating the object with which nominations have been dispensed with and making this fact just a matter of convenience of the parties in power. Subject to these observations, Sir, I once more heartily congratulate the Government for having taken the first step and I must couple these congratulations with my humble congratulations to you, Sir, and to the honourable member Mr. Shrikant who congratulated the Government and everybody else. Sir, he deserves congratulations more than anybody else for having devoted a whole life-time to the service of the Bhils who are for the first time recognised in this statute.

Sir, I support.

Mr. S. H. JHABVALA (Railway Unions): Sir, I object to the third reading of this Bill. Under Standing Order VIII, 11, (2) (a), page 30 of the Assembly Manual, it is laid down that where objections are brought forward, the motion for the third reading should be made again at a future meeting and then the Bill may be read a third time. Under this clause, Sir, I beg to submit that the Congress Government will think over the whole problem and will also consider the situation that has been created as the result of their own making and will bring up the Bill for the third reading at a future date and not today.

[Mr. S. H. Jhabvala]

Sir, for emphasising this point of objection, I have got my particular grounds. The Congress Government are today at a handicap. They have themselves accepted this position under the Government of India Act. The Government of India Act has laid out particular entanglements in which the Government have to wade their way to power with the help of Indian Nationalists. They have got a feeling of nationalism. I feel it. They are all my brothers, but if at the same time that nationalism cannot be directed in a proper channel as is required by the economic and the political exigencies—

The Honourable the SPEAKER: The Standing Order, paragraph 2, gives the Speaker power to suspend this particular provision, and before I declare that I have suspended that provision, I should like the honourable member to tell me very briefly, in three sentences, what his objections are, as to why the Bill should not be read a third time. He should not make any speech on the merits before he gives the explanation.

Mr. S. H. JHABVALA: My objections are (1) that under the existing Bill there has been brought in compulsion of separate electorates which feature is detrimental to the country even in the Government of India Act and has been continued by the present action of the Ministry (2) under this new Bill has also been brought in compulsion of acceptance of option to particular community. These are two important objections. Thirdly, there has also been reservation of seats. All of these three are opposed fundamentally to the principles of sound democracy. Sir, these are my objections, in three lines.

The Honourable the SPEAKER: These are all objections on the merits of the provisions of the Bill. There seems to be no particular valid objection as to why the Bill should not be read a third time. In fact, I may remind the House that notice to that effect had been given from the beginning and even yesterday it was agreed by the House, by the whole House, that the Bill would be taken or gone through all the stages. I do not, therefore, think that the objections are valid ones and I suspend this provision and allow the third reading of the Bill.

Mr. S. H. JHABVALA: Sir, I was saying that the Congress Government had accepted office entangled as they were under particular restrictions imposed upon them by the Government of India Act, but at the same time they were inspired by a certain feeling of nationalism which caused them to bring in a measure purporting a certain amount of social democracy. Guided by these forces, they have attempted to bring in this Bill. But looking to the practical results at the end of the second reading, we find that the very people to whom they were trying to attempt to do some good have deserted the benches. This is the practical achievement immediately before their eyes. Why has this been done? The point that I was emphasizing right away from the beginning at the time I submitted my amendment was that the basis of

[Mr. S. H. Jhabvala]

representation should be enlarged on principles which should not look upon human beings as so many Hindus and as so many Muslims. Under

3-30 p.m. such circumstances, a new ideology was created, entirely a different stage was created, which was totally afar from the required economic situation of the day. As I said in the beginning, the country does not mean so many different communal beings, but the country means so many fields, so many factories and so many forests. If the Honourable Minister had taken this hint at the time that he negotiated certain terms with the opposite benches of Mussalmans and Achhuts, at that time if he had thought of this thing and had taken advantage of it, if he had talked to his friends and negotiated with them on these terms, viz., that the representation was for both the peasants and the working classes, for Mussalman workers and the Hindu workers, I am quite sure that the present deserted appearance would not have been in evidence before the eyes of the Congress Government. But then that advice was never taken to heart, and I am sure, situated as they are, they will never take it perhaps, but they are feeling the bitter consequences before their very eyes.

The Honourable the SPEAKER: All that has been stated by the honourable member during the course of his amendments. Has he any special ground to urge now as to why the third reading should not be accepted ?

Mr. S. H. JHABVALLA: These particular items were not properly listened to by the Government. However, I will not cross the same ground over again. Taking therefore the attitude of the House—because I know the House is not in a mood to accept opposition—I briefly put these three points before them, that the whole Bill is against the true principles of democracy, in view of the fact that it allows separate electorates, it allows reservation of seats, and it allows local option to particular communities. Under these circumstances, I object to the third reading of the Bill.

The Honourable Mr. L. M. PATIL: Sir, I never thought when I moved this Bill in the House that it would take such a long time to get through. I thought it would be finished within an hour or at the most within a day. But it has taken as much as four days. The Bill is described by some as an empty shell and by others as a mouse; still, the attention of all the parties and of all the groups was concentrated on this Bill. If it does not contain anything, I fail to understand why it should have aroused so much bitterness in the minds of certain groups. Three groups have already left the House. Unfortunately, they have misunderstood the whole intention of Government. We are not oblivious to the imperfections of the Bill. Nothing is perfect in this world. We have tried our level best to remove certain defects which required to be removed.

[Mr. L. M. Patil]

The Bill contains three main provisions. One is the abolition of nominations, the other is the reservation of seats and the third is the provision of local option for joint electorates in the case of Mahomedans. There are two extreme views on each of these provisions. We have tried to reconcile them and to find out a middle path, the golden mean, and it has unfortunately dissatisfied these two extreme views, because some say we have not gone far enough, while some say that we have gone too far. Under the circumstances in which we are placed and the legacies we have inherited, we could not follow the principles to the letter. Still, I can say that the charge levelled by the honourable member Mr. Jamnadas Mehta has no ground; we do not deserve it. We did not try to rub our noses before anybody in order to placate the minorities, but we at the same time do not wish to force reforms on the minority communities and thus create bitterness unnecessarily. We stand for certain principles and for a certain programme, and we have come here to carry it out boldly, courageously and independently, without caring for anybody. Let the different communities or groups say anything, let them misunderstand the Government. But one thing is certain, that I have made the principles of the Congress regarding the questions incorporated in the Bill quite clear and I have also made clear how the Congress intends to carry them out, and it is no boast but I can say this much that we have acted independently and taken a bold stand, so far as the principles introduced in this Bill are concerned. With these words, I conclude.

Question, "That the Bill be read a third time," put, and agreed to.

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

The House then adjourned till 2 p.m., on Monday, the 24th January 1938.

Monday, the 24th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Monday, the 24th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 DABHI, Mr. FULSINHJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, Mr. KHANDUBHAI K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAPURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.

GILDER, the Honourable Dr. M. D. D.
 GORHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDA PA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIR • O
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.

NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.

VAGHELA, Mr. B. U.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

STARRED QUESTIONS-AND ANSWERS.

GRANTS FOR PRIMARY AND SECONDARY EDUCATION OF ANGLO-INDIANS, ETC. IN 1934-35 AND 1936-37.

*Mr. R. R. BHOLE (Poona West) : Will the Honourable the Prime Minister be pleased to state—

(a) the amounts of grants, recurring and non-recurring given by Government during the years 1934-35 and 1936-37 for primary and secondary education of Anglo-Indians, Mahomedans and of the Scheduled castes ;

(b) the total amount of grants sanctioned for primary and secondary education during those years ?

The Honourable Mr. B. G. KHER : (a) Budget grants (recurring and non-recurring) for Primary and Secondary education of European and Anglo-Indian communities were as follows :—

1934-35	.. Rs. 4,53,700 (including Sind).
1936-37	.. Rs. 4,39,700 (excluding Sind).

As regards the grants (recurring and non-recurring) for Primary and Secondary education of Muhammadans and of the Scheduled castes, Government regret that they are unable to supply the information required as budget allotments are not made separately for these communities and it is not possible to work out accurately the amounts which can be said to have been spent for their education from the total amounts spent for all Indian communities.

(b) They were as follows :—

	Primary Education.	Secondary Education.
1934-35	.. Rs. 1,16,17,900 (including Sind).	Rs. 26,18,200 (including Sind).
1936-37	.. Rs. 1,04,67,300 (excluding Sind).	Rs. 22,05,200 (excluding Sind).

Mr. S. L. KARANDIKAR : In the reply it is stated that separate allotments for Mahomedan education are not made in the budget grant. So far as primary education is concerned, am I right in supposing that all the Urdu-Vernacular and Vernacular-Urdu schools are meant for Mahomedans and expenditure over them is for Mahomedans ?

The Honourable Mr. B. G. KHER : I have not followed the question. Will the honourable member repeat it ?

Mr. S. L. KARANDIKAR : It is said in the reply that no separate allotment is made in the grant for Mahomedan education. As regards primary standards or schools that go under the name Urdu Vernacular schools or Vernacular Urdu schools—they are all Mahomedan schools, so far as I understand, and expenditure on them is expenditure on Mahomedan education. Why was not that given here ? No separate allotment need be made, but still that expenditure is the expenditure that Government incurs on Mahomedan primary education, and instead of saying no allotment has been made, was it not necessary for the Government to say that this is the expenditure that has been incurred on Mahomedan primary education ?

The Honourable Mr. B. G. KHER : I do not agree with the honourable member, in the first place, as to the accuracy of his presumption. I am not in a position to say whether all these schools are Mahomedan schools and I would require notice ; and, secondly, what I find is this. The way in which these two figures could be separately worked out was somewhat as follows. I see that the honourable member Mr. Bhole, who put the original question, has not put any supplementary question, but in order to convince him that we made an attempt to find out separately whether it would be or it would not be possible to work out these figures, I shall say that we made an attempt somewhat on the following lines :—

The total expenditure of Government on secondary education was taken up first. Then, from this we deduced the expenditure per pupil. Then we multiplied it by the number of Mahomedan pupils and the number of scheduled class pupils, and so we got certain figures, but we immediately found that these figures were not accurate. These figures will show that expenditure incurred in 1936-37 is less than that incurred in 1935-36, but as a matter of fact the expenditure is less not because per capita less was awarded but because the whole expenditure in itself was less. And, therefore, proportionately no less amount was awarded either for Mahomedan or for scheduled class education. Of course, for Mahomedan secondary education there are Urdu Arabic teachers and scholarships etc., and in the case of backward classes there are grants to hostels paid by Government to the Backward Class Officer. All these figures could be shown separately. If it is possible to deduce any figures, attempts would be made, but it is very difficult indeed.

Mr. D. G. JADHAV : Does Government consider that these two communities, the Mahomedans and Scheduled Classes, are advanced in education ?

The Honourable Mr. B. G. KHER : It is a very difficult question to answer which is less advanced and which is more advanced. I am quite willing to concede that both are backward, but the degree of comparative merit I shall have to assess and, if required, after due notice, I shall answer the question. At the moment, I am prepared to admit that both are backward.

Mr. D. G. JADHAV : Why have not grants been made separately to Mahomedans and to Scheduled Classes ?

The Honourable Mr. B. G. KHER : More money is spent for Mahomedans and for scheduled classes' education already, as the honourable member knows. Immediately this Government came into being, a grant was made for the purpose of hostels and for scheduled class education. Similarly, from this budget attempts are being made to give more encouragement to Mahomedan education as well, as both are very backward educationally.

Mr. D. G. JADHAV : Is it in proportion to the population of the scheduled classes and Mahomedans that grants have been given for education ?

The Honourable Mr. B. G. KHER : I cannot answer that without notice, but I do not think this is so.

Mr. S. L. KARANDIKAR : Does Government take literacy as a test of a community being advanced ?

The Honourable Mr. B. G. KHER : Not only literacy.

Mr. S. L. KARANDIKAR : Will the Honourable the Prime Minister accept it as a fact that the Mahomedan community, so far as literacy is concerned, is a bit in advance of the Hindu community as a whole in this presidency ?

The Honourable Mr. B. G. KHER : On information I am inclined to agree, but in order to answer, I require verification and I will answer the question after verification.

Mr. D. G. JADHAV : Will the Honourable Minister for Education continue this kind of lump grant in the amalgamation method for scheduled classes and Mahomedans in future ?

The Honourable Mr. B. G. KHER : If the honourable member has any suggestions, then they will be taken into consideration ; otherwise, of course, it is impossible to answer that question.

Mr. S. H. JHABVALA : As regards the answer to (b), will Government enlighten the House as to the policy which Government pursue as regards the whole Education Department in the matter of granting aid to primary schools and secondary schools in Bombay ?

The Honourable Mr. B. G. KHER : I do not think that question could be answered as arising out of the question that is before the House and I require notice.

Mr. S. H. JHABVALA : Will Government be pleased to say whether it is not a fact that certain schools that have been receiving aid for the last so many years are still continuing to receive aid and others, in spite of their applications, have been refused aid on no tenable grounds ?

The Honourable Mr. B. G. KHER : I cannot admit that it is not on any "tenable" ground.

Mr. S. H. JHABVALA : Will Government be pleased to submit a list of Bombay schools to which aid has been consistently given for the last five or six or ten years ?

The Honourable the SPEAKER : That question does not arise.

(RECRUITMENT OF SCHEDULED CASTES CANDIDATES TO CLERICAL POSTS IN PUBLIC WORKS DEPARTMENT.)

(*Mr. B. K. GAIKWAD (Nasik West) : Will the Honourable Minister for Public Works be pleased to state—)

(a) the number of clerks belonging to the Advanced classes, the Intermediate classes, the Backward classes, the Scheduled castes, the Mohamedan, Christian, and other communities respectively in the Public Works Department in each district of the Province of Bombay ;

(b) whether it is the declared policy of Government to give preference to candidates belonging to the Depressed classes in making clerical appointments in the Public Works Department in the districts ;

(c) if so, what is the number of candidates belonging to the Advanced Classes, the Intermediate Classes, the Backward Classes, the Scheduled castes, the Mohamedan, Christian and other communities respectively appointed to the posts of clerks in the Public Works Department in each district since the above policy was declared by Government ?

The Honourable Mr. M. Y. NURIE : (a) and (c) The information is given in the accompanying statement.)

(b) Yes. Circular orders have been issued to all the local officers under the different Departments regarding the minimum recruitment to clerical establishments of suitable candidates from the educationally backward communities.)

I

Statement showing the present number of clerks in the Public Works Department offices from the different communities.

	Advanced classes.	Intermediate classes.	Backward classes.	Scheduled classes.	Mahomedans.	Christians.	Other classes.
Northern Circle ..	101	16	8	..	9	11	..
Central Circle ..	129	21	..	8	11	4	..
Deccan Irrigation Circle.	116	25	1	1	10	2	2
Southern Circle ..	61	35	2	2	11	7	..
Electoral Circle ..	24	11	..	1	..	4	..
Consulting Public Health Engineer's Office.	5	..	1	..	..	..	..

II

Statement showing the number of clerks appointed in the Public Works Department offices from the different communities since orders regarding recruitment of candidates from the educationally backward communities were first issued in 1923.

	Advanced classes.	Intermediate classes.	Backward classes.	Scheduled classes.	Mahomedans.	Christians.	Other classess.
Northern Circle ..	22	10	~1	..	10	7	..
Central Circle ..	51	31	..	3	14	10	..
Deccan Irrigation Circle.	36	15	1	1	8	1	4
Southern Circle ..	29	44	7	4	9	7	..
Electrical Circle ..	8	9	..	1	..	3	..
Consulting Public Health Engineer's Office.	The Public Health Branch was reduced from time to time and was finally drastically reorganised in 1933. In the absence of the old records transferred to the various Public Works Department offices, the information required is not therefore available.						

Mr. K. S. SAVANT : According to the statement showing the present number of clerks in the Public Works Department from the different communities, can you see that the number of advanced class is far in excess ?

The Honourable Mr. M. Y. NURIE : It is evident.

Mr. G. K. PHADKE : Are any female clerks appointed in this establishment ?

The Honourable Mr. M. Y. NURIE : I want notice.

Mr. K. S. SAVANT : Can you not see from statement No. 1 that the number of scheduled class and backward class shown is very low ?

The Honourable Mr. M. Y. NURIE : It is evident.

Mr. B. K. GAIKWAD : In view of the low number of clerks from the scheduled and backward classes in this establishment, is it not possible for Government to increase the recruitment from these classes ?

The Honourable Mr. M. Y. NURIE : I draw the attention of the honourable member to reply to part (d).

Mr. B. K. GAIKWAD : May I know what the circular is ?

The Honourable Mr. M. Y. NURIE : It is a circular of 1934.

Mr. B. K. GAIKWAD : What is the substance of that circular ?

The Honourable Mr. M. Y. NURIE : If the honourable member gives notice, he can get a copy of the circular.

Mr. B. K. GAIKWAD : May I know whether the appointments that have been made since 1923 have been made with due regard to the proportion of the different communities ?

The Honourable Mr. M. Y. NURIE : They might have been made so.

Mr. B. K. GAIKWAD : May I know whether efficient candidates are not coming forth from the backward and scheduled castes ?

The Honourable Mr. M. Y. NURIE : That is what follows.

Mr. G. K. PHADKE : Will Government take into consideration the claims of the educated unemployed women ?

The Honourable Mr. M. Y. NURIE : This claim has never been made and any suggestion made to Government in regard to this will be considered.

PRIVATE TAXIS PLYING FOR HIRE.

*Mr. S. H. JHABVALA (Railway Unions) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) what steps the Police authorities have taken in the matter of private cars plying for hire in Bombay ;

(b) whether Government are satisfied with the steps so far taken and whether they propose to take further steps to end the illegal business ;

(c) whether Government should not modify the existing Motor Vehicles Rules for the purpose of suppressing the said business ?

The Honourable Mr. K. M. MUNSHI : (a) During the year 1937, the Commissioner of Police sanctioned prosecutions in 36 cases for unlicensed plying. In addition, prosecutions were launched in 344 cases for causing obstruction in localities where these vehicles ply and the registrations of 83 vehicles suspected of unlicensed plying have been suspended for mechanical defects. Orders have also been issued by the Commissioner of Police that in serious cases of obstruction, action should be taken under section 283 of the Indian Penal Code, while in successful cases the driving licences of the offenders will be suspended under rule 5-A of the Bombay Motor Vehicles Rules, 1915.

(b) and (c) Government are satisfied that the police officers have taken such action as was possible in the cases which came to their notice. Government have also proposed amendments to rules 58, 87 and 91 of the Public Conveyances (Motor Vehicles) Rules, 1922, and the amendments have been published provisionally in Government Notification, Home Department, No. 9082/3, dated 4th January 1938, to invite suggestions or objections from the public.

Mr. S. H. JHABVALA : Supplementary to—

The Honourable the SPEAKER : The honourable member must first put the question to get an answer and then he may ask supplementary questions.

Mr. S. H. JHABVALA : I shall follow the usual formality. Question No. 1.

The Honourable Mr. K. M. MUNSHI : As printed.

Mr. S. H. JHABVALA : The total number given here is 344. Is that the total number of taxis plying for hire in Bombay City ?

The Honourable Mr. K. M. MUNSHI : It is the total number of prosecutions and not the number of private taxis.

Mr. S. H. JHABVALA : Am I to understand that Government have failed to prosecute the remaining number of private taxis in addition to 344 ?

The Honourable Mr. K. M. MUNSHI : The public are unwilling to give evidence. That is the difficulty of Government in prosecuting private owners of taxis.

Mr. S. H. JHABVALA : May I know whether Government contemplate a measure by which this illicit traffic can be put down ?

The Honourable Mr. K. M. MUNSHI : Draft amendments to rules 58, 87 and 91 which are published would have the effect of securing the object of the honourable member.

Mr. S. H. JHABVALA : May I draw the attention of the Honourable Minister to the fact that these amendments now published will not be satisfactory ?

The Honourable Mr. K. M. MUNSHI : The provisions will be tried after they are actually embodied in the rules.

Mr. S. H. JHABVALA : May I ask the Honourable Minister whether the taxi trade cannot be made better than what it is now ?

The Honourable Mr. K. M. MUNSHI : It has been quite rightly safeguarded so far.

Mr. ALI BAHADUR BAHADUR KHAN : In regard to part (b) of the answer, may I know whether any complaints have been received from the taxi owners or drivers and whether any prosecutions were launched on the information given ?

The Honourable Mr. K. M. MUNSHI : I want notice.

Mr. S. H. JHABVALA : May I know whether the highest amount of fine was imposed upon persons who are the offenders and, if so, what was it ?

The Honourable Mr. K. M. MUNSHI : I want notice.

The Honourable Mr. B. G. KHER : As regards the next question by the honourable member Mr. Karandikar, may I request the honourable member to put his second question first ? I ask for priority for the second question, because I am required elsewhere.

LEAVE OF ABSENCE OF A PARLIAMENTARY SECRETARY
FROM HEADQUARTERS OF GOVERNMENT.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable the Prime Minister be pleased to state—

(a) whether it is a fact that Mr. Gulzarilal Nanda is a Parliamentary Secretary to one of the Ministers of the Bombay Government ;

(b) whether it is a fact that Mr. Nanda had gone to Cawnpore on or about the 27th September 1937 to help the U. P. Cabinet in settling some labour dispute ;

(c) if so, on what date did Mr. Nanda resume his duties with the Bombay Government ;

(d) what was the nature of the leave of absence granted to Mr. Nanda ?

The Honourable Mr. B. G. KHER : (a) Yes.

(b) Mr. Nanda did not go to Cawnpore on or about the 27th September 1937. He was permitted to go to Cawnpore to help the Committee of Enquiry (Labour) appointed by the U. P. Government and he reached that place on the 20th October and remained there for three days for the settlement of the labour dispute.

(c) Mr. Nanda proceeded from Cawnpore to Calcutta to attend the Conference of Ministers and Parliamentary Secretaries for Labour held there for the co-ordination of the Labour programme of the several Provincial Governments. He returned to Bombay on the 4th November 1937.

(d) Mr. Nanda was on deputation and not on leave.

Mr. S. L. KARANDIKAR : It is stated in the answer that the honourable member Mr. Nanda reached Cawnpore on the 20th of October. May I know when he left headquarters ?

The Honourable Mr. B. G. KHER : He left Bombay on the 15th October.

Mr. S. L. KARANDIKAR : Is it to be understood that Mr. Nanda, though he was on deputation, did not receive any allowances or salary from any other provincial government or from any other public organisation ?

The Honourable Mr. B. G. KHER : I may mention to the honourable member that the honourable member Mr. Nanda did not receive any allowance from the Bombay Government at all. As regards his travelling expenses also, even though he was on deputation, he did not get any travelling allowance from the Bombay Government. Whether he was paid by the United Provinces Government, I cannot answer that question without notice. I do not know whether we could write to the United Provinces Government to enquire whether they paid it. The honourable member Mr. Nanda is not here. Otherwise, I could have anticipated the honourable member and given him the information whether the honourable member Mr. Nanda got his train fare from the United Provinces Government. But the Bombay Government paid neither the allowance nor the fare.

Mr. S. L. KARANDIKAR : Am I to understand that the other Parliamentary Secretary also did not receive any allowance ?

The Honourable Mr. B. G. KHER : I am reminded of another Parliamentary Secretary, who may be the honourable member Mrs. Hansa Mehta. I am quite sure about the honourable member Mr. Nanda. I am not sure about the honourable member Mrs. Hansa Mehta. I will enquire and inform the honourable member later on if he so desires.

Mr. R. A. KHEDGIKAR : Does the Honourable Minister know whether the honourable member Mr. Nanda is getting any salary from the Ahmedabad Labour Association ?

The Honourable the SPEAKER : Order, order.

Mr. S. H. JHABVALA : It is stated in the answer that the honourable member Mr. Nanda went there to settle the dispute. I want to know whether he went there to settle the dispute or add to confusion worse confounded ? (*No answer.*) The purpose of his visit is stated and not the result of his visit in the answer. May I know whether, because the United Provinces Government follow the labour policy of the Bombay Government, the honourable member Mr. Nanda was requisitioned by that Government ?

The Honourable the SPEAKER : That question does not arise.

Mr. S. H. JHABVALA : May I know whether the honourable member Mr. Nanda was thought to be a sufficiently fit person for the settlement of the labourers' disputes in Cawnpore ?

The Honourable Mr. B. G. KHER : From the fact that I received half a dozen telegrams from the Premier of the U. P. Government, I presume that must have been his opinion.

RELEASE OF ONE WAMAN BABURAO CHAVAN, A PRISONER
IN YERAVDA CENTRAL PRISON.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that one Waman Baburao Chavan is a prisoner in the Yeravda Central Prison ;

(b) if so, when and for what offence was he convicted ;

(c) whether it is a fact that several public organisations have passed resolutions and made representations to Government concerning his release ;

(d) whether Government are aware that in the course of his trial at the Bombay High Court Criminal Sessions he made a statement that he was prompted to fire shots at Mr. Sweetland, because he wanted to cause terror in the minds of Government officials ;

(e) whether Government are aware that the said Chavan no longer wants to cause terror in the minds of Government officials ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) He was convicted on the 14th August 1934 for the following offences (1) attempt to murder, (2) attempt voluntarily to cause grievous hurt, (3) voluntarily causing hurt by a dangerous weapon and (4) possessing arms and ammunition without a licence.

(c) Government have received a copy of a resolution passed at a public meeting held on the 30th August 1937 under the auspices of the Dadar Hindu Maha Sabha and representations from Messrs. S. V. Deodhar of Bombay and R. N. Mandlik, M.L.A.

(d) The statement made by Chavan was as follows : " I did not throw the dagger nor did I fire the revolver with the intention of killing any one. Nor did I go into the compound. There were many riots in Bombay. In order to frighten the authorities I fired the revolver."

(e) No.

Mr. S. L. KARANDIKAR : With reference to (c), is Mr. S. V. Deodhar a legal representative of Mr. Chavan ?

The Honourable Mr. K. M. MUNSHI : I do not know.

Mr. S. L. KARANDIKAR : I believe the reply is to the effect that they have a representation from Mr. Deodhar.

The Honourable Mr. K. M. MUNSHI : But I want notice to say whether Mr. Deodhar is or is not a legal representative.

Mr. S. L. KARANDIKAR : The reply admits the fact—

The Honourable the SPEAKER : No argument please.

Mr. S. L. KARANDIKAR : I am just putting it to you because it is a matter of the rights of a member putting interpellations. The answer admits the fact that a representation has been received, and yet in reply to a supplementary question directly arising out of that answer, the Honourable Minister says that he wants notice. Is that correct ?

The Honourable the SPEAKER : He wants notice, and that is enough. It cannot be discussed any further.

Mr. R. N. MANDLIK : What is the reply given by Government to the representations of Messrs. Deodhar and Mandlik ?

The Honourable Mr. K. M. MUNSHI : That the representations are receiving attention.

Mr. K. F. NARIMAN : What is the term for which Mr. Chavan was sentenced ?

The Honourable Mr. K. M. MUNSHI : He was sentenced for seven years in 1934.

Mr. R. N. MANDLIK : When is the consideration of the representations going to end ?

The Honourable Mr. K. M. MUNSHI : As soon as the consideration is completed.

Mr. S. L. KARANDIKAR : In the reply it is stated that Government is not aware of the intentions of Mr. Chavan. Will Government accept the assurance by an honourable member of this House ?

The Honourable Mr. K. M. MUNSHI : This is a suggestion for action ; it is not a question.

Mr. S. L. KARANDIKAR : I do not contemplate any action being taken by Government. I am simply asking whether an assurance will be accepted by Government ?

The Honourable Mr. K. M. MUNSHI : It is suggestion for me to act upon,—that somebody should give an assurance and Government should act upon it.

Mr. S. L. KARANDIKAR : Will you accept the assurance ? I do not want any action to follow.

The Honourable Mr. K. M. MUNSHI : After it is given, Government will consider it.

Mr. R. N. MANDLIK : Is Mr. Chavan considered a political prisoner ?

The Honourable Mr. K. M. MUNSHI : The term " political prisoner " has not been defined so far in law.

Mr. R. N. MANDLIK : It has been stated in the Congress Election Manifesto that Congress is pledged to release all political prisoners.

The Honourable the SPEAKER : Order, order.

Mr. S. L. KARANDIKAR : It may not be defined in law. But do Government not know who is a political prisoner ?

The Honourable the SPEAKER : That question does not arise.

Mr. R. A. KHEDGIKAR : Will the Honourable Minister be pleased to state when the representations were received ?

The Honourable Mr. K. M. MUNSHI : One was received on the 6th of September 1937, and the other from Mr. Deodhar is dated 19th September 1937.

**EXPENDITURE NOT COUNTED FOR GRANT BUT ADMITTED AGAINST
PRIMARY EDUCATION FUND OF LOCAL AUTHORITIES.**

*Mr. KANJI GOVIND KERSON (Thana South): Will the Honourable the Prime Minister be pleased to state—

(a) what is the total amount of expenditure which is not counted for grant but which is admitted against the Primary Education Fund of every Local Authority in the Province of Bombay;

(b) whether Government intend to take steps to admit it for grant?

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

(b) Government intend to make the necessary provision for the payment of Government grant on the admissible expenditure of local authorities in the ensuing year's budget estimates.

Statement showing amount of admissible expenditure incurred by local authorities which is not counted at present for Government grant.

Name of the Local Authority.	Amount of admissible expenditure incurred during 1935-36 not counted for Government grant.
1	2
DISTRICT LOCAL BOARDS.	Rs.
<i>Bombay Division.</i>	
1. Kolaba	8,652
2. Nasik	2,771
3. Ratnagiri	22,800
4. Thana	29,354
5. Bombay Suburban District	9,558
<i>Central Division.</i>	
6. Poona	3,886
7. Satara	35,765
8. Sholapur	42,744
9. Ahmednagar	2,963
10. East Khandesh	50,015
11. West Khandesh	25,905

Name of the Local Authority.	Amount of admissible expendi- ture incurred during 1935-36 not counted for Government grant.
1	2
<i>Northern Division.</i>	
12. Ahmedabad	Rs. 1,341
13. Broach	460
14. Kaira	593
15. Panch Mahals	727
16. Surat	13,521
<i>Southern Division.</i>	
17. Dharwar	4,784
18. Belgaum	51,076
19. Bijapur	1,905
20. Kanara	1,742
Total for District Local Boards ..	3,10,562
MUNICIPALITIES.	
<i>Bombay Division.</i>	
21. Bandra	4,159
22. Thana	7,794
23. Nasik	4,469
24. Malegaon	5,689
25. Vengurla	2
26. Kalyan	1,970
27. Chiplun	1,005
<i>Central Division.</i>	
28. Poona City	37,982
29. Poona Suburban	5,509
30. Lonavla	1,613
31. Baramati	48

Name of the Local Authority.	Amount of admissible expenditure incurred during 1935-36 not counted for Government grant.
1	2
<i>Central Division—contd.</i>	
	Rs.
32. Satara	729
33. Sholapur	26,919
34. Pandharpur	1,630
35. Barsi	6,619
36. Ahmednagar	2,602
37. Jalgaon	13,535
38. Amalner	4,470
39. Dhulia	2,598
40. Nandurbar	645
<i>Northern Division.</i>	
41. Bulsar	222
42. Nadiad	10
43. Rander	2,420
44. Dohad	1,679
45. Surat	4,281
46. Godhra	2,045
47. Broach	8,912
48. Viramgaum	1,364
<i>Southern Division.</i>	
49. Dharwar	1,468
50. Hubli	7,511
51. Gadag Bettigeri	6,962
52. Bagalkot	244
53. Bijapur	8,479
54. Nipani	446
Total for Municipalities ..	1,76,030

Name of the Local Authority.	Amount of admissible expendi- ture incurred during 1935-36 not counted for Government grant.
1	2
CANTONMENTS.	
	Rs.
55. Deolali	640
56. Ahmedabad	312
57. Belgaum	420
Total for Cantonments ..	1,372
Grand Total ..	4,87,964

Mr. KANJI GOVIND KERSON: With reference to part (b), from what year will the grant be made?

The Honourable Mr. B. G. KHER: The provision is being made in the ensuing year's budget.

Mr. KANJI GOVIND KERSON: Will grant be paid for the past years?

The Honourable Mr. B. G. KHER: No.

ACTION OF INSPECTOR OF POLICE, PATHAN BRANCH, BOMBAY,
IN CALLING PATHAN AND PUNJABI SARANGS TO SEE HIM.

*Mr. MIRZA AKHTAR HASAN (Seamen and Dock-Workers Trade Unions): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether Government are aware that Pathan and Punjabi Sarangs are employed by Shipping Companies in Bombay;

(b) whether Government are aware that after their employment by the Companies they are required by the Inspector of Police, Pathan Branch, to see him;

(c) if so, under what provision of law?

The Honourable Mr. K. M. MUNSHI: (a) Yes.

(b) No. In particular cases the Shipping Companies refer these Sarangs to the Pathan Inspector who advises the Companies in cases where he apprehends any likelihood of breach of the peace or commission of any offence.

(c) Does not arise.

Mr. S. L. KARANDIKAR : With reference to part (b), does Government think that a Pathan Inspector is the right man to advise companies as to breaches of the peace and commissions of offences ?

The Honourable Mr. K. M. MUNSHI : Yes.

Mr. MIRZA AKHTAR HASAN : Has Government ever heard that there was a breach of the peace in the shipping offices or shipping companies ?

The Honourable Mr. K. M. MUNSHI : I want notice.

The Honourable the SPEAKER : I suppose the expression "Pathan Inspector" means an officer for the inspection of the Pathans.

The Honourable Mr. K. M. MUNSHI : He is a Pathan.

Mr. MUSAJI E. PATEL : He is invariably a Pathan.

ALLEGED GRIEVANCE OF MUSLIM COMMUNITY REGARDING FAIR
REPRESENTATION IN PUBLIC SERVICE.

*Mr. MUSAJI E. PATEL (Broach Sub-Division) : Will the Honourable Minister for Home Department (and Legal) be pleased, to state—

(a) whether it is a fact that the appointment of Mr. A. A. A. Faizee, Bar-at-Law, as officiating Judge of Small Causes Court, Bombay, was made when Mr. S. E. Kurwa, Judge of that Court, proposed to go on leave in June last ;

(b) whether it is a fact that the appointment was subsequently cancelled as Mr. Kurwa cancelled his leave ;

(c) whether it is a fact that Mr. A. C. Amin has been appointed to act as a Judge of the Small Causes Court, Bombay, in place of Mr. S. E. Kurwa who has proceeded on leave with effect from 15th September 1937 ;

(d) whether the claims of Mr. Faizee were considered while making the appointment ;

(e) if so, what were the reasons for not appointing him this time ;

(f) whether it is a fact that out of the six Judges in the Small Causes Court, Bombay, there is not a single Mahomedan Judge at present ;

(g) whether it is the policy of Government to secure a fair admixture of all the communities in the Public Services ;

(h) if so, whether Government are aware that there is a departure from this policy so far as the Muslim community is concerned ?

The Honourable Mr. K. M. MUNSHI : (a) and (b) Government had decided to appoint Mr. Faizee in the leave vacancy of Mr. Kurwa who proposed to proceed on leave for 4 months and 7 days from the 7th June 1937, but effect could not be given to it as Mr. Kurwa withdrew his application for leave.

(c) Yes.

(d) Yes.

(e) Owing to the short duration of the vacancy, viz., 28 days, and the serious congestion of work in the Presidency Small Cause Court, Government decided to appoint an Advocate who had experience of work in that Court.

(f) There was no Muhammadan doing duty as a Small Cause Court Judge during Mr. Kurwa's absence on leave.

(g) Yes.

(h) There is a technical departure, the cause of which has been explained in the answer to clause (e).

Mr. W. S. MUKADAM : Will Government be pleased to state as to who took the initiative so far as this appointment was concerned ? That is to say, whether Government carried out the recommendations of some institution or some officer, or they made the appointment themselves.

The Honourable Mr. K. M. MUNSHI : These appointments are made on the recommendations of the High Court.

Mr. W. S. MUKADAM : May I know whether the High Court had recommended a few persons, out of whom Government had to pick up a certain person ?

The Honourable Mr. K. M. MUNSHI : I do not follow.

Mr. W. S. MUKADAM : May I know how many persons were recommended for this post by the Chief Judge ?

The Honourable Mr. K. M. MUNSHI : One only.

Mr. W. S. MUKADAM : May I know whether that one person was appointed ?

The Honourable Mr. K. M. MUNSHI : Yes.

Mr. S. L. KARANDIKAR : With reference to part (c), was Mr. Amin the only advocate who had experience of work in the Court ?

The Honourable Mr. K. M. MUNSHI : I cannot say that.

Mr. S. L. KARANDIKAR : My question is based directly on the reply given.

The Honourable Mr. K. M. MUNSHI : I cannot say he was the only man.

Mr. S. L. KARANDIKAR : Then the reply is faulty.

The Honourable the SPEAKER : Order, order.

Mr. S. L. KARANDIKAR : One more question. Is the report correct that Mr. Amin happened to be a junior to the Honourable Minister for Law and Order ?

The Honourable Mr. K. M. MUNSHI : Mr. Amin was reading in my chambers prior to 1929.

**FORCED LABOUR FROM AGRICULTURIST LABOURERS IN
THANA DISTRICT.**

*Mr. G. K. PHADAKE, (Thana South): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that the agriculturist labourers in certain parts of the Thana District are forced by Forest Officers to work in Forest areas though they may be engaged in their urgent agricultural operations of the season;

(b) if so, whether Government have considered the desirability of issuing immediate orders to the Forest Officers concerned not to use compulsion in this behalf;

(c) whether Government have also considered the advisability of giving daily wages to those agriculturist labourers who were compelled to work in Forest areas?

The Honourable Mr. MORARJI R. DESAI: (a) to (c) As one or two complaints have recently been made to Government about the employment of villagers on Forest works, the Chief Conservator of Forests has recently issued orders to the following effect under the instructions of Government:—

“Complaints are frequently being made against the Forest Department that villagers are forced to work on forest operations such as burning of fire lines, plantations, road making, etc., and that too without adequate wages in return.

2. The system of forced labour wherever it exists in connection with forest works should be stopped. Conservators should also enquire about the adequacy or otherwise of the rates of wages paid, and bring them up to the level of market rates for the kind of work and duration of labour per day. Wherever piece work rates are fixed these should approximate to the daily rates.

3. The statutory obligations of villagers to assist the Forest Department in return for rights and privileges are defined in section 79 of the Indian Forest Act. All work not falling within the category of that section should be fully paid for, and payments should be made direct to the workers and not through patils or third parties.”

**DECREASE IN INCOME FROM BETEL VINE OF AGRICULTURISTS IN
BASSEIN TALUKA.**

*Mr. G. K. PHADAKE (Thana, South): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that a major portion of the agricultural land in Bassein taluka is not Bagayat land;

(b) whether Government are aware that the income of the agriculturists from Betel Vine, which is the chief crop of the Bagayat land of the said taluka, is diminishing day by day for the last ten years continuously on account of a pest on this crop;

(c) whether Government are aware that the agriculturists depending on the Betel Vine crop are completely ruined on account of this diminishing of income every year?

The Honourable Mr. MORARJI R. DESAI: (a) In 1936-37 there were 4,064 acres under bagayat crops out of a total cropped area of 42,472 acres in Bassein taluka.

(b) About 15 years ago a wilt disease broke out in the betel-vine gardens of this taluka. The disease spread with great rapidity. As a result of the experiments carried out by a special staff of the Agricultural Department, effective control measures have been devised. They are described in leaflet No. 7 of the Agricultural Department, a copy of which is placed on the Assembly Table. Out of 500 acres under this crop over 100 acres are now treated. The area under the crop is not diminishing and the profits of cultivating this crop therefore do not seem to have fallen relatively to those of cultivating other crops. The income of betel vine growers has decreased both on account of the general fall in prices and the wilt disease.

(c) No. The growers do not depend solely on the betel-vine crop as they grow in rotation other crops like plantains, ginger and vegetables. Their income will increase with the adoption of the control measures recommended by the Agricultural Department.

Gratis.

[FIRST EDITION]

Department of Agriculture, Bombay.

LEAFLET No. 7 OF 1936.

(Replaces Leaflet No. 3 of 1932.)

CONTROL OF BETELVINE WILT.

About 15 years ago a deadly disease broke out in the betelvine gardens at Bassein in the Thana district. The disease has spread with such a great rapidity that there is now hardly a garden free from it. As a result of experiments done at Bassein, effective control measures have been devised, and these are now being followed by many betelvine growers. It is the purpose of this leaflet to give a short account of the disease and the methods of control.

SYMPTOMS.

The first visible sign of the disease is the darkening and drooping of the growing tip of the vine. The uppermost leaves then become yellow and limp, and drop at the slightest touch (Plate I, 9). Soon after the whole vine withers and dries up. The affected vine first turns brown at the "collar", and in a short time the underground part of it and the roots rot away. The diseased vine can easily be pulled out of the ground. Sometimes only the roots are affected, but the vine becomes stunted and dies sooner or later.

CAUSE.

The disease is caused by a minute fungus parasite which lives in the soil. Its body consists of minute thread-like strands which bear flask-shaped bodies called spores or "seeds" (Plate I, 1). During the rains these bodies (spores) form swarmspores which swim about in water and are thus distributed in a garden. The swarmspores then produce germ-tubes which enter a vine at the "collar" (Plate I, 2-9). The vine then turns brown at the collar and wilts.

In the absence of the vine, the fungus can live in the soil on decaying organic matter, so a diseased soil is a danger to the young vines.

CONDITIONS FAVOURABLE TO DISEASE.

The severity of the disease is greatly affected by weather conditions. These are as follows:—

- (1) Low temperature and moisture favour the production of swarmspores by the fungus, which swim about in rain or irrigation water.
- (2) Water helps to spread the swarmspores in the garden.
- (3) Short spells of warm weather after long rainy periods help the growth of the thread-like strands of the fungus in the tissue of the vine.

It will thus be seen that a long period of rain followed by warm, sunny weather causes severe wilting of vines in the garden. In the cold weather the disease is much less common due to low water-table of the soil and low temperature. The disease practically disappears in the hot, dry summer.

The other condition affecting wilt disease is the excessive use of castor cake followed by heavy irrigation. The disease is also virulent in low-lying situations and badly drained soils.

TREATMENT.

Prevention is better than cure.

Bordeaux mixture in the strength of 2-2-50 is the best treatment. It is poured around the base of vines by means of a watering can at the rate of 2 gallons per 10-foot row (*haral*). The mixture kills the fungus in the soil as well as stimulates the growth of the vine. The best results in control are obtained by improving the physical condition of the soil, since Bordeaux mixture to be effective must penetrate to the depth of the roots.

The following programme of treatment has been found to be very effective :—

(1) Treat the soil in *harals* with Bordeaux mixture 2-2-50 before planting in October-November.

(2) The second application should be made *immediately* after the vines have been lowered. Do not irrigate for two days after lowering of vines. Vines should be lowered about the middle of May.

(3) The subsequent application should be made once in each month during the rains from June to September.

(4) Whenever the disease is noticed in any part of the garden during the monsoon, treat the infected *harals* *immediately* to prevent infection from spreading to other parts.

In addition to the treatment of the gardens with Bordeaux mixture, the following points should also be borne in mind :—

- (1) Avoid planting vines in low-lying areas as they are difficult to drain.
- (2) Plough or turn up the soil by hand-digging and fallow for one year.
- (3) Plough into the soil well rotted farmyard manure to improve its physical condition.
- (4) Practise green manuring by growing sann hemp which should be buried in the soil (without uprooting) before its flowers.
- (5) Provide suitable drains, 1½ to 2 ft. deep, all round the plot and cross drains, 1 to 1½ ft. deep, during rains.
- (6) Avoid excessive watering.
- (7) Avoid excessive shade and dampness in the garden.
- (8) Keep the garden scrupulously clean of weeds and decaying leaves.
- (9) Restrict the use of cake particularly during rains.
- (10) Lower vines about the middle of May, but never during the rains.
- (11) Before the commencement of rains, open up the ends of each *haral* into the drains.
- (12) After the vines are lowered, cover the ridges between the *harals* with dry grass in preference to banana leaves, as it keeps the soil porous and helps the treatment.
- (13) Lowering vines in August is fraught with danger. If rain follows lowering, the lowered vines are liable to be infected.

HOW TO PREPARE BORDEAUX MIXTURE.

Bordeaux mixture is prepared when a solution of copper sulphate and milk of lime are mixed together. The strength of Bordeaux mixture usually employed for the treatment of betelvine gardens is 2-2-50, that is, 2 lb. copper sulphate, 2 lb. quicklime (best stone lime) and 50 gallons of water.

When large quantities of Bordeaux mixture, say 200 gallons of Bordeaux mixture 2-2-50 are required, proceed as follows :—

In a 30-gallon wooden tub "A", dissolve 8 lb. of copper sulphate in 8 gallons of water. *This is the stock solution of copper sulphate.*

In another 30-gallon tub "B", slake 8 lb. of quicklime with a small quantity of water, and then add enough water to make 8 gallons. *This is the stock milk of lime.*

Now pour 2 gallons of the stock copper sulphate solution into a 45-gallon tub "C" and add water to make 40 gallons.

Then pour 2 gallons of stock milk of lime into a separate 60-gallon tub "D" and add water to make 10 gallons.

Pour now the copper sulphate solution from tub "C" into tub "D", and stir vigorously. When the whole of the copper sulphate solution is poured, you have in tub "D" 50 gallons of Bordeaux mixture 2-2-50. This process may be repeated four times to make 200 gallons of Bordeaux mixture.

Bordeaux mixture must be applied immediately after preparation, but in no case more than 3 to 4 hours after it has been made. In preparing Bordeaux mixture, fresh quicklime should invariably be used; air slaked lime should never be used. Never use iron containers for making Bordeaux mixture; always use wooden tubs.

Stock solutions of copper sulphate and lime may be kept for some time without spoiling. But the tubs containing these solutions should be kept covered, and the levels of the liquids should be marked inside the tubs. Before using restore the levels of solutions by adding water, if the levels have fallen.

COST OF TREATMENT.

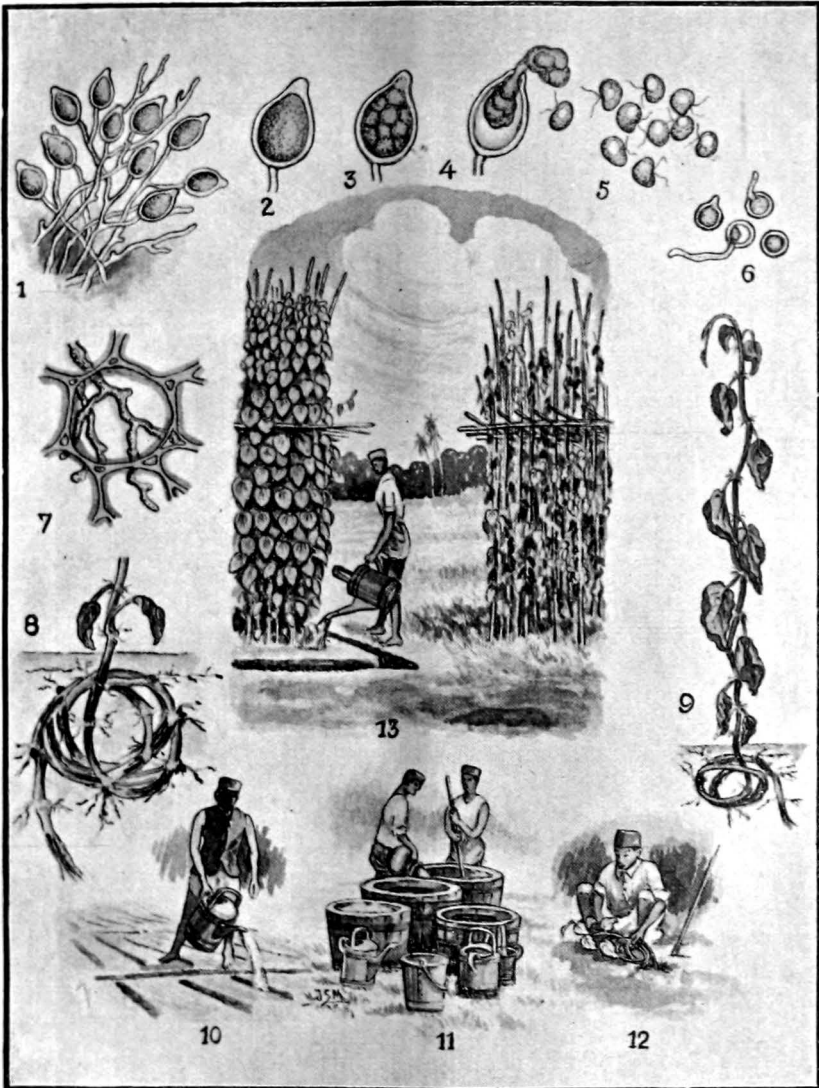
The normal life of a betelvine plantation in Bassein is about 2½ years. The cost of treating 100 *harals* (4 gunthas or 1/10th of an acre under betel vines) for 2½ years including the initial outlay on a Bordeaux mixture set is as below :—

	Rs. a. p.
<i>A.—Bordeaux mixture set.</i>	
One 60-gallon wooden tub, one 45-gallon tub, two 30-gallon tubs and four 2½ gallon watering cans	25 0 0
 <i>B.—Cost of Treatment.</i>	
(1) First year.	
(a) 200 gallons of Bordeaux mixture 2-2-50 are required to treat 100 <i>harals</i> at a cost of Rs. 1-9-6 per application. Cost of 6 applications.	9 12 0
(b) Two men can treat 100 <i>harals</i> in half a day. Cost of labour at 10 annas per man-day for 6 days (i.e. for 6 applications)	3 12 0
Total ..	13 8 0
(2) Second year.	
(a) 600 gallons of Bordeaux mixture 2-2-50 for 3 applications	4 14 0
(b) Labour at annas 10 per man-day for 4 days	1 14 0
Total ..	6 12 0

N.B.—In the second year the first application should be made in the first week of June. At this time it is necessary to raise the ridges by the additions of loose soil mixed with farmyard manure, and to cover it with dry grass. All drains should be repaired. The second application should be made in the fourth week of June, and the third some time in August during the first break in rains.

It will be seen that the cost of treating 100 *harals* for 2½ years comes to about Rs. 20. A Bordeaux mixture set costs about Rs. 25 and will be useful for many years.

Plate I.



EXPLANATION OF PLATE.

- Fig. 1.*—Thread-like strands of the fungus bearing spores or "seeds".
- Figs. 2-4.*—Stages in the formation of swarmspores (swimming spores) within a spore ("sporangium").
- Fig. 5.*—Swimming spores ("swarm spores") each provided with two hair-like structure ("cilia").
- Fig. 6.*—Swimming spores coming to rest and some germinating.
- Fig. 7.*—Threads ("mycelium") of the fungus within the tissue ("cell") of betelvine.
- Fig. 8.*—Infected roots and underground part of a vine showing darkening and shredding.
- Fig. 9.*—Infected vine showing drooping of leaves and of the growing tip.
- Fig. 10.*—Treating *harals* with Bordeaux mixture before planting.
- Fig. 11.*—A Bordeaux mixture set.
- Fig. 12.*—Lowering of vines immediately after treatment of *harals* with Bordeaux mixture.
- Fig. 13.*—A partial view of a systematically treated healthy betelvine plot (left); un-treated diseased plot (right).

UNSTARRED QUESTIONS AND ANSWERS.

FREE SUPPLY OF QUININE TABLETS IN DISTRICTS WHERE MALARIA IS PREVALENT.

Mr. D. J. FERREIRA (Thana cum Bombay Suburban District): Will the Honourable Minister for Public Health be pleased to state—

- (a) what the cost of a lb. of sulphate of quinine is to Government ;
- (b) what the cost is of the other ingredients which have to be mixed with a lb. of sulphate of quinine to convert the quinine into quinine tablets ;
- (c) the number of tablets of the size sold at the Post Offices which can be obtained from the above *mixture* ;
- (d) the price at which these tablets are sold ;
- (e) what, if any, are the profits which Government are making on the sales of these quinine tablets ;
- (f) whether Government have considered the advisability of distributing these tablets free at the Post Offices and dispensaries in the Districts where malaria is prevalent ?

The Honourable Dr. M. D. D. GILDER : (a) Rs. 18-1-0 inclusive of packing and railway freight.

(b) Re. 0-3-8 ; besides this the cost of labour and distribution charges comes to Rs. 9-3-10 per lb. of quinine sulphate.

(c) 1,763 tablets approximately.

(d) Rs. 27-8-10.

(e) Four pies per lb. of quinine. This does not take into account all overhead charges such as rent of premises, supervision charges, interest charges, pension charges, and audit cost etc. Hence, practically no profits are made by Government.

(f) Yes ; Government do not consider that it is advisable to distribute quinine tablets free at Post Offices. Free distribution of quinine tablets is at present done through the officers of the Public Health Department including the anti-malaria staff, epidemic medical officers, Inspectors of Sanitation and Vaccination and Vaccinators and through the School Board Administrative Officers, approved associations and societies and Officers of the Revenue Department. The District Local Boards are also given free of charge twice as much quinine as they indent for at their own cost for distribution under the supervision of their health officers. Dispensaries where they exist are giving medicine including quinine free to the poor people.

GOVERNMENT POLICY AS REGARDS SERVING OF LIFE SENTENCE.

Mr. K. S. FIRODEA (Ahmednagar South): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

- (a) what was the policy of the previous Governments about the period for which a person under a life-sentence was to be kept in jail ;

(b) whether Government propose to revise that policy ;

(c) whether Government intend to take any steps to ameliorate the condition of the long-term convicts and if so, what steps ?

The Honourable Mr. K. M. MUNSHI : (a) The relevant orders are placed* on the Assembly Table.

(b) and (c) Government policy including the amelioration of the condition of long-term prisoners is under consideration.

APPOINTMENTS OF MAHOMEDANS IN SUBORDINATE REVENUE SERVICE
IN EAST KHANDESH DISTRICT.

Mr. SHAIKH MAHAMAD HASAN (East Khandesh District) : Will the Honourable Minister for Revenue be pleased to state—

(a) how many candidates have been taken up in the subordinate service of the Revenue Department in the East Khandesh district from 1931 to 1937 ;

(b) how many of them are Muslims ;

(c) how many of the Muslim candidates have been confirmed since 1931 up to 1937 ;

(d) what are the qualifications of the candidates referred to in (a) above ?

The Honourable Mr. MORARJI R. DESAI : (a) 46 candidates have been taken up between 1st January 1931 and 27th September 1937.

(b) 7.

(c) 2 within the period stated in part (a) of this answer.

(d) 15 graduates and 31 non-graduates.

ALLEGED GRIEVANCES OF CLERKS IN OFFICES OF SUB-DIVISIONAL
OFFICERS IN PUBLIC WORKS DEPARTMENT IN THANA DISTRICT.

Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable Minister for Public Works be pleased to state—

(a) whether it is a fact that a large number of clerks in the office of the sub-divisional officer in the Public Works Department in the Thana District are on the temporary list for the last 18 years ;

(b) whether it is a fact that these clerks have been making representations to Government requesting them to make them permanent ;

(c) whether it is a fact that their request in this behalf is not being granted ;

(d) whether there is any difference in the nature of the duties and responsibilities of these temporary clerks and those of the permanent clerks in the Executive Engineers' office;

(e) if the answer to (d) is in the negative, whether Government intend to make them permanent in the near future and if not, what are the reasons for the same?

The Honourable Mr. M. Y. NURIE: (a) Yes. All the sub-divisional clerks are on the temporary establishment.

(b), (c) and (d) Yes.

(e) The question of bringing the sub-divisional clerks on the permanent establishment is already under consideration.

LEVY OF STAMP DUTY ON APPLICATIONS IN THE NATURE OF
REMINDERS TO OFFICERS IN THE REVENUE DEPARTMENT.

Mr. R. N. MANDLIK (Kolaba District): Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that according to the present orders of Government a court fee stamp of annas two is required to be affixed to applications or petitions of the nature of reminders to officers in the Revenue Department;

(b) whether Government are aware that, as a result of these orders, the applicant is penalised for the fault of the officer concerned in not answering the applicant in proper time;

(c) if so, whether Government propose to modify the orders immediately;

(d) what was the amount of income derived by Government from such two anna court fee stamps during the last three years ending with 1936-37, in the Kolaba District?

The Honourable Mr. MORARJI R. DESAI: (a), (b) and (c) Orders have recently been issued by Government exempting petitions or applications of the nature of reminders from the stamp duty of two annas previously levied.

(d) The ascertainment of receipts would involve labour out of proportion to the value of the information.

“CHAIN” BUSINESS IN KARNATAK.

Mr. K. S. PATIL (Belgaum South): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether Government are aware that “Chain” business is prevalent in Karnatak on a very large scale;

(b) whether Government are aware that many ignorant persons are fraudulently induced to join it;

(c) if so, what action, if any, have Government taken to prevent this “Chain” business, and with what result;

(d) if no action has been taken so far, whether Government propose to take any action now, and if so, what action?

The Honourable Mr. K. M. MUNSHI: (a) It is prevalent in the Belgaum and Bijapur districts.

(b) Yes.

(c) and (d) Several prosecutions have been launched and their result is awaited.

APPOINTMENT OF CANDIDATES BELONGING TO SCHEDULED CASTES
TO POSTS OF CLERKS AND BAILIFFS IN DISTRICT COURT, SATARA.

Mr. K. S. SAVANT (Satara North): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) how many candidates were appointed in the District Court, Satara, as clerks and bailiffs during the last three years;

(b) how many of them were Lingayats;

(c) whether any candidates belonging to the scheduled castes had applied for these posts;

(d) if so, how many of them were appointed;

(e) whether Government propose to make such appointments in future in such a way that candidates belonging to the scheduled castes will secure their due share in them?

The Honourable Mr. K. M. MUNSHI: (a) Ten appointments of clerks and seven of bailiffs were made during the period of three years from 1st June 1934 to 31st May 1937.

(b) Six Lingayats were appointed as clerks, and three as bailiffs.

(c) Seven persons belonging to the scheduled castes had applied for clerk's posts, and 49 for bailiff's appointments.

(d) One of them was appointed to a clerk's post, and none as bailiff.

(e) Government have issued orders from time to time for the better recruitment of members of intermediate and backward (including scheduled) classes to Government services.

ALLEGED GRIEVANCE OF GRADUATE APPLICANTS FOR ADMISSION FOR
TRAINING IN COIMBATORE TRAINING COLLEGE.

Mr. ISMAIL HASSAN BAPU SIDDIQUI (Kanara District): Will the Honourable Minister for Revenue be pleased to state—

(a) whether it is a fact that in the direct selection of Rangers for training in the Coimbatore Training College non-graduate applicants are preferred to graduate applicants;

(b) if so, what are the reasons for the same;

(c) whether graduates with necessary qualifications are not available;

(d) how many graduates had applied for selection during the last three years;

(e) how many of them were selected;

(f) what were the reasons for not selecting the others;

- (g) how many non-graduates were selected during that period ;
 (h) what were their special qualifications for being selected in which the graduate applicants were found wanting ;
 (i) whether Government have considered the advisability of issuing orders to the subordinate officers concerned to prefer graduates to non-graduates in this selection ;
 (j) whether it is a fact that the maximum age limit of applicants for the said selection has been lowered ;
 (k) if so, what is the maximum age limit now prescribed and what was the former maximum age limit ;
 (l) what are the reasons for lowering the maximum age limit ;
 (m) whether Government are aware that the maximum age limit now prescribed works unfavourably in the case of graduates ;
 (n) if so, whether Government intend to issue orders to increase the age limit in the case of graduates in general and applicants belonging to the minority communities in particular ?

The Honourable Mr. MORARJI R. DESAI : (a) No.

(b) Does not arise.

(c) Yes, they are available.

(d)	Year.	No. of graduates.
	1935	.. 16.
	1936	.. 15.
	1937	.. 19.
(e)	1935	.. 3.
	1936	.. 2.
	1937	.. 3.

(f) The minimum qualification prescribed for candidates for the Rangers' Course is the passing of the Matriculation Examination. There is no objection to candidates with higher qualifications submitting their applications for the course. Candidates, whether graduates or non-graduates, are first put through a test in English, General knowledge and Mathematics and only the pick of those who have satisfied the examiners in the written examination are interviewed afterwards for further oral tests. Apart from academical qualifications, there are other factors which are to be taken into consideration, such as the intellectual capacity and general knowledge of the students judged by the result of the examination and personal interview, their general suitability, physical and otherwise, for forest life, the necessity for proportionate recruitment of backward and intermediate classes in the public service and the like. The final selection has, therefore, to be dependent on all the above considerations and cannot be confined to candidates possessing high educational qualifications alone. Further the number of students required annually is limited to the number of probable vacancies occurring in the Rangers' cadre, the total number of direct recruits taken in the years referred to

being respectively 5, 6 and 4. Obviously all graduates who apply cannot be selected.

(g) Seven.

(h) Please see reply to clause (f).

(i) Government does not consider it desirable to issue such orders.

(j), (k) and (l) No. The maximum age limit laid down for Ranger candidates is 23 on the day of admission to the College. The maximum age limit of persons belonging to the educationally intermediate and backward classes is relaxed up to 3 years in suitable cases. It is relaxed up to 2 years in really deserving and exceptional cases of candidates from educationally advanced classes.

(m) No.

(n) No.

GOVERNMENT POLICY REGARDING GOVERNMENT SERVANTS
AND PENSIONERS ASSOCIATING THEMSELVES WITH POLITICAL
ORGANISATIONS.

Mr. D. N. WANDREKAR (Bombay City North and Bombay Suburban District): Will the Honourable the Prime Minister be pleased to state :—

(a) whether the attention of Government has been drawn to the Circular issued by the Madras Government about Government Pensioners being allowed to hold offices in political organisations ;

(b) what is the policy of the Government of Bombay in regard to Government servants and Pensioners associating themselves with political organisations ?

The Honourable Mr. B. G. KHER : (a) Yes.

(b) The policy of Government in regard to Government servants associating themselves with political organisations is as laid down in rule 30 of the Bombay Civil Services Conduct, Discipline and Appeal Rules. The relevant portion of the rule is as under :—

“ No Government servant shall take part in, subscribe in aid of or assist in any way any political movement in India, or relating to Indian affairs.

Explanation.—The expression ‘ political movement ’ includes any movement or activities tending directly or indirectly to excite disaffection against, or to embarrass, the Government as by law established, or to promote feelings of hatred or enmity between different classes of His Majesty’s subjects, or to disturb the public peace.”

As regards Government pensioners, the policy of the Government of Bombay is the same as that of the Government of Madras, viz. that Government pensioners, as hitherto, are at liberty to become members of, or to hold office in, any lawfully constituted political organisation. They are also free to stand for election to local bodies or the Legislature as members of such an organisation and to undertake constitutionally the responsibilities of office which may result from such election.

RE : AN ADJOURNMENT MOTION.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, may I draw the attention of the Chair to the fact that Bill No. VI of 1938 is due to come up for discussion before this House today? The Chair did not give its consent to my adjournment motion because it was not urgent. In view of the fact that the Bill is likely to come before the House today, the matter, I submit, is urgent, and I would therefore request the Chair to reconsider its decision.

The Honourable the SPEAKER: The Chair has refused its consent. I do not think I need discuss the whole question again. The honourable member Mr. Parulekar had tabled certain amendments to Bill No. VI of 1938, and in the view which I took of certain of those amendments, I thought that the previous sanction of His Excellency the Governor was necessary in respect of them. The honourable member's contention has been that in his view the consent of His Excellency is not necessary. He proposed to move an adjournment motion to discuss the question whether the previous sanction of the Governor to certain amendments tabled by him was necessary or not. The matter is important, undoubtedly, but there can be no adjournment motion or discussion on a question of this type. Every amendment has to be judged and decided upon individually upon its merits. I also conveyed to him that I was prepared to discuss the matter with him and that if he could convince me and bring me round to his view, I was always open to correction. As a human being, it is possible that I may err, and I shall not fight shy of admitting my mistakes. But the adjournment motion cannot be permitted.

Mr. MIRZA AKHTAR HASAN: On a point of information, may I know whether this amendment tabled by the honourable member has been disallowed by His Excellency?

The Honourable the SPEAKER: I do not propose to enter into a discussion on that question.

The Honourable Mr. B. G. KHER: On a question of procedure, Sir, may I draw the attention of the House to one point? As you have pointed out, you as a human being are liable to err; but when you do err, I do submit that the proper procedure is not to move an adjournment of the House, but to bring the matter up before the House by means of some other kind of motion. On going through the rules, I was not able to find out whether the moving of an adjournment of the House on a ruling given by the Chair is the correct procedure. But I submit that that is not the correct procedure.

Mr. S. V. PARULEKAR: Will the Honourable the Leader of the House tell us what in his opinion is the correct procedure?

The Honourable the SPEAKER: I have already given my decision on the point. An adjournment motion is not the proper procedure.

**BILL NO. IV OF 1938 (A BILL TO AMEND THE CITY
OF BOMBAY MUNICIPAL ACT, 1888).**

(Clause by clause reading resumed.)

The Honourable Mr. K. M. MUNSHI : Will you, Sir, permit me to continue with this Bill on behalf of my honourable colleague, the Minister for Local Self-Government ?

The Honourable the SPEAKER : Yes. When the discussion on this Bill was last adjourned, the motion before the House was that clause 38 do stand part of the Bill, and then we took up the discussion of the two amendments tabled by the honourable member Mrs. Munshi. Her amendment seeking to delete section 314 (c) of the Bombay Municipal Act will come up after we dispose of clause 38. So, the motion before the House now is that clause 38 do stand part of the Bill.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I have tabled an amendment to delete clause 38.

The Honourable the SPEAKER : That amendment is out of order, as it is a direct negative of the proposal before the House.

Mrs. LILAVATI K. MUNSHI : What about the other amendment that I wanted to move ?

The Honourable the SPEAKER : After clause 38 has been disposed of, that amendment will be considered. I have considered the point involved, and have got my ruling ready. As regards the honourable member's present amendment, namely, to delete clause 38, I have already ruled that it is not in order.

Mr. S. K. PATIL : Any honourable member can speak against it ; can he not ?

The Honourable the SPEAKER : It is competent for members to throw out the clause ; but this amendment, being the direct negation of the proposal, is not in order.

Mrs. LILAVATI K. MUNSHI : Sir, I rise to oppose the clause which is before the House, namely, clause 38. My reason for doing so is this, that the persons who are plying their trade in the streets are not doing it because they find some pleasure in doing it, but because of necessity. If you drive them away and take away their tools and implements which are the means of their livelihood, then you will be turning them into either burglars or beggars ; there is no third way out for them. I have known some of these people. Once, when we were on our municipal round to inspect streets one hawker came to me. He was hawking some toys and other things. He said, " I have been hawking these things here for a number of years, but now I have been given a notice to vacate this place". If he did not go away, his things were liable to be taken

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away. He said, "I have got four children and a wife to maintain, and I have not got enough money to rent a shop. If you drive me away from this place, where I have a clientele, the result will be that I will have to go into the streets and beg, or I will have to steal and go to jail. There is no third way for me". Therefore, Sir, the remedy is not the one proposed in this clause. The hawker nuisance is a nuisance no doubt; I have felt it myself. But unless you find out some means, as is done in other countries like England where unemployed are given doles or some kind of work, you will not be able to solve the problem. Unless we find out some such means as I have mentioned, we cannot be strict on these people and drive them away. Unless the Government or the Municipality is in a position to adopt any of these measures and do something for the poor people, these harsh steps should not be taken. If you do that, as I have said, you will turn them into burglars or beggars.

This is a new clause, and it is going to be applied to a new set of people. I have moved an amendment to delete section 314 (c) of the Municipal Act. I have known some other hardships also which these people have to undergo. I wanted to say a few words about them, but that section is not before the House. I will merely content myself with saying that the proposed remedy is not the correct one and it should be opposed by the Government and by the party itself. This clause may have found a place in this Bill owing to some oversight; and I hope Government will delete the clause completely.

Mr. K. F. NARIMAN (Bombay City): Sir, I hope the Honourable Minister has by now decided not to press this clause, because, as stated in a previous speech, a recommendation has been made by the Corporation that this clause should not be moved. I understand that the whole of this Bill is only by way of carrying out the recommendations made by the Bombay Municipal Corporation. I would like to draw the attention of the Honourable Minister to the clause in the resolution of the Corporation itself passed on 17th January 1938 which says that clause 38 of the Bill relating to the question of removing, without notice, tools, implements or other articles used by any person acting in contravention of the provisions of the proposed clause 38, be deleted. This resolution was communicated to Government by a letter dated 19th January 1938.

In view of this, I hope that the Honourable Minister will not press this clause and will declare to the House that this clause will not be pressed.

The Honourable Mr. K. M. MUNSHI: May I at this stage say, Sir, that I am going to drop this clause? The time of the House may not be taken up by unnecessary speeches.

MR. JAMNADAS M. MEHTA (Railway Unions) : Sir, in view of the statement made by the Honourable Minister, the fate of this proposition is sealed ; but, the statement, I take it, is on the information that the Corporation have changed their opinion about the question and if they do not want the clause the Government are not prepared to press it on the Corporation. But I wish to point out that this is one of the most difficult matters for the Municipal administration, and the Corporation themselves have been acting like a see-saw—one day this way, next day that way, because the presence in the House of councillors holding one view or the other makes the decision one way or the other. But if you wish to adopt section 313 (b) then this clause is simply consequential (*Interruption*). If you make compulsory the license to a cobbler or a barber and if a man practises his skill or handicraft without a license or at the place for which he is not holding a license, what is the remedy ? The only remedy will be to take him to an honorary magistrate or to a Presidency Magistrate's Court and have him fined (*Interruption*) ; and it has been notorious that the Presidency Magistrates are so busy that these prosecutions are either inordinately delayed, or after a protracted delay, the fine that is imposed is so nominal that it does not deter the offenders from repeating their offences ; the licence becomes a dead letter and the whole object of giving the Corporation this power of compulsory licence for the barber or the shoemaker to do his job on the footpaths—that object is defeated. In this connection, Sir, the thing to be remembered is, who is the primary beneficiary of the footpath ? For whose benefit the Corporation builds footpaths ? If my impression is correct, the Corporation has up to now spent nearly Rs. 40 lakhs on building footpaths and the Improvement Trust have spent several more lakhs. What for ? In order that in these narrow streets of Bombay, with heavy rushing traffic, the citizens, the pedestrians, the women, the children, the aged and the infirm may have some security when they are using the King's thoroughfare that they will not be overpowered by quick-moving traffic from behind and felled to the ground. That is the object with which footpaths are built and if you are driving away the citizens, for whose benefit the footpaths are primarily built, you are imposing on the Corporation, and through the Corporation on the citizens, a burden of lakhs of rupees ultimately leading to no advantage to the citizens. My, honourable friend Mr. Jhabvala the other day stated that these footpaths were meant for the rich or for the bourgeoisie. I would beg of him to remember that the bourgeoisie or the rich men do not walk on the footpaths ; they are travelling in cars—motor cars—or at least in tramcars or buses, and the user of the footpaths is as poor a man as the humble person on whose behalf such misplaced sympathy is shown. I humbly submit that no sympathy is due to the hawker class in this particular respect when you are driving out the poor pedestrian, the women, the child, the blind, the maimed and the infirm for the benefit of the hawker. The controversy here is not between the rich men of Malabar Hill and the hawker, but it is between the hawker and the average poor pedestrian, who takes his life in both hands as

[Mr. Jamnadas M. Mehta]

soon as he leaves the footpath. The point is whether we are to safeguard the personal safety and the life of the pedestrian or the vocation of this poor hawker, and between the two the choice is most embarrassing and difficult. At the same time, there is no gainsaying the fact that primarily the footpath must be reserved for the pedestrian and for nobody else. If the women, children, old men and the ordinary pedestrian are driven away from the footpath into the busy traffic in the streets, it means a waste of several lakhs of rupees which the Corporation have spent in building footpaths, primarily for the benefit of the pedestrians. The choice is difficult, but in my humble opinion, the primary object remains, namely, that the footpath must be allowed to be used by the pedestrian and not monopolised by the hawker. Sir, I think Government are ill-advised; I realise that the Corporation have sent them their recommendation, but in this matter the Corporation has not always held one view. I think Government should take the responsibility upon themselves, and consider this point in the light of the submission I have made.

A point has been raised by the honourable member Mrs. Munshi about the poverty of the hawkers. Nobody knows the poverty of these hawkers more than I claim to do. But the remedy is not to penalise the pedestrians for whose benefit the footpaths are provided. The remedy is not to cause an occasional murder of a child or an old woman. The remedy lies in adopting a measure of the dole, unemployment relief or any other thing. Until you press for unemployment relief measures, you will be inclined to penalise people who least deserve to be penalised and the Government and the Municipality, which should discharge their duty, towards the unemployed are escaping. You are not doing the right thing. You are doing the wrong thing. Between the hawker and the pedestrian it is the Government who is escaping. They are primarily responsible for unemployment and they should not be made to take cover behind this poverty of the hawker but must do their duty and look to the interests of the public and prevent waste of lakhs of rupees by the Corporation. I humbly submit that Government should consider, not in a mood of sentiment but in a real appreciation of the actual circumstances, what is the right course to adopt. For these reasons, I would appeal to Government to do the right thing now.

Mr. S. K. PATIL (Bombay City): Sir, my honourable friend Mr. Jamnadas was not speaking to clause 33 which is going to be deleted, but most of his arguments were advanced against the clause (c) of the original section 314 with reference to which an amendment that was proposed to be moved, you have ruled out of order.

The Honourable the SPEAKER: I have not yet ruled out of order anything.

Mr. JAMNADAS M. MEHTA: I was speaking of (d).

Mr. S. K. PATIL : Coming to this clause, namely, clause 38 as it stands, one can easily see that it does not refer to hawkers at all.

Mr. JAMNADAS MEHTA : I beg the honourable member's pardon. It refers to shoemakers, etc.

Mr. S. K. PATIL : This clause refers to the artisans that are described in this House, such as barbers, cobblers, shoeblacks and others. So far as hawkers are concerned, there is a separate clause altogether. When the Bill was referred to the Bombay Municipality for their opinion, it was almost by a unanimous vote that the Corporation recommended that this particular provision, namely, Removal of implements etc., should be deleted from the Bill. Therefore, I do not understand where comes the question of a particular member holding a particular opinion. So far as the remedy is concerned, my submission is that it will be worse than the disease and my honourable friend Mr. Jamnadas Mehta suggests that this clause becomes a consequential one owing to the fact that 313B has been adopted. It is not so. The remedy is, as I put it the other day, worse than the disease. You are licensing these petty artisans. There are courts open and if you find those artisans infringing any conditions of the licences or if you find that they misuse their licences in any other way, they can be tried in a court of law in the ordinary course, and if it comes to that, even it is possible that the licence of a defaulter could be cancelled, but to suggest that for the mere fact that a barber is sitting on a footpath all his implements including a pair of scissors and razors should be removed is something which does not at all appeal to me. The illustration given by my honourable friend in this House, namely, that the procedure of a court is very dilatory, that it will take more time and so on does not support his argument at all. It is precisely for that reason that the tools and implements must not be removed. If the procedure of the law court is dilatory then the removal of implements will entail greater hardship. If all his tools are removed, the poor fellow will have to wait for days on end till he gets his razor back and till he gets his scissors back and he is able to ply his trade. For this purpose alone, for preventing such a calamity—to him it will certainly be a calamity—this clause should be removed. If the man does anything really against his licence, he should be tried in an ordinary court of law, and if the worst comes to the worst, even his licence could be cancelled. Therefore, the existence of this clause as it stands today will work a great hardship on the poor man and, for this reason, that clause should go.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District) : Sir, I am surprised that my honourable friend Mr. Jamnadas Mehta has tried to misrepresent facts. Everyone recognises the rights of the pedestrians to the use of the footpaths, but to safeguard those rights I think the penalty clause so far as fines are concerned is quite enough. The honourable member has misrepresented facts about the law courts. I do not think any inordinate delay takes place in deciding these cases or that there are any dilatory tactics. On

[Mr. Ali Bahadur Bahadur Khan]

the other hand, those who have got experience of these courts of honorary magistrates who deal with these hawkers' cases, must have found that so many of them are made to stand in a line and at one stroke they are fined even without hearing them. They are not allowed to offer any evidence or to offer any defence, and if at all they take courage in both hands and try to put in some defence, then it is a patent fact that they are fined more heavily than when they do not offer any defence. Every hawker knows this fact and every member who is interested in the hawkers' affairs also knows it. As a member of the Hawkers' Union for a long time, I had this experience and I can say on the basis of my own experience that no delay takes place in the courts. We do recognise the rights of the pedestrians but in the name of the rights of the pedestrians, we cannot advocate barbaric methods. The objection to this law is not that the pedestrians' rights are not recognised, but the objection is that to safeguard the pedestrians' rights, barbaric methods are used by the Municipal Department. A municipal van comes down rushing and several peons or sepoy get down and rush and seize the implements and other things of the hawkers. In fact, as the honourable member Mr. Patil has pointed out, so far as clause 38 is concerned, it is not a question of hawkers. I am sorry that the amendment of the honourable member Mrs. Munshi had to be ruled out on account of a technical difficulty.

An Honourable MEMBER : It was not.

Mr. ALI BAHADUR BAHADUR KHAN : If it was not ruled out, let us hope that it will be allowed and that it will be passed by this House. It will be really a great day because a long standing grievance of the hawkers will be removed.

Sir, the most important point in favour of withdrawal of this clause is that the methods employed by the Municipal Department are simply barbaric. They leave behind a trail of woes, sometimes women and children weeping and crying as if somebody is dead. I think those who have got personal experience of these sights will realise that I have not in any way exaggerated facts. These miseries are commonly seen on footpaths of Bombay, and the most important point is that even if you in the name of pedestrians' rights pass this clause and advocate the removal of all these implements and the goods that are sold there, even then as I pointed out before, the economic necessity is such that you never can clear the footpaths of these hawkers. They are always there. In fact, after the van goes away, in the same place where people were found crying a few minutes before, some others appear and the obstruction, as you call it, goes on and continues. That obstruction is never done away with simply because you adopt these barbaric methods. Owing to increase in unemployment, there is naturally an increase in the number of hawkers and some of them are always to be found on the footpaths. Therefore, I think it is but right that Government should withdraw this clause.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I am glad the Corporation was caught up with our sentiment and it transferred some of it to the Government and the Government have volunteered to withdraw this clause. I am sorry that my closest friend Honourable Comrade Jamnadas Mehta has taken a rather faulty view of this question. He imagines that the footpath is overcrowded with lots of people going about here and there. That is not so. The footpaths are indeed used by various kinds of people, both bourgeois and the lower classes, but at the same time the bourgeois are not so much given to the use of footpaths as to throw out the barbers and shoeblacks from them. It must be remembered,—I am sorry that my honourable friend has lost the correct point of view—that the barber has to carry with him sharp instruments and he is therefore keen on seeing that his razor is not given a push by some passer-by. Therefore, he always tries to occupy a corner and that corner is certainly one that is not so much used by the pedestrians. He imagines that Bombay means right from Colaba to Byculla Bridge, but real Bombay is beyond Byculla Bridge and you find people going here and there, footpaths are not enough to accommodate these pedestrians and whatever footpaths are laid out there, are all thickly used only during a particular part of the day giving sufficient facility to any small trader to do his business in the service of society. Most of the working class population is engrossed in its business throughout the day and it is in the evening that we find some of this population here and there but the barbers and the cobblers against whom this clause is intended are not seen on the footpaths so frequently or in such numbers at these particular crowded hours as to justify any of us in thinking that they deserve this kind of punishment of ejection. Moreover, just imagine, Sir, the fine imposed under section 313B is Rs. 50. That certainly is an extraordinarily harsh punishment. On all these points, I am sure the House will carry this point unanimously and side with Government to oppose this clause and I also hope that my friend the honourable member Comrade Jamnadas Mehta will also cast his vote in our favour.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, I want to say a few words in reply to the arguments advanced by the honourable member Mr. Jamnadas Mehta.

3 p.m.

It is true that Government accepted this view, because the Bombay Municipal Corporation forwarded their view on the subject. But, apart from that fact, there is also one consideration which Government had before it when it decided upon the course which it has now proposed to take. Even as a matter of principle governing crimes and criminal law, if a man commits an offence, as he does in this case, if he exercises his profession without a license, he is liable to be punished in a court of law. There is already a provision for that. Why should law go further and impose upon him a penalty of depriving him of the tools and instruments with which he is carrying on his business? He has committed the offence and has paid the penalty for it. Why should the Municipality carry on a vendetta against him and deprive him of the tools he employs for his trade? That is the only consideration which has led Government to accept this section.

[Mr. K. M. Munshi]

The honourable member stated that the honorary magistrates do not fine them properly. Does he not see that it was stated by the honourable member Mr. Patil that the Municipal Corporation of Bombay came to this conclusion unanimously? That shows that the civic fathers are of this view. The fact that the honorary magistrates let these people go with small fines shows that the public conscience on this question represented by the honorary magistrates is quite prepared to accept this position, either in the interest of poor barbers or other consideration. The tonsorial artists will not be there on the footpaths, unless there are people ready to get themselves shaved. When there are hundreds and thousands of public to get this service, it shows that the population has a real need of an institution of this character. Our zeal for efficiency and clearing footpaths should not be carried to a length which makes us lose the real value of human life. There are hundreds of people who are prepared to have this service and, therefore, we should not go to the length of depriving these people who carry on such business of their tools and throw them on the streets.

Question "That clause 38 do stand part of the Bill," put, and negatived.

The Honourable the SPEAKER : Clause 38 does not stand part of the Bill.

Mrs. LILAVATI K. MUNSHI : Before you go to the next section, I have one amendment :

After clause 37, a new clause 38 shall be inserted, namely,—“ Clause (c) of section 314 of the said Act shall be deleted.”

The Honourable the SPEAKER : I will put this motion before the House and then I will give my ruling whether, in my view it is or is not in order. The amendment is :

After clause 37, a new clause 38 shall be inserted, namely : “ Clause (c) of section 314 of the said Act shall be deleted.”

The Honourable the SPEAKER : The question for consideration is whether the amendment tabled by Mrs. Munshi, namely, “ Delete section 314 (c) of the Bombay Municipal Act ” is in order. Clause 38 of the amending Bill sought to amend section 314 of the original Act by adding a sub-clause (d), the amendment being consequential to the proposed enactment of a further section 313B by clause 37 of the amending Bill. It has been contended that the amendment is in order for the following reasons : Firstly, it is urged on the strength of previous rulings in this House that, when a Bill proposing amendments to certain specific sections of an existing Act is brought before the House, all the sections proposed to be amended are submitted to its jurisdiction. Section 314 being one of such specific sections, to which an amendment is proposed by clause 38, it is competent for the honourable member to deal with the whole of the section 314 and, therefore, to table an amendment for the deletion of clause (c) thereof. Secondly, it is urged that, in any case, the subject matter of section 313B added by clause 37 of the Bill and

[The Speaker]

that of section 313A being the same, clause (c) of section 314 which is consequential to section 313A can as well be dealt with, and, therefore, the amendment is in order.

As regards the first proposition, it is no doubt stated in general terms by my predecessors that "when a Bill proposing amendments to certain specific sections of an existing Act is brought before the House, all the sections proposed to be amended are submitted to its jurisdiction and the House is entitled to alter or amend those sections in a manner which may appear, in their considered judgment, to be in the interests of the people". While not wishing to dissent from this general statement, I cannot agree with the interpretation that is sought to be given to that general statement that any and every amendment can be brought in, irrespective of the homogeneity of matter or conception, merely because the amending Bill happens to group in one section certain subjects. The general language used by my predecessors has to be interpreted in the light of facts before them and in the light of the provisions of the Standing Order under which they had to decide upon the relevancy and the admissibility of the amendments. Ordinarily, a section of an enactment contains one point or one subject matter or one conception, and, therefore, if an amending Bill tries to touch the section in any one respect, the whole section is within the jurisdiction of the House, and amendments moved with reference to the other parts of the same section would be relevant to and within the scope of the amending Bill, but it would be wrong to suppose this statement to be of universal application.

There are certain sections in some enactments which group together, for linguistic convenience, several matters widely different from each other and having no inter-connection between them. Such are, for example, the sections which lay down the discretionary and obligatory duties of municipalities, or sections which group together the power of making rules and by-laws by various local bodies, or sections which vest Government with the power of making rules under various sections. In such cases, various heterogeneous matters are grouped together into one section, though there is no unity of purpose or conception in respect of the substantive sections to which the various matters relate. In such a case, it would obviously be wrong to go by the test of the number of the section, and to allow amendments in respect of any and every part of the section, though each part may relate to quite a different matter. Similarly, it would also be wrong to restrict the rule only to the particular section sought to be amended, as it may well be that the section sought to be amended may have a bearing on and relation to other sections in the Act and any amendments proposed in the particular section may require corresponding or consequential amendments in the other enacted sections too.

In my view, therefore, though for the generality of cases the fact of the matter being embodied in one section might serve as a proper test, it will not be of universal application. It can apply only in cases where the subject-matter of the section represents homogeneous matters

[The Speaker]

representing one idea. The principle of determining whether a motion is in order or not, is to see whether it is relevant to and within the scope of the amending Bill. The test of seeing to the section, as urged on the strength of the previous rulings, will not apply in cases where sections group together several heterogeneous matters for the purposes of linguistic convenience or for any other purpose. In such cases, it is only the subject-matter of the particular clause or sub-section that will have to be looked to and no amendment can be allowed unless it is relevant to or refers to a matter which is correlated to the subject-matter of the amending Bill.

It may be interesting to refer here to a peculiar situation that had arisen on the 10th of September 1936 during the course of the second reading of Bill No. XVII of 1936, which was a Bill submitted to the House to amend certain enactments. The Bill touched various enactments and amendments were sought to be made in various sections of existing Acts. Seeking to enlarge the scope of the previous rulings, amendments were tabled on various matters quite distinct from and in no way connected with the amendments sought to be made by the amending Bill solely on the ground that a particular section of the original Act was mentioned in the amending Bill and, therefore, that whole section was within the jurisdiction of the House. My predecessor-in-office (Sir A. M. K. Dehlavi) expressed himself:

"I still hold that when a part of a section of an Act is sought to be amended the whole section ought to be before the House, but a line of distinction has to be drawn on the merits of each case. Every time when a ruling was given before, it was given to suit the circumstances of the particular Bill on which the point was raised. Every Bill in regard to which that ruling was given attempted to amend a section substantially and it was never a case of verbal changes."

And the amendments, though relating to the same section mentioned in the amending Bill, were rejected on the ground of their being verbal amendments. This will illustrate how the previous rulings have been understood. If the test pleaded for were deemed to be that of universal application, it is difficult to understand how a distinction can be drawn between "verbal" and "substantial" amendments.

In this view it is not possible to hold the amendment of Mrs. Munshi to be in order simply because clause 38 of the amending Bill refers to section 314 of the Bombay Municipal Act.

The amendment is, however, relevant to and within the scope of the Bill on the other more restricted ground. Section 313A of the City of Bombay Municipal Act deals with the question of control of public places or public streets by a system of issuing licences. Clause 37 of the amending Bill is in furtherance of the same objective and proposes certain further matters for such control. Clause (c) of section 314 is consequential to section 313A, just as the proposed clause 38 was consequential to clause 37. The purpose, objective and scope of section 313A and the proposed section 313B (clause 37) being the same, section 314 (c) can also be dealt with while considering clauses 37 and 38 of the amending Bill. Both sections 313A and 314 (c) as also clauses 37 and 38 of the amending

[The Speaker]

Bill deal with the same subject and there is thus homogeneity of idea and subject-matter. In this view, I hold the amendment to be in order.

Mrs. LILAVATI K. MUNSHI (Bombay City): Sir I move :

After clause 37, a new clause 38 shall be inserted, namely:—

“ Clause (c) of section 314 of the said Act shall be deleted.”

Question proposed.

Mrs. LILAVATI K. MUNSHI : Sir, I shall first deal with section 314(c) to give the honourable members an idea of what that section is. Section 314 (c) says that the Commissioner may, without notice, cause to be removed “ any article whatsoever hawked or exposed for sale in any public place or in any public street in contravention of the provisions of section 313A ”. That is the section which has created a great hardship to the poor people. To my mind, Sir, the Commissioner has wide powers because of this clause. Now, Sir, I shall give an idea of how he works that clause. As has already been stated by the honourable members Mr. Ali Bahadur Khan and Mr. S. K. Patil and also by other honourable members, the Commissioner has got under him an Encroachment Department, which has got many lorries. In each of these lorries about half a dozen men with lathis, and in addition a policeman, go round in the city watching for hawkers. And if they find any old woman or any one hawking in the streets without a licence, they pounce upon that poor person. Sometimes, the goods are thrown about in the streets and are trampled upon ; and they are removed to a police chowky, wherefrom the person can take them back after paying the cost of the Encroachment Department and a fine. Now, Sir, by the time the poor man finds the money to pay the cost and the fine, the goods, being mostly eatables, perish or disappear. How they disappear one does not know. It is alleged that a regular fee of four annas is levied on these poor people. I do not want to go into that matter now, because that is not the subject-matter of this amendment. In this way, a person who does not earn about 8 annas or a rupee per day has to find money to pay the cost of removal to the Encroachment Department as well as the fine. And it is very hard on that person.

As I stated when opposing the other section, the root cause is something different. The root cause is the poverty of the people. Unless you find out some work for them or introduce a system of doles as it is done in other countries, it is no use being hard on these poor people and saying to them “ Remove your goods ; otherwise, we will drive you out ”. The Commissioner even wanted to have more powers than he already had, but I am glad, Sir, that the House turned that suggestion down and deleted the clause originally proposed in the Bill.

Sir, the details of this department have already been dealt with by other honourable members, and I do not want to go over the same ground. But I should like to say a few words about the remarks made by the honourable member Mr. Jannadas Mehta. The views of the honourable member are really very inscrutable. When it suits him he speaks in the

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name of the poor ; when it does not suit him, then he finds out women and children for the sake of his arguments and then goes on speaking about them. He says "What will happen to ratepayers?" The other day he said, Sir, that Government do not care for the poor because they are not the electorate. I do not know what is passing in his mind. He seems to be quite ready now to jeopardise the interests of people who are not voters. Well, Sir, he is a very intelligent man, and sometimes people really regret that such a brilliant man should be wasting his time and energy in such a way, as otherwise he would be a great asset to the whole nation.

Sir, I need not go into the matter further. I will only hope that Government will accept the new clause that I have pressed and will remove the great hardship that is now caused to the poor people.

The Honourable the SPEAKER : On the subject of this amendment there has been a good deal of discussion in connection with the previous clause. If Government can say whether they are prepared to accept this amendment or not, I think we may be able to avoid further discussion on the same subject.

The Honourable Mr. L. M. PATIL : Sir, the position at present is that if the hawkers contravene the provisions of the Act, they can be prosecuted and fined. There is also a provision in clause (c) of section 314 which says that the Commissioner may without notice take away the goods of the hawkers if they contravene the provisions of the Act. The provisions regarding the prosecution and fines are sufficient and the provisions which enable the Commissioner to take away without notice the goods of the hawkers will cause a great hardship to the hawkers. I am glad that the honourable member Mrs. Munshi has moved this amendment which takes away the power of Commissioner to seize goods of the hawkers. I accept it.

Amendment put, and agreed to.

Clause 39 (*Amendment of section 402 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 40 (*Amendment of section 402 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 41 (*Amendment of section 471 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 42 (*Amendment of section 472 of Bom. III of 1888*) :

In the table appended to section 472 of the said Act, after the entry relating to section 313A the following entry shall be inserted, namely :—

"Section 313B .. Prohibition in a public place or street, of Fifty rupees."
use of skill in handicraft or in rendering
services without licence.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I beg to move the following amendment :

"Substitute the word 'five' for 'fifty' in the third column in clause 42."

Question proposed.

MRs. LILAVATI K. MUNSHI : Sir, I have very little to say about this amendment. Again, this is merely to prevent great hardship to people who do not earn more than two or three rupees a day. For such people a recurring fine of Rs. 50 every time is really a hardship. I am afraid this is a misprint. If it is, no arguments are required in support of my amendment. If it is not, Government will do well to amend the clause in the way I have suggested.

The Honourable Mr. L. M. PATIL : Sir, it is merely a misprint, and I accept the amendment which makes correction in the misprint.

Amendment put, and agreed to.

Clause 42, as amended, ordered to stand part of the Bill.

Clause 43 (*Amendment of section 489 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 44 (*Amendment of section 492 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 45 (*Amendment of section 514 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 46 (*Amendment of section 518 of Bom. III of 1888*) 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. IV of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888), as amended, be read a third time and passed.

Question proposed.

MR. B. M. GUPTE (Poona City) : Sir, I beg to move certain verbal amendments. The first is :

“ Clause 1 shall be renumbered as sub-clause (1) of that clause and the following new sub-sections shall be added :—

‘ (2) Save as provided for in sub-section (3), this Act shall come into force at once.

(3) Sections 18, 19 and 20 shall come into force on the first day of April 1939.’ ”

The second amendment is :

“ Clause 20A shall be deleted.”

Sir ALI MAHOMED KHAN DEHLAVI : Are these verbal amendments ?

The Honourable the SPEAKER : Yes, because they were accepted at the second reading.

Amendments put, and agreed to.

Question, “ That the Bill, as amended, be read a third time and passed,” put, and agreed to.

The Honourable the SPEAKER : The Bill, as amended, is read a third time and passed.

BILL No. V OF 1938 (A BILL TO REMOVE DISABILITIES OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).

The Honourable Mr. K. M. MUNSHI : Sir, I beg leave to introduce Bill No. V of 1938, being a Bill to remove disabilities of Harijans in regard to worship in temples*.

3-30 p.m.

The Honourable the SPEAKER : The Bill is introduced.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that Bill No. V of 1938, being a Bill to remove disabilities of Harijans in regard to worship in temples, be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, this is a Bill which, though very short, is very wide in its scope and at the same time of considerable importance to the Hindu community of the Province. Such a measure really ought to have come on the statute book many years ago.

Sir, it was in 1920, if I may remind the honourable members of this House, that the Indian National Congress put the removal of untouchability as a part of its programme. It was in 1934 that the first *satyagraha* for the removal of disabilities of Harijans was started in Travancore. I remember, Sir, at the end of 1931, when Mahatma Gandhi returned from the Round Table Conference, in his reply to an address given to him by several associations of Harijans he stated that the cause of removal of untouchability was very dear to him, and that he would take upon himself the duty of solving it as soon as an opportunity was forthcoming. The opportunity came almost within a year and he kept his word. In 1932, Sir, he passed through a fiery ordeal in the cause of removal of untouchability; and the Yeravda Pact which preserved the integrity of the Hindu community was made in that year. In the September of the next year, a conference of Hindus, which met in Bombay, passed a solemn resolution pledging the Hindu community to the removal of untouchability. Sir, one of the pledges which were then made by the representative Hindus, runs as follows :

"This Conference resolves that henceforth no one shall be regarded as untouchable by reason of his birth and those who have been so regarded hitherto will have the same rights as other Hindus in regard to the use of public wells, public roads and other public institutions. These rights will have the statutory recognition at the first opportunity and shall be one of the earliest acts of this Swaraj Parliament, if it shall not have received any recognition before that time.

It is further agreed that it shall be the duty of all Hindu leaders to secure by every legitimate and peaceful means an early removal of all social disabilities now imposed by custom upon the so-called untouchable class including the bar in respect of admission to temples."

That was in 1933; and after that Mahatma Gandhi's voice for a whole year heralded, even in the most distant villages, the advent of social justice and religious purity. It awakened the conscience of the caste Hindus on this matter as nothing else had done before. Many temples

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were thrown open to Harijans in British India ; several Indian States, notably Travancore, opened their temples to all Harijans, irrespective of untouchability ; and now the national conscience has been sufficiently awakened on this subject to enable Bombay to have a legislative measure by which the Hindu community can be at liberty to recognise the equality of Harijans in temples.

When the movement for the opening of temples to Harijans and removal of untouchability was started, many legal difficulties were found to be in the way. In some cases the worshippers wanted the disabilities to be removed and the trustees would not agree ; in some cases the trustees wanted to remove the disabilities and some worshippers did not agree to the opening of the temples to the Harijans. This led to numerous legal difficulties and much legal learning flew to and fro between clients and lawyers. Ultimately, in order to get over this legal difficulty, as you know, Mr. C. S. Ranga Iyer brought a Bill in the Central Assembly. That Bill, unfortunately, could not secure a place on the statute book. It was a Bill which did not seek to remove the second of the two difficulties, but only the first. Under that Bill, worshippers at a temple were provided with a machinery by which they could get a temple opened to the Harijans if they so chose. That measure had two defects. The first was as regards the manner in which the opinions of the worshippers were ascertained ; it was far from satisfactory. It is not the local area in which the temple is situate, which generally worships at the temple, and to take the votes of the residents of that locality is not necessarily the right way of deciding as to what the opinion of the worshippers is. For instance, take the temple of Bhidbhanjan Mahadev on the Colaba Causeway. For over 50 years it has been worshipped by every Hindu cotton merchant in Bombay. Whenever any merchant got into difficulties it was this deity that was expected to save him—the name itself, “Bhidbhanjan Mahadev” suggests that. The new scheme of developing Bombay resulted in the transfer of the cotton market from Colaba to Sewree. But even today many merchants, at the end of their day in Sewree, motor down to Colaba to offer their prayers to this Mahadev. It is their money, their devotion and their faith in that deity which keep that temple today in a flourishing condition. If you take the votes of the Hindus residing in Colaba, they would not be those of the worshippers at the temple and therefore a vote taken of the residents in a locality is not necessarily the vote of the worshippers at the temple. Take again, for example, temples which are famous throughout the country, like the Shri Krishna's temple at Dakore or Vithoba's temple at Pandharpur. The worshippers at these temples are not only the local residents, but people from all parts of India. Therefore, the basis of that Bill was not as satisfactory as one could have wished. The real way to solve his difficulty, as Government is trying to solve it in this case, is to make the trustees the barometers of the conscience of the worshippers. After all, the trustees or the managers of a temple are drawn from the most active worshippers. They know at least the regular worshippers ; they know their feelings, and hence they would be the right men to give decision whether the worshippers'

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conscience will permit the temple to be thrown open to the Harijans or not. Therefore, this Bill, in the first instance, wants to make the trustees the deciding factors in opening temples. Then again, the scheme is that trustees, without an elaborate and extensive machinery as provided for by Mr. Ranga Iyer's Bill, could by a majority declare that a temple should be opened. Thereafter all they have got to do is to make an affidavit and file it with the declaration in a court of law; and the declaration, subject to certain proceedings, straightway becomes as binding as any decree of a court. In that way you have got a safe, cheap and at the same time a definite machinery which decides this question for each temple. I have no doubt that this will commend itself to this House.

But, Sir, a Bill like this has not merely to come into existence or to live by its technical correctness. There are numerous points of view on a Bill like this. As a matter of fact, I have been, during the last week or so, receiving telegrams after telegrams almost in same words, telling me about the grave dangers which will overtake society and the world if this Bill was not dropped. Apart from this there are two sections of the public who would never be reconciled to a measure like this. The first class is—I hope there are none from it in this House, I hope—that of the “impatient Harijans”. They feel that the progress in this matter is not sufficiently fast. They feel that what has grown up for 5,000 years should be destroyed overnight. They say: “Oh, you have not done this, that or the other and therefore we do not care for your temples; we do not care to worship your gods. We do not care even for Hinduism.” These are no doubt very very few.

Mr. R. R. BHOLE: A majority.

The Honourable Mr. K. M. MUNSHI: I beg my honourable friend's pardon. I know quite as many Harijans as my honourable friend knows and I can assure him and the House that the Harijans, as a community, are very devout. They have great faith in Hinduism. I can assure the House that their feeling towards this question is real, and genuine, whether a few of what I have called impatient Harijans—I will not call them by any other name—agree with me or not. I have seen worship offered nowhere more sincerely than in the Lakshminarayan Temple at Walpakhady where the Harijans who do scavengers' work for the Municipality live. I can tell my doubting friends over there that the finest, the most passionate and the most devotional Bhajans I ever heard was by a Harijan in the Dhedwada of Nadiad. Such fervour and devotion may not be a solace to the educated man or even to many who belong to the higher classes, but the vast body of Harijans appreciate very much the attempt to open the houses of gods for them on the same terms as the other higher classes. But, Sir, assuming that they do not want it,—I go further—the higher class Hindus have a great duty to discharge to themselves. We must remove this blot from Hinduism. We want to remove this stain from our religion, from our culture; we

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want to open the doors of our temples to all Hindus irrespective of caste or creed ; we want once more to establish the gods in our temples on their high pedestals on which they stood as " Patitpavan ", the Saviours of the Fallen. It cannot be a god, if a fallen person looking at it can destroy its divinity.

The other class is of the extreme Sanatanist, whose notions of Hinduism are so wonderful that he will not and cannot be reconciled to the opening of the temples to the Harijans. He believes that his Hinduism is an arrogant creed which bases its existence on the superiority of one caste over another. His faith is in social inequality. He believes in hereditary social injustice to be perpetuated not only outside, but even inside temples. He feels that his god is so brittle that if a Harijan came and looked at it, its godliness would break. Sir, it is a very unfortunate mentality, though I am very glad to say that it is restricted to a very few.

Those of us who have tried during a lifetime to understand Hinduism or its Scriptures can say that Hinduism is not what they understand it to be. It is a world culture which knows no racial arrogance, no social inequality. The social structure of Hindu India is entirely different from the spirit of Hinduism and we do hope that Hinduism will be purged of its greatest disgrace of which really we feel ashamed. If I may go a little further, I would say—I am only confessing my personal view—that if the Shastras are such as preach—they do not as a matter of fact do so—social inequality for generation after generation, then those Shastras would deserve to be consigned to flames. It will be no religion, —it will be no Hinduism,—we would be untrue to the Nation and to the whole spirit of Hinduism if we allowed such notions of social inequality to be perpetuated in times like this.

But, Sir, as the Honourable the Prime Minister said the other day, when two extreme sections quarrel with Government, Government can be sure that it is going in the right direction. But, there is one argument on the nature of the Bill which I must meet. It is stated that it interferes with religious neutrality. It is said—I read in one or two newspapers—that because the Congress Party has got an election manifesto of which the removal of untouchability is one of the items, it is trying to interfere with the religious neutrality. Now, Sir, that argument, examined closely, is entirely wrong. In the first instance, Sir, no Government is non-interfering. It may be neutral, but no Government can ever be non-interfering in all matters relating to a religious community. Have not the old Governments passed laws prohibiting *Sati* ? Did they not pass the Muslim Wakf Act ? Did they not pass the Hindu Charitable and Religious Endowments Act ? But why go to them ? Why go to the British Government ? If we go to our own Hindu Kings, what do we find ? Was not a Hindu King the fountain of religion ? How do we find them now ? Has not the Hindu Maharaja of Baroda made rules and laws affecting the religious foundations of Hindu community as regards untouchability ? Has not Travancore

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done it? Therefore, the argument is entirely inconsistent with not only Hindu notions but with the so-called neutrality of a Civil Government. But even if you take Western standards, religious neutrality as understood properly is completely a different thing. The State is certainly entitled to control and regulate the externals of a community; it controls the trusts; it applies the doctrine of *cy pres* through its courts of equity; it decides succession to Maths. Therefore, first, the State always controls the externals of religious foundations; and secondly, it will allow that religious community to evolve on its own lines without legal fetters barring the way. All that this Bill purports to do is to take away the legal barrier which now exists and which prevents the Hindu community from evolving in the proper manner in which the Hindus want it to do. That is the real point about this Bill. The Bill itself is an enabling measure. It does not impose a duty on any trustee to open the temple. It does not compel any temple to be opened. All that it says is that, when a majority of the trustees comes to the conclusion that the temple shall be opened, it shall be opened. It is purely an enabling measure which would prevent law from preventing the Hindu community through its representatives from doing what it thinks right.

In this connection, I may draw the attention of the House to one or two provisions of this Bill. Clause 3 makes it quite clear:

"A trustee, or if there are more than one trustee, the majority of the trustees, of a temple which, by anything contained in the terms of instrument of trust, the term of dedication or a decree of a competent Court relating to such temple or by any custom, usage or law for the time being in force, is not open for the performance of worship to any Harijan may, of his or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms of such instrument, the terms of the dedication, the decree, custom, usage or law, declare in writing that such temple shall from the date specified in the declaration be open to the Harijans to whom such temple was not open, for the performance of worship, subject to such conditions and the observance of such ceremonies as may be specified in the declaration:

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only."

The proviso is intended to lay down that, whatever the conditions laid down for worship, they must be the same for the Harijans. Certain conditions and rules may be laid down for worship. For instance, it may be a condition in a temple that flowers should be offered from a particular place and a particular worship should be done from some other place and so on. These rules are necessary for worship in a temple. The proviso is inserted with a view that the rules should not be only for Harijans but should apply to all Hindus. It safeguards the terms of the first part of the clause. This is really an important section. It does not take away nor does it impose anything which the Hindu community, as represented by its trustees, does not want to do. Purely and simply it is an enabling Bill; and to say that it interferes with religion is really the height of absurdity.

Then, Sir, some people do not still realise fully why this Bill is so essential in order to enable the Hindu community to advance. That, Sir, requires a little careful consideration of what the existing law on

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the subject is and why the disabilities imposed by it are required to be removed by this Bill. As a matter of fact, the Hindu community has been for several thousands of years developing organically on its own lines by the binding force of usage. In the old days, it was not a usage enforced by law but an unforced usage which reflected the opinion and modes of action of the locality in which the temple was situate. As you know, Sir, untouchability is, if I may say so, a modern idea, comparatively a later idea. Sir, the Vedic scriptures are very clear to those who read them; and they do not mention untouchability. I will quote a verse which shows the absurdity of the claim of the Sanatanis to the observance of untouchability. It throws light on the early structure of the Hindu society. As the Hindu members know, the greatest, purest and the holiest of Vedic Sages was Vasishtha. He was the author of one of a Mandal of Rig Veda. His grandson was Parasara who was a great sage himself; and his son was Vyasa, the greatest apostle of Hinduism, the author of Mahabharata, one who at one time was worshipped as Krishna Dvaipayana the eighth incarnation of Vishnu. Vyasa was considered as representing the trinity—Bramha, Vishnu and Rudra. The verse describes Vasishtha as the son of a *Ganika*. “गणिकागर्भसंभूतः वसिष्ठश्च महामुनिः” Vasishtha, the great sage was born of a *Ganika*—a prostitute; “तपसा ब्राह्मणो जातः संस्कारस्तत्र कारणम्” He became Brahmin by reason of his austerities and his innate nature was the source of it. “जातौ व्यासस्तु कैवर्त्याः” Vyasa, his greatgrandson, the incarnation of Vishnu, was the son of a fisherwoman. “श्वपाक्यास्तु पराराः” His father was the son of a woman of the lowest caste. A number of other non-Brahmins have thus attained Brahminhood in earlier days. Therefore, to say that Hinduism is based only on the sanctity of caste is to degrade Hinduism.

Let us take later days. The Buddhist monasteries and temples were open to untouchables. Still later, you find Ramanuja and Chaitanya taking into the fold of Vaishnavism hundreds of untouchables. At present you find that in the South Harijans join in certain festivals on certain days. In the North, the Harijans are allowed the *darshan* of the deity in temples. Nothing is unalterable. It is all a matter of custom which was growing.

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

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, when the House rose, I was referring to the course of progressive custom which regulated matters like the one with which we are dealing today. As a matter of fact, Hindu law does recognise that usage is such a fluctuating thing that it can progress with the times. Quotations from two well-known legal authorities in Hindu law would suffice. Manu says :

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“Whatever an assembly consisting either of at least 10 or of at least 3 persons who follow their prescribed occupations, declares to be the law, the legal force of that no one must dispute.” Mitakshara says the same thing: “Practise not that which is legal, but is abhorred by the world, for it secures not spiritual bliss.”

That was the state of custom, when the British came and imposed upon an ever-growing customary law of the Hindus the rigidity of a legal barrier. About the middle of the last century, in a case which went up to the Privy Council and is known as the Shankarlingam case, it was definitely laid down that in order to decide whether certain Hindus had a right to go and visit a temple, you must look to the usage, the usage of the locality. It is reported in 35, Indian Appeals. The point the Court looked at was whether the Shanar community in the presidency of Madras had a right to visit the temple. The Court looked up the reports of some Collectors and other officials who toured the district between 1871 and 1887 and came to the conclusion that the Shanar community had not visited the temple. You know what is generally done, when a Collector reports upon the social condition of a district, you know how cursory and superficial his report is. The officials in this case had reported that the Shanar community had not visited the temple and were not considered of a sufficiently high caste. The Privy Council held, therefore, that the usage was definite that the temple was not open to Harijans. The result of this decision has been very unfortunate. For even if all the rest of the worshippers in the temple agree to throw it open to Harijans, one solitary individual can say: “Trustees, if you open the temple, I shall file a suit, for this temple from time immemorial has been used only by high caste Hindus.” The result of this position in law is that in spite of the whole volume of opinion in the community, a trustee would not dare to act in the manner in which his conscience and the conscience of the worshippers would dictate. After 1934, numerous cases came up for consideration in which the whole position was this: the bulk of the worshippers wanted to open the temples; the trustees wanted to open the temples; and yet they were all afraid of some one out of the hundreds of worshippers who could come forward and file a suit and restrain them from opening the temples on the ground that possibly during the last 10 or 12 or 20 years no Harijan had gone to the temples in question. Now, that is really putting a legal barrier to the development of usage. If this doctrine of law had not been there, it would have been easier, under the pressure of modern public opinion, for all temples to be opened in the manner in which the community desired. But that simply cannot be done now, because, as I said, most of the trustees are afraid of the legal consequences if they opened the temples and somebody chose to dispute it. It is that difficulty which this Bill seeks to remedy. Once the trustees come to the conclusion that the temple in their charge should be opened, it should not be competent for any single worshipper or set of worshippers to come forward and say, “This was the usage; therefore, do not open the temple.” That is the first important principle of this Bill. As

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I said, it is not religious interference : it is remedying the present law which obstructs the Hindu community from developing on its own lines. Therefore, this Bill does not amount to religious interference ; really, it takes away the interference which the Privy Council decision and the judge-made law in modern India imposes.

Then, Sir, the Bill also affects certain decrees and trusts. As regards decrees, we know how they are brought out. Most of them are the result of squabbles between different trustees. One trustee goes to the court and files a suit for accounts and for removal of trustees. A dozen trustees defend the suit. The worshippers do not take any interest in it. At the end of the suit, in most cases a consent decree is passed, because the trust estate always can provide a bumper crop of costs for both sides. Generally, the trustees incorporate in the decree some such declaration : " This temple is for such and such a class or community ", " This temple is for high class Hindus ", and so on. As a matter of fact, in very few of these cases has the community gone into the question of usage ; and merely because neither the worshippers nor the public were before the Court it was possible for the trustees to take and for the Court to give a decree which had the result of precluding certain castes from taking advantage of the temple. That defect also will be removed by reason of this Bill, because, once the trustees decide to open the temple, even the terms of the consent decree would not be binding upon them.

Then there is the question of trusts. Even the terms of the settlement are to be disregarded where the trustees decide to open the temple to Harijans. In the first instance, there are very few public temples which are created by a deed of trust. Private temples, say for a family are not touched at all. If a man wants to have a temple for the Brahmins or the super-Brahmins or the super-super-Brahmins, he has the liberty to found a private temple and those people can frequent the temple in exclusive dignity. But when a temple where the public attends as of right, a temple which is maintained by public funds is the property of the community and the community is entitled to say that entry to it shall be regulated in a particular way. That is the purpose of the Bill. It may be that a man who died forty years ago thought that a particular temple which he opened should be reserved for this or that class of Hindus. Today, if the man had been alive, possibly he would never have made that stipulation at all. As a matter of fact, most of the public temples have been " Sarvajanic " or " Dharmada " and it is very difficult to say, that when the settlor used the word " Sarvajanic " he wanted any particular section of the community to be excluded from entry into that temple. In this way, Sir, this provision is intended to sweep away all those artificial barriers which have been raised partly by law and litigants and partly by persons who used dynamic words of evergrowing import like " high class ", which the court construes as static. Therefore, it is our duty to see that these barriers are removed by this Bill.

Apart from the strictly legal aspect of it, the principle of the Bill is supported by the opinion of a very large portion of the Hindu community

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of this province. I just looked up the figures: the Hindu members of this House number 132; and the Hindu population of this province—I am giving a very rough figure—numbers 16,000,000. Therefore, it works out roughly at the rate of 120,000 Hindus to each member. I have no doubt in my mind that if you number up the Hindu members in this House who support this Bill and make an estimate of Hindus whom each represents, you will see that an overwhelmingly large number of Hindus of the Province are in favour of this Bill. If the general public opinion in the Hindu community desires a Bill like this—and I submit it does desire it—there is no reason why a small section should insist on enforcing its will upon the general public by resisting attempts of this kind. If really we want to live, if the Hindu community wants to develop on its own lines, if—let us be frank—we really want to be a strong nation, we must accept equality for each individual citizen; we must not allow anything to obstruct the nation from developing solidarity. And that solidarity can never come unless each individual is recognised as the equal component of the whole nation. From that point of view also, this Bill is of great importance, and I commend it to the acceptance of the House.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Sir, I rise to support the first reading of this very important Bill, as I call it. I congratulate the Honourable Minister in charge of it on having summoned up all the courage he could command to bring it forward. Insufficient as it is, far as it does not go, yet it lays some little foundation towards what we should like to see—that the out-castes are brought on an equal footing.

The other day the Honourable the Prime Minister spoke so loudly of fraternity, equality and brotherhood, in another connection. I was then wondering whether the attention of the Cabinet had been drawn to the conditions as they exist in the country, which probably the Prime Minister has not had as many opportunities as we who move out in the country have of seeing how things actually stand. Fraternity, equality and brotherhood are more in demand there: It was my painful experience, when during my term as Minister I visited various places, to see the conditions as they exist in the mofussil. In particular, when I visited a local dispensary, I found that a number of people were waiting outside on the verandah and a large number were inside. I need not mention the name of the dispensary, but when I asked the officer in charge as to who those people were, who were waiting outside, he said that they were untouchables, and they could not come inside and had to wait outside because of the orthodox feelings of the other castes. I asked him whether he had any orthodox feelings himself like the other caste Hindus; he, of course, said "no".

Another instance, which pained me very much, was a very small one, but of a man who, looking to the occupation he followed, should not have ridden the high horse of the high class Hindus, and that man was a goldsmith. In a small place there was a small verandah, and I saw that in

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the wall, which separated the small verandah from the room inside, there was a hole—a square hole—and a woman was sitting outside talking to a man inside. I asked “why is this hole there; why is the woman sitting outside; who is the man sitting inside”? The people who were with me told me that that man was the goldsmith and the woman was an untouchable, and, therefore, she could only do her business with the goldsmith from outside and not enter the inner shop.

However, instances like that could be multiplied to show how things stand in the country—and many honourable members here will bear me out because they all know the fact that the orthodox portion of the Hindu community has not changed its mentality and its attitude towards those whom they consider as low caste Hindus. I, therefore, congratulate the Honourable Minister for having come out to make a start in this direction, and where, Buddha, Christ and Mahomed had failed, where Mahatma Gandhi had failed in turning or changing the heart of the Brahmin or the high class Hindus, he hopes to succeed. I hope he will succeed in bringing a feeling outside in the country in favour of the low caste Hindus. He quoted Manu and Mitakshara. In spite of their exposition of the law, the state of things in the country has not changed. I hope he succeeds in creating a change of heart in the high class Hindus. I wish him success although he took a long time in tendering his apologia fearing the success of his action, and he certainly endeavoured to bring to the notice of those Hindus who were orthodox Hindus that what he was doing was a step in the right direction. But the Bill simply gives an option, as it were, to the trustees, if they decide to take certain steps and leave the doors of a certain temple of which they were the trustees open for the entry of those to whom it was closed so long. I hope that after this Bill passes into law there will be coming forth trustees of that kind, whom he looks forward to come out, and take the steps that this Bill suggests and open the doors of the place of worship to those who are entitled to worship.

I have nothing more to say because the Bill is a simple one; in a few pages he wishes to achieve what thousands of years have not been able to achieve. I have my great doubts whether the mentality or the attitude of the orthodox Hindus would change, but I hope it does, and I also hope the laurel goes to the Honourable Minister who has introduced this Bill. He is known to the outside public as a hero of social reform, who himself has broken through some shackles of society and the orthodox community. He is the best judge and he is the best informant—if he will inform us whether the orthodox Hindus do look upon him not as an outcaste or have embraced him, or have forgiven him for the step he took in his own life as a great reformer.

I congratulate him and wish his Bill a success.

Mr. S. L. KARANDIKAR (Ratnagiri North): Mr. Speaker, Sir, I have great pleasure in according my heartfelt support to the measure that has been introduced by the Honourable the Home Minister. As a man, not ashamed of calling myself a Hindu, as an individual, feeling always in favour of the consolidation of the Hindu society, I always look

[Mr. S. L. Karandikar]

forward to measures, however small they might be in their scope, that tend to bring up some kind of consolidation in the Hindu society as a whole, and as this Bill is an honest attempt at reconstruction and consolidation of Hindu society as a whole, I am glad to give my whole-hearted support to this measure.

In the progress of the Hindu society, ideas have changed and some ideas that were very dignified in former days have become degenerate in modern times and if Hindu society is to be resuscitated with life, I believe it is the duty of popular legislatures to introduce measures which will cure the defects of the present system of the Hindu society and bring vitality into its life. I look upon this measure as a measure that will infuse some vitality—if not sufficient vitality—into the Hindu society. Formerly, temples—so far as I understand ancient literature—were not looked upon as being the exclusive privilege of any community; they were not the exclusive privilege of the Brahmins or of the Kshatriyas or of the Vaishyas or of the Shudras. A temple was meant for the real devotee. If I may be allowed to quote a few stanzas, copying the instance of the Honourable the Home Minister, from Ramayana, there is a dialogue between Rama and Shabari, where the true nature of worship in Hindu society is laid down. There it is specifically stated that a devotee is not a devotee because he is either a man or a woman; he is not a devotee, he is not entitled to be called a devotee simply because he belongs to this class or that class simply because he comes from this strata of society or that. He is a devotee whose heart is full of devotion—he must be weighed and tested only on that standard. The stanza runs thus:—

पुंस्त्वे स्त्रीत्वे विशेषो वा जातिनामाश्रमादयः ।
न कारणं मद्भजने भक्तिरेव हि कारणम् ॥

That is the standard of devotion as laid down in the Ramayana by Rama himself, and if that standard had been followed up till now, I believe all the social distinctions and these separatist tendencies prevailing amongst us would have disappeared long ago, if they had at all entered into the body of our society. But by whatever social processes—we might not discuss them here—separatist tendencies have entered our society and attempts have to be made to wipe out the disruptive tendencies and bring the whole of Hindu society on a common platform as far as possible, of course, at the same time, without disturbing the other factors. Otherwise, if in order to create social equality in one way you try to disturb social equality in another way, it will not pave the way for real reform and as this measure really strikes on a middle course, I find great pleasure in supporting it.

Sir, just now the honourable member the Leader of the Opposition referred to the Brahmins. Perhaps he is under the wrong impression—I do not wish to find fault with him if he is under that wrong impression because I do not expect a gentleman belonging to another faith to have very correct notions of Hindu society and of Hindu religion—that all this untouchability that prevails among Hindu society as a whole is due

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to the hold which Brahmins are supposed to have on Hindu society. I wish to make an honest attempt to disillusion the honourable member on that point. I am giving a concrete instance that will go to prove my point. It was only last year in the course of an election campaign that I had occasion to visit a far-off village in the hilly parts of my own district and there I came across a very curious instance. A gentleman belonging to the taluka place in the neighbourhood had only a year before taken part in an inter-dining function where even the untouchables were allowed to come in, and when that gentleman—a very respectable worthy of that place—visited that village, it so happened quite by accident that a cobra was found in that village temple. There were no Brahmins at all in that village. It is a village that is inhabited entirely by Marathas who are very faithful and very sturdy in physique, but these Marathas were led away by the superstition that this cobra had made its appearance in the temple, where no cobra had made its appearance for several centuries, because this gentleman who had taken part in inter-dining had appeared in the same village. Now, I believe I can very frankly say to my honourable friend that the Brahmin community as a whole—of course there are ignorant Brahmins also and there are superstitious Brahmins also—as a rule is free from such superstitions on account of its progress in learning of all sorts; and, therefore, if there is some impediment, if there is somebody that comes in the way of the equalisation of the various strata of Hindu society, it is not anybody particularly, it is ignorance, superstition and want of progressiveness in society that is responsible for it and when society is found to be conservative by instinct, you have to pass sometimes legislation which that society does not want, and therefore, this kind of legislation, if it is not entirely of a revolutionary nature, is the right type of legislation introduced in society just to test how society takes to it and thereby understand how legislation can be introduced in future.

Now, I have just now given to the House some idea as to what the Hindu society of ancient times thought about the notion of worship. In the Gita itself we find Shri Krishna also saying that God is not to be found in the forest or in the temple or anywhere else but God is to be found in the heart of the devotee. This is what Lord Krishna says :—

नाहं वसामि वैकुण्ठे योगिनां हृदये रवौ ।

मद्भक्ता यत्र गायन्ति तत्र तिष्ठामि नारद ॥

That is what Lord Shri Krishna has laid down and in spite of such dicta that have been laid down from times immemorial, we have got so much degenerated in our form of worship and our ideas of devotion that we have practically turned temples into places that are not visited by anybody and we have gone the length of declaring God himself untouchable by our conduct. Who really visits temples now? So far as cities are concerned, I believe not two per cent. of the Hindu population of cities really visit temples, and as regards untouchables we shut the doors of temples against those people who are clamouring for temple entry. That way we are turning temples into deserted places. That is an injustice

[Mr. S. L. Karandikar]

not only to them but to Hindu society as a whole and even to God himself, if I may say that human beings are capable of doing injustice to God. But that is what is happening today and if God is not to be turned into a myth, if God is to be what He really ought to be, we ought to throw off all these barriers that have been created by society in its march towards deterioration and, therefore, I welcome this Bill as a move in the right direction.

Sir, I quite remember the satyagrahas that were offered at Poona in the Parvati Temple. I quite remember the satyagraha that was offered at Nasik and even if some of my honourable friends tell me that this measure goes nowhere, that it does not lead them anywhere, that it is not temple entry that they want but that it is something substantial, something more solacing, I feel that this very satyagraha that was offered for the cause of temple entry clearly shows that there are in the midst of untouchables hundreds and hundreds of men who are craving for the doors of temples being thrown open to them. They will be more glad if bread is offered to them tomorrow. I do not deny that; but simply bread is not going to give them that spiritual solace which temple entry alone can give them, which this concession—this right—is going to give them.

So far as the feeling of untouchables is concerned, I have to say that even the untouchables do feel that they will be brought on a footing of equality with touchables in case temple-entry is made possible for them. In this connection, Sir, I may state in passing that this idea that Harijans are entirely excluded from temples is not quite correct in all cases. If we go to villages and examine the conditions in villages, at first hand, we find that there are at least certain occasions during the year when untouchables are allowed to enter village-temples and occupy some of the parts of the temple on a footing of equality with other villagers. That happens today, but I am not satisfied with that small privilege that is given to the untouchables. I want this privilege to be extended and I want the Harijans to be allowed to attend the temples just as other Hindus do on every possible occasion on all the 365 days of the year. Therefore, this measure is a welcome measure and I am going to support it entirely, but I cannot forget the fact that I have tabled certain amendments and those amendments are meant for making the object of the Bill more effective; and may I just ask you, Sir, whether my amendments or any one of them are amendments of principle so that I can speak on them just now?

The Honourable the SPEAKER: I was just going to refer to it. All the amendments appear to me to be amendments of detail and, therefore, those amendments need not be discussed now.

Mr. S. L. KARANDIKAR: As those amendments are all amendments of details, I have just referred to the object of the amendments. In order that the object of the Bill may be strengthened, I have tabled those amendments and I shall explain the purport of those amendments when we come to the second reading of the Bill.

[Mr. S. L. Karandikar]

With these remarks, I once more say that the Bill is conducive to the consolidation and the progressive development of Hindu society as a whole and as a member of the Hindu society, though not of a Hindu Party as was wrongly said yesterday by an honourable member—mine is not a Hindu Party unless that party on the benches opposite can also be called a Hindu Party—I whole-heartedly support this measure and expect that it will receive the support of the entire House.

Mr. R. N. MANDLIK (Kolaba District) (*Addressed the House in Marathi*): Mr. Speaker, Sir, I rise to accord my hearty support to the principle of this Bill, which is brought by the Government with the laudable object of removing the disabilities of Harijans in regard to worship in temples. I am mostly in agreement with the views expressed by the preceding speaker, my honourable friend Mr. Karandikar, in connection with this Bill. I belong to the Democratic Swaraj Party, which stands for the complete eradication of untouchability from the Hindu community. Slanders are heard that the Democratic Swaraj Party is in league with the orthodox Hindus and is pledged to oppose the abolition of untouchability with them. But they are mere slanders. There is no modicum of truth in them. Anybody who will care to look into the constitution of the Democratic Swaraj Party and read the resolutions passed from time to time at its several conferences will be convinced that not only the Party stands for the abolition of untouchability, but that it is further pledged to work and agitate for it. The Manifesto issued by the Party at the time of the last Election will also bear out my statement.

Now, who are the leaders of the Democratic Swaraj Party? Are not Messrs. N. C. Kelkar, L. B. Bhopatkar and Jamnadas Mehta the accredited leaders of this Party? The views of these gentlemen on the question of untouchability are well known. They need not be reiterated here. Recently Barrister V. D. Savarkar has joined this Party.

An Honourable MEMBER: May I know on what the honourable member is speaking?

The Honourable the SPEAKER: The honourable member may proceed.

Mr. R. N. MANDLIK: Barrister Savarkar is a powerful propagandist for the eradication of untouchability and throwing temples open to the so-called untouchable classes. The names of Messrs. Kelkar, Bhopatkar, Mehta and Savarkar ought to be a guarantee for anybody who wants it that the Democratic Swaraj Party is not only not against the removal of untouchability, but that it is an active supporter of its removal.

There is a wonderful change in the public opinion in regard to this question, during the last five or ten years. Every one must agree that it is due to the untiring efforts of Mahatma Gandhiji. He has spared no pains to eradicate untouchability and raise the status of the so-called untouchables. He is still working hard at it. His invaluable service

[Mr. R. N. Mandlik]

in this respect must be gratefully acknowledged. I offer him my sincere homage for what he has done so far and is still doing in this behalf.

It was Mahatma Gandhiji who founded the Harijan Seva Sangh and put it into the charge of the late lamented Mr. Gopal Krishna Deodhar. The Sangh under him has been able to do much good work and I pay my tribute to him for it. On the death of Mr. Deodhar our Prime Minister, the Honourable Mr. Kher, stepped into his shoes and worthily fulfilled his part, until the day of his resignation on accepting the burden of his present office. His services to the cause of the Harijans as President of the Harijan Seva Sangh have been highly commendable and, though he is not present in the House just now, I offer him my hearty congratulations for them.

I have given notice of certain amendments. If you give your ruling whether any of them are amendments of principle—

The Honourable the SPEAKER : May I know which amendment the honourable member thinks is one of principle ?

Mr. R. N. MANDLIK : Amendment No. 1.

The Honourable the SPEAKER : They are all amendments of detail.

Mr. R. N. MANDLIK : I do not think that I need say anything on them now.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Mr. Speaker, Sir, I rise to give my hearty support to the Bill which has been brought forward as a first step towards the removal of untouchability. Though a much more comprehensive Bill ought to have been brought to deal with this important problem, I consider the present measure is a step in the right direction. The honourable member Mr. Karandikar stated that, while Brahmins who should have stood against the removal of untouchability are coming forward to support it with great zeal, the Mahrattas are to a great extent responsible for the continuance of untouchability.

Mr. S. L. KARANDIKAR : On a point of explanation. I explicitly stated that no individual community was responsible for this ; but collectively all the communities were responsible for this. When I gave an illustration, the Marathas came by accident. It does not mean that the Maratha community is responsible for it. It is wrong to say that I attributed the whole blame to Marathas.

Mr. D. W. RAUT : The Marathas are ignorant and they were induced by Brahmins to oppose movement of removing the untouchability. The Brahmins are supposed to be the head of religion and are always going in this direction. They are not only against the untouchables but they had refused to perform the religious ceremony attendance on Coronation of Shree Shivajee Maharaj. The Brahmins are responsible for the ignorance of masses in respect of religion.

Mr. S. H. JHABVALA (Railway Unions): Mr. Speaker, Sir, the Bill refers to Harijan community. A large part of this community belongs to the working classes. I represent the working classes. I, therefore, feel called upon to express my opinion in a few words on this Bill. The House need not feel surprised that I extend my hearty support to the Honourable Minister in charge for moving this Bill, not because it attempts at destroying caste distinction or encourages the spirit of worship but because it demolishes a long standing injustice imposed upon this unfortunate class of people called Harijans. Sir, I do not want to descend into the deep declivities of theological discussions, particularly of Hinduism. I can quote from the *Gita*, but I cannot quote the *Upanishads* or any other *Shastras*. However, one point is certain, that Hinduism is not a religion but a mighty world philosophy. Whenever I have read the holy *Shastras* or the *Upanishads*, in the early morning by way of inspiration, I have always come to one conclusion, that Hinduism is an institution of a great world culture in a way. Let us not, as I said, descend into these theological discussions. One fact is certain, and it is this: that the Congress Government have tried, by the introduction of this Bill, to remove a long-standing injustice. But my protest always against this Government is that they do not move resolutely further than they actually do, and sometimes, in the name of policy, they bring up a stunt. I agree that under clause 3, the trustee, or a majority of trustees, if there are more than one trustee, can throw open a temple. But I would request the Minister in charge, if he is really anxious to remove the injustice not only so far as worship is concerned, but also as regards the right of election to trusteeship, he must go a step further. He himself has agreed that there is a certain amount of democracy about these temples that governs the system of devotion and worship. I would, therefore, ask him to introduce a clause to the effect that the right to be elected as trustees should also be given to these Harijans. That kind of right should be established by this class over the owners of temples. The democratic worshippers can then gather together and elect a Harijan even as trustee. This is the only thing that I wanted to offer by way of suggestion.

On the whole, the Bill is distinctly a step forward in the right direction. Therefore, I extend my hearty support to the Honourable Minister in charge.

Mr. R. B. THORAT (Nasik East) (*Addressed the House in Marathi*):

अध्यक्षमहाराज, आपलें असेंब्लीपुढें जें बिल आलें आहे, त्याला मी पाठिंबा देण्याकरितां उभा राहिलों नसून मला या बिलाबद्दल जें आश्चर्य वाटतें तें व्यक्त करण्याकरितां मी उभा आहे.

या बिलाप्रमाणें ज्या मंदिराच्या ट्रस्टींना मानिव असृष्ट्यांना मंदीरप्रवेश करूं देण्याची इच्छा असेल, त्यांना असृष्ट्य बंधूंना मंदीरप्रवेश करण्याचा अधिकार देण्यांत आला आहे.

अस्पृश्यना सरुहो खुळी करणचें बीज आणचें अशी विनवी करून माझे नय. शेवटी पुन्हा एकदा मी आ. मिनिस्टर यांना सर्व सांबाळनिक माहिरी येऊन पाहिले. उगीच ज्या विचाराच्या आधारवर देशाकाशाजि विरोध करूं मिळू आज मीस वर्षापासून एकच उचलत व राहतोत हे त्यांनी समजून अस्पृश्य मानलेल्याबरोबर आमच्या नाशिककच्या मराठा बोहिगातीज सर्व जातीची एकच बसण्यास तयार नाहींत हे त्यांचे म्हणणे निश्चयचें खरें नाहीं. कारण ज्या मताचे हिंदूंची अर्जन तयारी झाली नाहीं. ते अस्पृश्यचें बरोबर उचलास निजानें काहीचक उचयण होणार नाहीं. आ. मि. कर्तद्वार यांना सांगितलें की, कायदा झाला असता तरच, अस्पृश्यना माहिरी माकळी झाली असली. परंतु ही माकळी उचलण्यास पाहिजे होती व तसा कायदा करायचास पाहिजे. तसा सरुहो सर्व सांबाळनिक माहिरी हरिजनाना टॅस्टीच्या समतीविषय कळयानें आहेंर यांना वाटत असेल तर, त्यांनी सरुल असे बीज आणायचास पाहिजे की, निजानें हरिजनाना मंदीरप्रवेशा निळणें अशक्य होय. ज. ना. विद्याल जे अहं फील आहे; कारण रेखाळा जसे दूध कधी घेणें शक्य नाहीं त्याप्रमाणेंच या आहे तद्वतच असल्या निजानें अस्पृश्य मानलेल्यांना मंदीरप्रवेशा होईल हे मानणें यांची संधी टॅस्टी देतील ही ग्राह अशक्य दिसते. रेखाचें दूध काढणें जसे अशक्य-बाहेर स्पृश्य हिंदूंची ही परिस्थिति आहे तसे अस्पृश्यना मंदीरप्रवेश-द्वारावर या देवीला पुन्हा अर्चा करून देवीला खुद्द करून घ्यावें जगतो. जेथे बाहेरून हिंदू देवीचे दर्शन घेतात व श्रीदेवीला विचतात. परंतु याचा यथार्थ होय. यथे चैत्र महिन्यांत फार मोठी याजा मरते. या याजेत बरेचसे माहिरे एका मंदीराचा टॅस्टी नव्हे माळक आहे. हे मंदीर सत्संगायणी

काचिच उरण होईल.

विचाराचे असतात. त्यांच्या मनांत हरिजनाना मंदीरप्रवेश देण्याची इच्छा काहीच उचयण होणार नाहीं; कारण बहुतेक माहिरीचे टॅस्टीज हे सनातनी आहेत. अशा स्थितीत मंदीरप्रवेशाचे बाबतीत टॅस्टीना अधिकार दिल्यानें कळयानें आहे आहेत. त्यामुळे मंदीरप्रवेशाचे बाबतीत ते पूर्ण उदासीन ठळळीत उदाहरण आहे. या सत्यप्रतीत हरिजनाना अनेक अत्याचारां अत्याचारां केले आहेत. याबाबतीत नाशिक-काळमंदीरप्रवेशा-सत्यापन हे लोकानां जे अनेक सत्यापन केले, त्याबाबतीत त्यांच्यावर स्पृश्य हिंदूंनी अनेक निजानेंत मुळाव आत्म्या राहिलेली नाहीं. कारण मंदीरप्रवेशाकरितां अस्पृश्य परंतु ज्या लोकांकरितां हे बीज आणण्यांत आले आहे, त्या लोकांना या

[Mr. R. B. Thorat]

Mr. R. R. BHOLE (Poona West): Mr. Speaker, Sir, at the outset, I should like to state that we on this side of the House are quite unconcerned as to what measure or measures the Government on that side would like to attempt and pass. Having taken up this attitude,

5-30 p.m.

I must also add that we on this side do not at all believe in the sincerity of the Congress Government, because of past experience. I do not at this stage like to read the charge sheet relating to their violation of the Poona Pact. I do not like even to quote instances by which the resolution passed under the presidency of Pandit Madan Mohan Malaviya at the Cowasji Jehangir Hall in September 1933 was violated not only in letter but also in spirit. Nevertheless I should very much like to enlighten the House as to what had happened immediately after the resolution was passed and after wide propaganda was carried on, on behalf of Congress, by Mahatma Gandhiji and various other Hindu leaders. In the year 1934—it was in August of that year—a Bill was brought forward, as pointed out by the Honourable the Minister for Law and Order. It was brought in the Central Assembly on the initiative of the Congress Party. Ultimately, circumstances so changed that the Congress Party itself had to oppose it when it was brought on the floor of the House. It was the Congress Party which took the lead in the matter and persuaded Mr. Ranga Iyer to pilot it in that House. I should like to state in this House what Mr. C. S. Ranga Iyer said in moving the Bill. I will quote a few paragraphs:

“I have already stated that I owed an apology to Mr. Satyamurti, for, while interrupting Mr. Mudaliar, I was not in a position naturally as he was rushing along with his speech to explain myself fully and he would have been at a disadvantage if I had done so. I recognise that Mr. Satyamurti, who was at no time in favour of the Temple Entry Bill, has succeeded in making the Congress drop it. I read the following written statement of Mr. C. Rajagopalachariar in the *Hindu* of Madras, dated the 16th August. The *Hindu* is a very responsible newspaper, and as it is not a mere telegraphic interview, but written statement, I believe Mr. Rajagopalachariar's statement can be taken as accurate. Mr. Rajagopalachariar is apologising to the public for his betrayal of the cause of the untouchables. As the principal lieutenant of Mahatma Gandhi, his betrayal must be placed on record. He says:

‘The question has been asked by some Sanatanists whether Congress candidates will give an undertaking that Congress will not support any legislative interference with religious observances. Similar questions may be asked on a variety of topics by persons and groups interested in each one of them. That such questions are asked only of the Congress candidates and similar elucidation is not attempted in respect of other parties and independent candidates is a very great compliment paid to the Congress.’

So, says, Sriman Rajagopalachari. And, instead of following up the compliment and arousing public opinion on an unpopular measure, here is a great Congress leader who sat *dharma* at our houses with his son-in-law, Devidas Gandhi, who repeatedly called on me at Delhi and said ‘We seek joint support for this legislative measure’,—here is a man who goes back ‘like a crab’, to borrow the language of Shakespeare. Political parties, explains this subtle brain from the South, have distinctive policies on various questions covering a wide field:

‘Not all of them, however, are made into election issues at any one time.’

Sir, this Congress leader is afraid of facing the public opinion which he has roused.

Sir, are the Congress people slaves?

‘They are slaves who fear to speak
For the fallen and the weak.’”

[Mr. R. R. Bhole]

According to Milton, 'To say and straight unsay argues no liar but a coward traced.' (Rai Bahadur Kunwar Raghbir Singh: "Question.") My friend questions. Not being a Congressman, the epithet does not apply to him. I was quoting Milton. Mr. Rajagopalachari unsays now what he had been saying long before the General Election from every platform in the following words :—

'The Congress candidates go to the electorate in this election on well-defined political issues.'

That is to say, they go to the electorate with a view to pandering to the prejudice of the masses whom they have misled, so much so, that they have got themselves into a bog. Lord Willingdon came to their rescue, to take them out of the bog by announcing the dissolution of this Assembly and giving them an opportunity, as a constitutional Viceroy, to return to the sheltered paths of constitutionalism. Therefore, they have run away from their own convictions and are playing every trick to come back to the Legislature with as large a number as possible. Had they gone on with the Temple Entry Bill or the untouchability question, they would have lost many votes, for it is not a popular issue. I said so, though Mahatma Gandhi contradicted me publicly at the time. I said so when Shankaracharya was staying in Malabar in my brother's house at Palghat. My brother came on a deputation to the Viceroy to oppose the Bill. I said: 'I know, the reformer is not in a majority in Malabar'. Nowhere else are the reformers in a majority but the reformers believe in persuading the majority to their way of thinking. Then, I said—whatever the result of a referendum the Congress people might have taken in Gurusvayur in Malabar might be, I could not for a moment believe that the majority of the temple going people in Malabar were in favour of admitting the untouchables into the temples; but, I was prepared to fight them, also to argue with them and to persuade them and to make them take an interest in the cause and the case of the untouchables, for, I feel, the untouchables are a part of my community. Sir, if one-third of my community is to remain submerged in exclusion in the name of religion, I feel, as I have always felt and said, that that community has no right to existence. It is with a view to the unification of the Hindu community, it is with a view to building up the greatness of the future of that community on the past of that community, when untouchability was quite unknown as in the Vedic ages, that I have taken up their cause. And now, I find Congressmen, so keen about untouchability yesterday, explaining why they are not taking it up today. Mr. Rajagopalachariar has driven the last nail into the coffin of the Temple Entry Bill, as Raja Bahadur Krishnamachariar, the Raja Saheb of Kollengode, or Sir Satya Charan Mukherji would perhaps like to say, representing as they do the various Sanatanist groups of the country.

Sir, Mr. Rajagopalachariar goes on to say that they asked to be returned 'on no other issue'. That is to say, not on Temple Entry issue, but merely on a political Anglo-phobia issue, an anti-British issue, because, having traded on public feeling, having tried to give it as much racial antipathy as possible in the name of non-violence, in the name of religion itself, because non-violence was sometimes given a religious bias, having created that atmosphere of distrust in the country, finding that that atmosphere might not help them in the election if they fought it on a bigger, a cleaner and higher issue, namely, the removal of untouchability itself, they side-track the issue, they run away from their conviction:

'They are slaves who dare not be
In the right with two or three.'

(Hear, hear.)

Then he, a principal lieutenant of Gandhiji, goes on to say:

"If successful at the polls, they cannot believe they will receive the mandate of the electorate on any other questions"—

That is to say, they are not receiving the mandate of the electorate on the Temple Entry Bill. This man, who came screaming at our doors, begging us for support, these beggars in the cause of the Congress,—who just begged of us to proceed with this Temple Entry Bill, are not only betraying the cause of the untouchables, but they are betraying the principles of the Mahatma himself, for, we know, that Mahatma's fast was directed toward the uplift of the untouchables by giving them concessions in regard to the Communal Award, which the Congress naturally has hesitated to repudiate, and we, therefore, know that that has a direct bearing on the untouchability question, to approach which,

[Mr. R. R. Bhole]

to solve which, the Mahatma, the great Mahatma, wanted to tour the country, but today the Congress, who betrayed him first in the betrayal of the Congress boycott of the Councils, have, by seeking to come to the Councils, further betrayed him with the assistance of his own *samandhi*, Rajagopalachariar, and they say that they are not going to proceed with the untouchability question and the Temple Entry Bill without a mandate from the people !”

The Honourable the SPEAKER : Is the honourable member going to read the whole oration ?

Mr. R. R. BHOLE : Only a minute, Sir.

“ Sir, where is the difference, I ask, between Raja Bahadur Krishnamachariar and Sriman Rajagopalachariar ? Raja Bahadur Krishnamachariar has always conceded— ‘ take a mandate from the people and then come and legislate.’ Sir, he is not a coward ; a great Sanatanist himself, he is willing to face the music. On the contrary, these people who pillory the Sanatanists up and down the country, forgetting that Sanatana Dharma is eternal truth itself, are behaving in a manner which even the Sanatanists will not appreciate, for Sanatan Dharma is eternal truth and the betrayal of truth is worthy only of untruthful people. Having betrayed many a principle which would lead us to our national goal, having taken up the case of the untouchables only to save their faces, with no conviction behind them, as we now see, the great Congress leaders, with the exception of Mahatma Gandhi, have said, through Rajagopalachariar, the Organizer-in-Chief of the coming elections on behalf of the Congress :

‘ It will be open to all Congressmen to have the matter duly considered before it is ever made into an official Congress Bill.’

For this betrayal of the cause of the untouchables, I hope constitutionalists will organise themselves, whether Hindus or Mussalmans. They can agree to differ later on on communal issues, but they will unite and offer a great battle to the Congress and bring that organ of masqueraders down on its knees. Sir, I think here is a betrayal of the cause of the untouchables and the Depressed Classes : and, if I did not believe in this movement before Mahatma Gandhi could take it up for Mr. Rajagopalachariar went from door to door to Delhi, I should not have been here to move this Bill.”

This was the state of affairs, Sir, immediately after the passing of the so-called famous resolution under the presidency of Pandit Madan Mohan Malaviya. I wonder what the difference is in the affairs today ; I do not wish to go into details, but I would not be out of place if I may say, by looking at the face of the Bill, how the Bill is liked. If really the Congress wanted to open the temples for the so-called untouchables, I do not see for the moment why that particular clause about making a trustee a middleman between the public and the Government is introduced in this Bill. Why should these trustees be made middlemen ? After all, we know what the mentality of the majority of the trustees is. It is impossible, as we know from experience, that these trustees will ever open the temples to the so-called untouchables.

The Honourable Mr. K. M. MUNSHI : Sir, I have nothing to add to what I have already said, except to congratulate my honourable friend (Mr. Bhole) for giving me a living specimen of the impatient Harijan whom I referred to in my speech when I moved the first reading of the Bill. I can quite understand his feelings, and we, the higher classes, have no right to complain about them. It is the tyranny of centuries which has naturally created among impatient educated Harijans a feeling that the world is not being revolutionised in a day. He read the speech of Mr. C. S. Ranga Iyer. He perhaps does not know the circumstances which made the Congress to drop the Bill at that time. It is old history ;

[Mr. K. M. Munshi]

I need not go into it again, but he must not forget that if there is any organised body or any set of men who have taken this question to heart and have persistently tried to produce appreciable results, it has been the Congress. It is no use blaming us, saying we are trying to redeem a pledge which we had broken yesterday. If that is his out-look, I can only be sorry ; I understand the justification for it ; but there is nothing to prevent us from trying to redeem the pledge even now when we have got the power. I can assure my honourable friends opposite that whatever may be their view of us, the Congress and the Congress members on this side are actuated by one motive and one motive alone, and it is to see that this stain on our religion, our society, our culture, is removed as early, as swiftly, as possible.

With these words, Sir, I commend the Bill to the House.

Question, "That the Bill be read a first time," put, and agreed to.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that this Bill be referred to a select committee. There are a number of amendments and I have no doubt that if the Bill is referred to a select committee, possibly the task of the House will become easier than otherwise. Of course, the report may be submitted on Saturday next.

Mr. W. S. MUKADAM : Sir, we have not been able to hear anything on this side.

The Honourable Mr. K. M. MUNSHI : I am moving that this Bill be referred to a select committee. There are a number of amendments, some of which are verbal. It will become easier to discuss those amendments in a select committee rather than in the House, and I suggest the following names :—

1. Sir Ali Mahomed Khan Dehlavi.
2. Dr. B. R. Ambedkar.

Dr. B. R. AMBEDKAR : I am sorry, Sir, it will not be convenient for me to serve on the Committee.

The Honourable Mr. K. M. MUNSHI : Will any member of your Party, Mr. Bhole for instance, serve on the Committee ?

Mr. R. R. BHOLE : No.

Mr. D. G. JADHAV : No.

Sir ALI MAHOMED KHAN DEHLAVI : I would ask the Honourable Minister to excuse me, not that I shirk giving any assistance to the Honourable Minister, but I do not think I would be of any use. Instead of me he should take some other member who can be more useful to him in the matter.

The Honourable Mr. K. M. MUNSHI : Is no member of your party willing to serve on the Committee ?

Sir ALI MAHOMED KHAN DEHLAVI: I was wondering whether a Muslim member would be of any use.

The Honourable Mr. K. M. MUNSHI: Why not? There are many legal aspects involved in the question. However, if no one is willing—

The Honourable the SPEAKER: Will the Honourable Minister formally move the motion?

The Honourable Mr. K. M. MUNSHI: Sir, I beg to move that the Bill be referred to a select committee consisting of myself, Mrs. Thuse, Mr. S. L. Karandikar, Mr. D. W. Raut, Mr. R. N. Mandlik, Mr. R. B. Thorat, Mr. D. N. Desai, Mr. B. D. Lala, Mr. V. N. Jog, Mr. B. R. Rane, Mr. S. G. Songavkar and Mr. B. U. Vaghela.

Sir ALI MAHOMED KHAN DEHLAVI: What about quorum?

The Honourable Mr. K. M. MUNSHI: The quorum to be of 5 members.

Mr. B. P. THAKOR: Sir, I suggest that the report should be submitted by Thursday instead of by Saturday.

The Honourable Mr. K. M. MUNSHI: I accept that suggestion, Sir. Question put, and agreed to.

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE
TEMPORARY RELIEF OF SMALL HOLDERS IN
THE PROVINCE OF BOMBAY).**

The Honourable Mr. K. M. MUNSHI: Sir, I beg leave to introduce Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the province of Bombay).*

The Honourable the SPEAKER: The Bill is introduced.

Mr. G. K. PHADAKE: On a point of information. Is the Governor's sanction obtained for this Bill?

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I move that Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the province of Bombay)—

Sir ALI MAHOMED KHAN DEHLAVI: What was the question asked by the honourable member Mr. Phadake?

The Honourable the SPEAKER: The question was whether the Bill had received the previous consent of the Governor.

Sir ALI MAHOMED KHAN DEHLAVI: The Honourable Minister has not replied to that query, I think.

The Honourable the SPEAKER : Yes, no reply was given.

Now, with reference to the question of tabling amendments, I have already invited the attention of the House on more than one, two or three occasions to the desirability of tabling amendments as early as possible, as they have to be looked into, they have to be scrutinised, Government have to be given notice of them and I myself have to see as to whether the amendments are in order or not. I find that notwithstanding my repeated requests during the last week more than twice or thrice, three honourable members have submitted a long list of amendments this noon or afternoon, some of them having reached the office after 12 noon. It is not possible to scrutinise these amendments at such short notice and to see whether any of them requires the previous consent of the Governor; and, if so, there is hardly any time to obtain that sanction or to follow the necessary procedure. I do not see how I could be expected to waive the required notice in respect of amendments coming in so late as that. I would, therefore, not decide at present whether to waive the required notice in respect of amendments coming so late as that.

Sir ALI MAHOMED KHAN DEHLAVI : I once again repeat the important question that was asked by one of the members from that side, whether—I would add—previous sanction to this Bill is necessary, and whether that has been obtained.

The Honourable Mr. K. M. MUNSHI : Sir, I was going to give the information when I rose to speak. According to the section 299 (3) of the Government of India Act, no Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion, or in a chamber of a provincial legislature without the previous sanction of the Governor in his discretion. From the fact that this Bill has been introduced, it must follow that the proper previous sanction of the Governor has been obtained, as otherwise we would not have introduced the Bill.

Mr. S. V. PARULEKAR : Sir, my submission is that the House cannot proceed with this Bill for the following reason.

I had given notice of some amendments which in the opinion of the Honourable the Speaker require sanction of the Governor. I do not accept that point of view and I have already written a letter to His Excellency the Governor saying that his sanction is not necessary for my amendments. Now, the rule 19 (3) on page 7 of the Assembly Manual runs as follows :

“ If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant the previous sanction if it were necessary, and the decision of that authority on the question shall be final.”

So, the Chair has given its ruling that my amendments require the sanction of the Governor. I do not accept that point of view. A question, therefore, has arisen in which the Governor has to give his

[Mr. S. V. Parulekar]

decision in the matter ; and, so long as he has not decided it one way or the other, the House cannot proceed with the Bill and with the discussion of the Bill.

The Honourable the SPEAKER : I will invite the honourable member's attention to sub-clause (2) of Rule 19. I will read sub-rule (2), for instance, and follow it up by reading sub-rule (3). Sub-rule (2) is as under :—

" If notice is given of a motion to introduce a Bill or to move an amendment which, in the opinion of the Speaker, cannot be introduced or moved save with previous sanction, the Speaker shall, as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed on the list of business unless the Governor has indicated to the Speaker that the previous sanction required has been granted."

So, that prescribes the duty of the Speaker with reference to notice in respect of Bills or amendments in respect of which previous sanction is necessary. Then follows Sub-rule (3) :—

" If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant the previous sanction if it were necessary, and the decision of that authority on the question shall be final."

Reading the two sub-rules together, it follows that even if the Speaker feels doubtful as to whether sanction is or is not necessary, then also a reference has to be made, for the decision of that question, to the Governor. The Rule contemplates three circumstances : the Speaker may feel sure that it does require previous sanction ; he may also decide that it does not ; and there is the third alternative in which there is room for doubt. In either of these first two alternatives, the matter is left entirely to the Speaker. If he comes to the conclusion that no sanction is necessary, he immediately takes notice, if it is otherwise relevant. If he comes to the conclusion that sanction is necessary, he immediately follows the procedure that is laid down in Rule 19 (2), and in the third case in which he feels doubtful, the procedure under sub-rule (3) has to be followed. Therefore, it is not a question of any honourable member of this House feeling for himself a doubt on the question or agreeing or not agreeing with the Speaker. If he agrees with the Speaker, well and good. If he does not, he has to accept the Speaker's decision as binding on him until the Governor has given his decision on the question. There is no question of challenging the Speaker's decision in this House in any form.

Now, the second point is as to whether the consideration of the Bill cannot be taken up. I would regret the inconvenience caused to any particular member of the House by being deprived of the right to move an amendment, if sanction is not received in time. But that will be entirely a different matter from getting the adjournment as a matter of right. I am, therefore, of the view that the Bill can be proceeded with and the point of order raised by the honourable member Mr. Parulekar cannot be admitted.

6 p.m.

Mr. S. V. PARULEKAR : I agree with the Speaker that he is the final authority. There is also this issue ; so far as the rights—

The Honourable the SPEAKER : Order, order. I do not want to permit any discussion on my ruling.

*Dr. B. R. AMBEDKAR (Bombay City) : Sir, I would like to ask one question, because I am finding some difficulty in understanding Rule 19. This is undoubtedly a matter which, in the first instance, has to be decided by the Speaker as to whether a particular amendment or a particular Bill needs previous sanction. Clause (2) says that, if in the opinion of the Speaker, the matter requires previous sanction, the Speaker " shall, as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed on the list of business unless the Governor has indicated to the Speaker that the previous sanction required has been granted." Clause (3) deliberately states :

" If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant previous sanction if it were necessary, and the decision of that authority shall be final."

The question that is contemplated in clause (2) to arise is between the Speaker and the member who has given notice of an amendment or Bill. If the member who has given notice of an amendment or a Bill feels that his Bill or amendment does not require previous sanction clause (3) gives him the right to refer the matter to the final authority, the Governor. Therefore, it seems to me,—I will frankly say, I have not moved any amendment and am not, therefore, directly concerned—that the matter is so important that, if you would not mind, it should be discussed on the floor of this House. Our rights to bring in Bills is so limited by the Government of India Act that, if we are not given the benefit of the few sections there are which give us the right essential to us, though little, this House will be very greatly handicapped in trying to do its bit in the matter of bringing legislation which is vital. Therefore, I would really like to know whether you are of opinion that under Rule 19, the Speaker is the final authority and that there is no right of appeal to the authority which is vested with the power of giving previous sanction.

If you permit me, I shall refer to section 299, sub-section (3) of the Government of India Act in the light of the Bill for which permission has been asked by my learned friend. If I understand this Bill, technically it can be spoken of as a remedial measure.

The Honourable the SPEAKER : Let us keep clear of two issues. One issue that has been raised by the honourable member Mr. Parulekar is in regard to the interpretation of Rule 19 as to whether, when a question arises as between a member and the Speaker, the Speaker is the final authority. That is one issue. I have stated what my interpretation of Rule 19 is. As regards the question whether a particular amendment tabled by the honourable member Mr. Parulekar does or does not require

[The Speaker]

sanction under section 299 (3), it is an independent question. I have already intimated to the honourable member that I do not propose to have any discussion in this House over the question of his amendment. I have already come to a conclusion on that. I am prepared to hear the honourable member, if he advances any argument on the interpretation of sub-rule (3) of Rule 19.

Dr. B. R. AMBEDKAR : Unless I am permitted to point out that the Bill cannot come within the purview of sub-section (3) of section 299 of the Government of India Act, it is futile for me to argue on the interpretation of Rule 19 (3). If I am to convince you that Rule 19 (3) does give a member aggrieved whose amendment has been rejected the right of appeal to the Governor, then my submission is that section 299 (3) will have to be considered. If you are not prepared to allow me to argue whether this Bill really does come within the mischief which is sought to be prevented by sub-section (3) of section 299 of the Government of India Act, it will be quite useless for me to argue. Reading sub-section (3) of section 299 of the Government of India Act, it seems to me that the Bill will have to be postponed until a member who is aggrieved has obtained the final sanction, because it has precluded the member from discussing the most important provisions of this Bill. It is shelving the whole question. If I am given the opportunity, I will show how. I have applied my mind to it. Neither this Bill nor the amendment tabled by my honourable friend Mr. Parulekar or members of my party can come within the proviso of sub-section (3) of section 299. If you permit me, I will do it in two minutes.

The Honourable the SPEAKER : So far as the individual amendments are concerned, I have already decided one way. Now, if, without any reference to any particular amendment, or any ruling I have already given in regard to it the honourable member wishes to say how the entire Bill is out of the scope of section 299, that will be a different question, and I am prepared to give him a hearing on that question.

Dr. B. R. AMBEDKAR : I am obliged to you, Sir.

Sir, as I was saying, this Bill is a Bill which might be called purely a remedial measure. A person may obtain a decree from a court. That decree means that he has got certain rights as against a certain person. All that this Bill says is that whatever rights that person may have acquired as the result of a decree against a debtor or against any other person, those rights shall not be enforced until a certain date is reached, namely, 31st of March 1939. I understand that to be the gist of the Bill. Therefore, this measure deals with the enforcement of rights; it has nothing to do with the extinguishment or modification of the rights. That is my first submission. I would make a distinction between extinguishment or modification of a right which a person has got and the delaying or suspension of the enforcement of that right.

[Dr. B. R. Ambedkar]

Secondly, sub-clause (3) of section 299 is confined to the extinguishment or modification of rights in land. Now, this measure does not confine itself to the execution of rights in respect of land; it extends also to debts and the eviction of tenants.

The distinction that I am seeking to make is this: that the suspension of the enforcement of a right is something very different from the extinguishment or modification of that right. The object of the Bill being merely to suspend such rights as the parties may acquire through decrees given by the courts, it is not a Bill which can be said either to extinguish or modify rights in land. Consequently, I submit that both this Bill and amendments which do not extinguish or modify rights in land would not come within the mischief of section 299 (3).

The Honourable Mr. K. M. MUNSHI: May I, Sir, make my submission? The honourable member goes to the length of saying that Government themselves should not have obtained the sanction of the Governor under section 299. Therefore, in fairness to Government, I must state the position Government have taken up in this matter. Clause (3) of section 299 speaks of "extinguishment or modification of rights" in land. I shall only make use of the words that are necessary for this purpose. Now, the only question is whether this Bill seeks to modify any rights in land. That is the one issue. I would first submit that it is one of the rights of an attaching creditor to have the land of his debtor sold and sold forthwith. If that right is postponed, to that extent, it is a modification of his right to the property. That is my first point.

The second point is with regard to clause 5. A person has got the right to alienate his property whenever he likes. If that right is postponed, it is a modification of the rights of the owner of that property to that extent. I have got the right to sell the property now and here; and if you do not allow me to do it, it is a restraint on the right of alienation,—may be for a short period or a long period. Therefore, this Bill modifies the rights in property.

Then, further, clause 7 is much more important still. It is the right of the landlord to evict his tenant under certain processes of law. This is a right inherent in every landlord. It may arise out of a lease or a decree. In either case, the right is modified. The landlord cannot evict his tenant—

Dr. B. R. AMBEDKAR: Up to what period?

The Honourable Mr. K. M. MUNSHI: May be for a day or for a year.

Dr. B. R. AMBEDKAR: That is the whole point.

The Honourable Mr. K. M. MUNSHI: The postponing of that right is a modification of his right to the immediate eviction of the tenant. The point is, a man has got a right to exercise in respect of his property;

[Mr. K. M. Munshi]

you say you shall not do so for a period ; to that extent, you modify his right. It is not extinguishment, but it is modification. If the word "modification" were not to include cases like these, it would lose its meaning altogether. Therefore, I think this legislation falls strictly within the words of section 299.

Mr. ISMAIL I. CHUNDRIGAR (Ahmedabad District) : Mr. Speaker, Sir, I was a bit amused to hear the Honourable Minister on the Congress benches trying to put an interpretation on a section of the Government of India Act, which really went to curtail the rights of the members of this House.

The Honourable Mr. K. M. MUNSHI : You cannot forget the law.

Mr. ISMAIL I. CHUNDRIGAR : I am not asking you to forget it. I am referring to the putting of an interpretation which would enlarge the rights of members of this House and not curtail them. My submission, Sir, is that the words "extinguishment or modification" of rights in land do not refer to the time at which the rights are to be enforced. As the honourable member Dr. Ambedkar put it, those words do not cover the suspension of the rights in land for some time. Extinguishment of a right, Sir, means the extinction of the whole right ; modification of a right means the enlargement or the curtailment of the quantum of the right itself and not postponement or suspension of the right for some time. If the legislation wanted to curtail the rights of this House, even to the extent of affecting the right to suspend or postpone those rights, then there was nothing to prevent the legislature from using the word "suspension" also in it. We should not read in the words of section 299 any intention to curtail the rights of this House further than what they appear to do. Sir, that is the aspect which I want to place before you.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, the section says that the rights in land cannot be modified. Sir, the creditor who has got only a decree with him, so long as he is not in possession of the land against which he has a decree, has no rights in the land. And further so long as the decree is not executed, it is unnecessary to assume that the debtor's land would be attached. There is the debtor's moveable property which can be attached. This Bill, I would like to submit, Sir, does not modify the rights in land. On the other hand, the Bill itself wants to confer more rights on the man who has got land. The land of a small holder is not to be sold in execution of a decree. The Bill does not modify the rights in land ; on the other hand, it enlarges the rights of the man who has got rights in land. From that point of view, all amendments to this Bill will be in order, as they will not amount to any modification of the rights in land.

The Honourable the SPEAKER : There was only one matter in respect of which I was feeling doubtful, and that is, how far attachment by itself gives a right in or to the land. That was the only point of doubt. So

[The Speaker]

far as the Bill as a whole is concerned, it appears to me that the discussion is more or less of an academic type; but I am not prepared to say that it is wasteful of the time of the House or unnecessary, because if the section is threshed out from different points of view, it will certainly help us for our future guidance. It is from that point of view, and not from the point of view of this particular motion, that I have permitted discussion on the scope and extent of section 299. I am prepared further to discuss individually with members any and every point of view, not only with reference to this or that piece of legislation, but with reference to every amendment that any honourable member wishes to discuss with me. So far as the present point is concerned, it seems that the matter has already been decided, as His Excellency the Governor has already accorded his sanction:

"The Bill to provide for the temporary relief of small holders in the Province of Bombay requires my sanction under section 299 (3) of the Government of India Act, which I hereby accord."

That is the sanction of the Governor. Now, sub-section (3) of section 50 of the Act provides:

"If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion, or ought or ought not to have exercised his individual judgment."

So far as this particular Bill is concerned, the discussion is not very helpful, because it has been held by the Governor that it does require his sanction.

Mr. I. I. CHUNDRIGAR: As sanction was applied for.

Dr. B. R. AMBEDKAR: Supposing His Excellency were to accord sanction to such of the amendments as have been submitted to him, would you postpone the consideration of the Bill? His Excellency may grant his sanction to the amendments just as he has done in the case of the Bill. In that event, what would happen?

The Honourable the SPEAKER: I will certainly be glad to see that every amendment tabled gets a full chance of being discussed on the floor of the House and that no amendment is shut off on the ground of want of sanction. That is why I referred to the difficulty experienced by me when members sent in amendments at 12 or 1 o'clock today, when the Bill was before them for a long time. That is the difficulty which I have been feeling. That is the reason why I said that amendments should be tabled as early as possible. There are three honourable members who have tabled amendments today. It is difficult to scrutinise them all and to decide whether any of them requires sanction. There might be scope for honest difference of opinion. So I do not know whether in respect of all the amendments tabled now, it would be possible for me to waive notice. But, so far as the previous amendments are concerned, I will certainly try and see that the members do get an opportunity to move them.

[The Speaker]

Now, as regards precedents in this House, I may just invite attention of the House to a ruling given in 1935, perhaps by the present Leader of the Opposition :

"If the sanction of the Governor General under section 80A of the Government of India Act to an amendment is not obtained by the mover, the House is entitled to proceed with the measure. The mover should in the meantime take steps to obtain the required sanction and until the sanction is obtained, the amendment remains in abeyance. But in the case of the sanction of the Governor under section 80C as the Governor is on the spot and his sanction can ordinarily be obtained within a day or two, the House will not wait for that. The member concerned must produce the sanction before the House proceeds to discuss his amendment." (Supplement to the Digest of Rulings of the Presidents, Bombay Legislative Council, p. 12.)

That has been the previous pronouncement as regards the practice and the law. So, all I can say at the present moment is that I have not looked into any of the amendments to see whether they are amendments of principle or not. I have not scrutinised them all, including those received today. If I come to the conclusion that there is no amendment of principle among those which I have received, there will be time enough for members to get the sanction before the House proceeds with the second reading. In the meantime, the first reading may proceed.

Mr. S. V. PARULEKAR : In this connection, may I bring to your notice the fact that I just received a letter from His Excellency saying that I should interview him on Wednesday at 10-15 ? Therefore, it may not be possible for me to get his sanction tomorrow when the Bill comes up for discussion. Many of my amendments are amendments of principle.

The Honourable the SPEAKER : I am sure that if the urgency of the matter is brought to the notice of His Excellency, the honourable member will get an earlier appointment. In the light of what has happened in the House, a second attempt may be made to get an earlier appointment. If the honourable member succeeds, well and good ; if not, we shall see what the House wants to do.

Mr. S. V. PARULEKAR : So the matter will be decided by the House ?

The Honourable the SPEAKER : Not necessarily.

The Honourable Mr. K. M. MUNSHI : May I, Sir, again request the honourable members not to fling amendments at the Government at the last minute ? This is a very important measure, and if amendments continue to come in even at the last minute, it would be impossible for Government to consider those amendments. Therefore, in the case of important measures, the rules should be strictly adhered to. I am not saying this about the amendments which have come so far, but hereafter there must be some consideration shown to this side of the House.

Dr. B. R. AMBEDKAR : If the Honourable the Home Minister and the Government were not throwing up Bills while the session is in currency, we should be able to send in our amendments much earlier. We should have had the Bills at least 10 or 15 days ago. This side has never had an opportunity to consider them.

The Honourable Mr. K. M. MUNSHI : The rule requires seven days' notice, and you have had it.

Mr. D. W. RAUT (in Marathi) : May I point out, Sir, that I actually received the Bill on the 18th ? That is to say, I have had only six days in which to study it and table amendments. If the Bill had been in our hands earlier, we would have been able to table our amendments in time.

Mr. G. K. PHADAKE : The public received a copy of this Bill on the 22nd. A friend of mine has come from Satara after receiving a copy. How is it possible to table amendments in time when we receive copies of the Bill on the 22nd ?

The Honourable the SPEAKER : I said last week that I would not insist on seven days' notice as the rules provide. But there should be some limit to it.

Mr. R. R. BHOLE : So far as both the sides are concerned.

Dr. B. R. AMBEDKAR : You may admonish Government.

The Honourable the SPEAKER : Last time I admitted all amendments. I have been practically giving notice to the House of my intention not to exercise the power as regards waiver.

The Honourable Mr. K. M. MUNSHI : May I say that this Bill was published in the *Government Gazette* on the 15th ?

Mr. S. V. PARULEKAR : I gave notice of my amendments about a week ago.

The Honourable the SPEAKER : In any case, the Bill stands over till tomorrow.

The House then adjourned till 2 p.m. on Tuesday, the 25th January 1938.

Tuesday, the 25th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Tuesday, the 25th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, Mr. KHANDUBEAI K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAFURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.

GORHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HANAGI, Mr. ABDUL KARIM AMINSAB
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAUURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.

MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDRAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PRATER, Mr. S. H.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 RUSSELL, Mr. W. W.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur.
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.

THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

REPORT OF ADVISORY COMMITTEE RE : SEATING ACCOMMODATION.

The Honourable the SPEAKER : I have received the Report of the Advisory Committee nominated in regard to seating arrangements and I accept the recommendations made by them. Members may sit according to their recommendations. Copies of the recommendations of the Committee will be sent to the leaders of parties.

BILL No. VI OF 1938 (SMALL HOLDERS RELIEF BILL).

Question again proposed, "That the Bill be read a first time".

Mr. R. R. BHOLE (Poona West) : Sir, I beg to move that the business be adjourned under Standing Order IV, clause 4, in view of the fact that my two amendments have been forwarded to His Excellency the Governor for his previous sanction. I think it is my duty to see that the Bill which is under the consideration of the House at present is not discussed at present, because my amendments are meant to improve the main provisions of the Bill. The second reason is that it is the right and privilege of the House to see that a Bill, whether it is brought by Government or by a member of the Opposition, be fully and exhaustively discussed in order to achieve the purpose for which it is meant. It is only because of this, that I move the adjournment of this business. Moreover, I might add that I am personally concerned because of the fact that my two amendments to the Bill before the House have been sent to the Governor for his sanction. Therefore, I move for the adjournment of the business of the discussion of the Bill before the House until the sanction is received for the amendments that have been forwarded to the Governor.

The Honourable Mr. K. M. MUNSHI : Sir, may I submit that no adjournment need be granted, for the reason that it is the intention of Government to have this Bill referred to select committee ? So far as I can see, there is no amendment of principle and, within the time the select committee makes its report, if any amendment receives the sanction of the Governor, it will be available for consideration by the Select Committee or by the House. It will be a very unfortunate precedent if,

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because an honourable member has not sent in his amendment and applied for sanction in time, the House should not proceed with the consideration of the business.

Mr. S. V. PARULEKAR : The Bill was printed—

The Honourable the SPEAKER : Order, order. Before the honourable member Mr. Bhole got up to move the adjournment motion, I was thinking of stating to the House that I had scrutinised all the amendments, inclusive of those received till last evening, and that all of them were amendments of detail. I, therefore, was thinking of placing before the House as to whether the first reading should not be gone through, because till that stage there was no occasion for discussing any amendment. When it came to the stage of discussing the amendments, it was my object to request Government, in view of the importance of the Bill as also the general consensus of opinion of the Opposition that they had had a very short time for tabling amendments, whether it was not proper to postpone further consideration of the Bill to some suitable date, so that members might have time to think over the discussion on the first reading, to enable them to table amendments and also to enable those members who want to get the previous sanction for their amendments to get it. The honourable member Mr. Bhole has moved his motion and, under the Standing Order as it stands, I am bound to give that motion precedence and put the question without any debate. Therefore, the only alternative before me is to put the motion to the House. May I know till what date the honourable member wants postponement ?

Mr. R. R. BHOLE : Until the sanction of the Governor is obtained.

The Honourable the SPEAKER : I do not anticipate whether the sanction will be given or will not be given.

Mr. R. R. BHOLE : I mean the decision and not sanction.

The Honourable the SPEAKER : It means postponing it *sine die*.

Mr. R. R. BHOLE : The Honourable Speaker may interpret it in any way.

The Honourable the SPEAKER : The Standing Order requires an adjournment to any future day in the same session or to any future session or *sine die*. Therefore, I want to decide whether the honourable member means *sine die* or to any future date in this session or to any future session.

Mr. R. R. BHOLE : In view of this fact, I may say *sine die*.

The Honourable the SPEAKER : I shall now put the motion before the House that the consideration of this matter be postponed *sine die*.

Question put, and negatived.

The Honourable Mr. K. M. MUNSHI : Sir, the Bill is intended to keep the *status quo* up to the 31st March 1939 in respect of those who are

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described as small holders. The scheme of the proposals of Government is this. The class of holders or agriculturists who are intended to be covered by this Bill are described by the word "holder" which has been used here as being the widest term known to the Land Revenue Code of this presidency. Therefore, it would have the effect of covering not only the owner, but also the occupier and the tenant.

As to the limit prescribed under clause 2, the number of people who will be affected by this clause are about 13 lakhs of holders out of an aggregate of 16 lakhs in the presidency. Therefore, the definition would practically cover over three-fourths of the present holders of land in the presidency. The position, therefore, comes to this: that relief will be given to such of these 13 lakhs of holders who have got decrees against them. The scheme which Government propose to adopt in this matter is to carry out the provisions of the Civil Procedure Code. According to section 60 of the Civil Procedure Code, certain properties belonging to agriculturists are non-attachable. At the same time Government are given powers under section 61 of the Civil Procedure Code to declare that a portion of agricultural produce, or of any class of agricultural produce, as may appear to them to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family, shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree. This Government propose to issue a notification by which agricultural produce will not be attachable in such cases as fall within the meaning of "small holder" under this Bill. So, that saves his agricultural produce for one year. Then, the second notification which Government propose to issue under section 68—

Mr. S. V. PARULEKAR: Why is not that incorporated in the Bill?

The Honourable Mr. K. M. MUNSHI: Because, what can be done under the Civil Procedure Code by an executive order need not be incorporated in any legislation. It is not necessary; Government can do it without fresh legislation, and they propose to do it. Under section 68, it is competent to the local Government by a notification to transfer the execution of decrees in certain cases to the Collectors of districts. Government propose that in respect of all the districts, decrees against small holders should be executed only through the Collector. So, that would immediately attract the applicability of schedule III of the Civil Procedure Code. Now, under schedule III of the Civil Procedure Code, once a decree has been transferred to the Collector, the Collector has several powers. They are mentioned under clause 1 of that schedule:

"Where the execution of a decree has been transferred to the Collector under section 68, he may—

(a) proceed as the Court would proceed when the sale of immovable property is postponed in order to enable the judgment-debtor to raise the amount of the decree; or

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(b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(c) sell the property ordered to be sold or so much thereof as may be necessary."

Now, Sir, it has been brought to the notice of Government that in anticipation of any conciliation Bill that might be brought forward by Government, creditors are bringing the land of small holders to sale under their decrees, and that if no action is taken, the result will be that by the time the proposed Conciliation Bill becomes an Act, some of the small holders will lose their property altogether. The principal object of this Bill is to prevent the land of such small holders from passing hands during the time that Government are considering the bringing in of legislation for the relief of agricultural debtors in the presidency. Therefore, Sir, in the first instance, it is proposed that for the period ending 31st March 1939 the land of small holders shall not be brought to sale at all, except where the Collector is of the view, as stated in the Bill, that substantial loss will accrue to the decree-holder. Now, the reason for this exception is that, in some cases, the creditor may not be a money-lender but a very poor man himself. Take, for instance, a widow and three children. She has lent some money to a small holder. Her own house is under execution. If she is not allowed to execute her decree, she will lose her house, and she will suffer substantial loss. Therefore, an exception has been made in the proviso in favour of a decree-holder who will suffer substantial loss. Now, the words "substantial loss" are used advisedly. Mere stay of a decree for a year, normally, would not cause loss to the judgment-creditor at all. It must be, in the first instance, a loss; and secondly, it must be a substantial loss. Therefore, the proviso will come into operation in very exceptional cases where the creditor himself is in such danger of suffering a loss that the Collector may have to decide as between two rival sufferers and come to the conclusion that by staying execution the creditor will suffer a much greater, a much more substantial, loss than the debtor. That is the reason for the proviso. That is the main scheme of the Bill.

The second important provision in the Bill is found in clause 5. It may happen in some cases that in order to defraud his creditors a small holder may sell or mortgage his property. The creditor in those circumstances can do nothing at all, because the execution is stayed. In order, therefore, to maintain *status quo* with regard to the property, it is provided that no private transfer of any land belonging to a small holder shall be valid except with the sanction of the Collector. The proviso further states that no such sanction shall be given unless the Collector is of opinion—there are two cases given in the proviso, and both of them are of a grave nature—(a) that such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors, or (b) (i) that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned, and (ii) that such transfer does not adversely affect the interests of any creditor of the small holder. Take the case of a holder who has got

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15 acres. He collects all his creditors. They are willing to receive 2 annas in the rupee. If by selling two or three acres he is able to satisfy all his creditors, it would be very much to his advantage. That contingency has been provided for in clause (a). As regards (b), there are two conditions which must be fulfilled before the Collector would sanction a transfer. The first condition is that the Collector must be of opinion that substantial loss will be caused to the small holder if the transfer is not sanctioned. So, it must be in the interests of the holder himself to sell the property. The second condition is that the transfer should not adversely affect the interests of any creditor of the small holder. When these two conditions co-exist, the Collector would be justified in giving his sanction to the transfer of the land. That is the second provision in the Bill.

The third provision is dealt with in clause 7. This clause gives to tenants who have been in possession since the 1st of January 1932 the right, if they are willing, to continue to be tenants on the same terms and conditions for one year, by which time it is expected that the substantive legislation will go through this House. Till then, the tenants will retain their present position on the same terms and conditions as exist at present.

These are the three principal features of this Bill. It stands to reason that if all these three provisions are properly worked, there will be very little danger either to the small holder of losing his property or to the tenant of being evicted from the land in a hurry, pending the legislation which is contemplated. I find that I need not take the time of the House by any lengthy comment on this matter, because I see from the amendments tabled so far that they all err on the side of widening the scope of the Bill; there is no amendment that I can see which wants to restrict it further. Therefore, Sir, I will content myself by commending this Bill to the acceptance of the House.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Mr. Speaker, Sir, I rise to offer a few remarks on the Bill which is intended to afford protection to the agriculturists. The Bill has been brought forward in order to protect small holders—holders of 5 acres of irrigated or 15 acres of other land.

On going through the provisions of the Bill, I must say that the Bill is a disappointing one. We read in newspapers and heard from different sources that Government intended to bring forward comprehensive legislation dealing with debt conciliation. There was also talk about the declaration of a moratorium. I must say that the present Bill does not go as far as we would have liked it to go.

It is intended to give the Collector wide powers as regards transfer of land, execution of decrees, and so on. The Honourable Minister has admitted that in anticipation of some legislation declaring a moratorium, the decree-holders have already started selling attached lands. He

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has further said that this Bill is intended to prevent such sale. The Honourable Minister's admission is an indication of the state of affairs in the country.

I will now deal with some of the defects in the Bill. Take for instance an undivided Hindu family of 5 or 6 people which owns land to the extent of 25 acres. This Bill will not achieve the protection of owners of small plots of whom there are about 15 lakhs, but what
 2-30 p.m. about undivided Hindu families? Any benefit that is going to be given to those who do not belong to undivided Hindu families should also be given to such undivided Hindu families.

There is one thing I want to stress and that is, that during the year's time that is allowed, the sowkars who have not yet filed suits or obtained decrees will take steps to file suits and obtain decrees, for fear of the future legislation proposed to be brought forward for Conciliation proceedings and Money-lenders Bill. We all know what the expenses of filing a suit and expenses that are to be incurred after a suit is filed, expenses like lawyers' fees, witnesses and so on. Therefore, Government should make provision to prevent this sort of loss to the people. Those who have paid any instalments, those instalments should not be calculated as payments towards the back arrears, but those payments should be treated as payments of current instalments. The provision that unless the Collector is convinced lands should not be allowed to be sold is a very desirable provision. As regards lands sold in auction, the provision that only those who have paid one year's interest will get benefit of this Bill will not be of use, as those who know the condition of the agriculturists will be able to tell. The agriculturist has no money just now. In December or January next he may have something to pay towards interest. This restriction as regards interest should be removed. The decrees that have already been obtained should be postponed. It has been stated that all are not money-lenders but some are poor people who have lent money to agriculturists and therefore these people will be put to a loss if decrees are postponed, and lands are not sold. Such cases must be few as the Honourable Minister has admitted. Such cases should be referred to the Collector for disposal.

The "Kuls" or tenants should not be driven out of their lands by the landlords for failure to pay the rent. As Government reports for the last few years show, there have been three remissions and suspensions because of fall in prices or poor crops. Why should tenants or Kuls be made to suffer by being deprived of their lands? In most of the cases rent paid in 1936-37 is credited towards rent due for 1935-36 and therefore this provision will be of no use to tenants. I do not see why Kuls of 1932 have been singled out. Even the Kuls of today should be brought within the purview of this Bill.

If the improvements suggested by me are adopted, I am sure the Bill will be very much bettered and as the Honourable Minister wants to

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send this Bill to a select committee, I suggest that that will be a fit and proper thing to do as there we can give better and fuller expression to our views and we can bring forward our difficulties and within two or three days, the select committee's report should be ready so that this House can finish with this Bill at this very session and not postpone it to any future session. It is most important that a Bill of this kind should be passed without the least delay.

Mr. S. V. PARULEKAR (Ratnagiri, South) : Sir, let me take this opportunity of offering my heartiest congratulations to the peasants of the Presidency who kept on unabated agitation and activity during the last six months. Sir, the peasants refused to learn the lesson from the Government that the credit machinery of the State would collapse if an emergency measure of the character of a moratorium were introduced. But on the contrary they have succeeded partially in teaching a lesson to the Ministry that an emergency measure to deal with the question of heavy indebtedness of the peasantry was urgently needed. Many sceptics doubted the utility of the agitation which was carried on among the peasants. Threats and persuasion were used to discourage the agitation. The Ministry does not want the ladder by which they climbed a few steps in the political status to be used by the peasants. Those who in the past used the methods of holding meetings, organising conferences and taking out processions seem to have now lost all faith in those measures. They denounce them when others, especially the peasants and workers, use the methods which they used. But the peasants know and know it very well that, if they had not kept alive the agitation for the last six months, this dwarfish and deformed Bill would not have been before this House for our consideration today. The peasants took out two processions to the Poona Council Hall to present their demand for moratorium which was not granted. The peasants however continued to hold conferences and meetings. They kept on the agitation till the 10th January when the biggest procession of the peasants marched to the Bombay Council Hall. It must be realised that that procession did strike terror in the heart of the Ministry who then realised that something must be immediately done for the peasants. Till 10th January, we used to hear of a Money-lenders Bill ; till 10th January we heard of a Debt Conciliation Bill. But never did we hear of this Bill before the 15th January. On the 10th the procession came and on the 15th, this Bill was published in the *Gazette* and brought before this House. I would therefore ask those who questioned the utility of that procession whether that procession was not the cause of this Bill that is now before this House.

In support of my contention I will briefly describe the attitude of Government in this matter. When we met in Poona last, the Finance Minister was very adamant and refused to bring in any measure for the relief of the indebted peasantry. He went to the length of saying that even if Jawaharlal Nehru were to ask him to grant moratorium, he would tell him that he was a fool in doing so. That was the attitude of the Government in August last.

The Honourable the SPEAKER: I am afraid the history of the attitude of Government is not useful for the discussion of the Bill. Let the honourable member come to the merits of the Bill.

Mr. S. V. PARULEKAR: In order that the whole Bill may be understood in its proper perspective, it is necessary for me to say a few words about the attitude of the Honourable the Finance Minister. The Honourable the Finance Minister presided over two conferences, one at Akola and the other at Shenoli. In both the conferences he found fault with the peasantry for their indebtedness. He told them that because they spent money on marriages they were indebted. He also said that they were crushed under a heavy load of debt because they had too many children. That was the consistent attitude taken by one of the responsible Ministers who was the spokesman of the Government on that question. After a lapse of two months, what do we find? They hastily drafted this Bill and placed it before us. Why this Bill is crude and deficient needs no explanation. It is a measure prepared by a reluctant man who has been forced to do something against his will. Had Government been serious and if it had been their wish to give real relief to the peasantry, they would have drafted a better Bill. The Bill brought before the House today is ill-thought out and ill-conceived. It will not be also out of place to state that this is a Bill which does not grant moratorium to the peasants. To call it a Bill which grants moratorium is not to understand the meaning of moratorium. Even Government have not said in the statement of objects and reasons that this is a Bill which is intended to give moratorium. But the press which is controlled by the Congress Benches has been describing it as a Bill which grants moratorium to the peasants. That is why a reference to this question would be relevant. I will only read a small passage from the Encyclopædia of Social Science which describes what moratorium is. It runs thus:

"The desire to protect individuals or communities from the consequences of default or of the collapse of the general credit structure has resulted in the invention of various devices to postpone the fulfilment of obligations. Most important of these devices is the moratorium, which is a postponement of payment decreed by the State through the medium of the courts or legislation. A general moratorium is instituted either to relieve particular groups of debtors who have been placed in unfavourable situation....."

It further runs:

"Although the moratorium in the nature of special indulgences to individuals has practically disappeared, the general moratorium had displayed powers of survival and growth. A complex economic system carrying a huge load of debt might well collapse under a sudden blow, unless some such instrument for permitting a breathing spell were utilised. It is doubtful whether creditors would be better off, if no moratorium were declared and a general economic debacle occurred. The extensive use of moratoria during the depression which set in 1929 indicates that, unless the economic system reaches a much greater degree of stability than it now possesses, resort to them will continue to be necessary in times of economic stress."

Sir, after knowing what a moratorium means I think no one who has got his senses intact will describe this Bill as one which grants moratorium, except newspapers like *Nara Kal*.

The Honourable the SPEAKER: Order, order.

Mr. S. V. PARULEKAR : Sir, in introducing this Bill, Government have made valuable admissions. The first admission is that there is an emergency. Government have further admitted that the emergency arises out of heavy indebtedness. The third admission is that it is the agricultural classes that are affected by this emergency. And it is further conceded that it is the responsibility of the Government to devise measures to meet this emergency.

The Honourable Mr. K. M. MUNSHI : I do not remember to have said anything of the kind.

Mr. S. V. PARULEKAR : You will allow me to continue. It is admitted by you.

The Honourable Mr. K. M. MUNSHI : I did not admit anything of the kind that you stated.

Mr. S. V. PARULEKAR : You have not admitted in your speech, but you have admitted them in the statement of objects and reasons. Sir, I will read his admissions :

“ In the meanwhile, Government consider that it is necessary to prevent the sale of the lands of small agriculturists whose redemption from heavy indebtedness is one of the most important responsibilities of Government.”

Now, if you analyse the statement I have referred to, you will realise that the admissions are implied in it.

The Honourable Mr. K. M. MUNSHI : The admission about emergency is not there.

Mr. S. V. PARULEKAR : Sir, they do admit these things. But they are not prepared to face the logical consequences of those admissions. They have not the courage to face the money-lender. They have courage only to face the drunkard.

Sir, before we can come to correct judgment on the Bill, it would be necessary to find out whether the Bill does give protection to all those who are affected by the emergency. Since this is a temporary measure devised to meet an emergency, it must cover all those affected by the emergency. That being the chief test to be applied, let us enumerate all the different classes who are affected by heavy indebtedness. Sir, it is not disputed,—and I will not dispute—that the small holder who cultivates either five acres of irrigated land or 15 acres of dry land, is very heavily indebted and is affected very adversely on account of his debts. Sir, I will not dispute the principle underlying the Bill that this small holder does require some relief. So far, I go with the Bill. But, Sir, the other vast class that is equally wretched on account of heavy indebtedness is the class of agricultural tenants, and the number of agricultural tenants in the Bombay Presidency is as large as the number of small holders. Sir, I should like to ask Government whether the condition of the agricultural tenants is not, in their opinion, miserable owing to their indebtedness. Sir, I should further like to ask Government whether the tenant class is not a class which is economically weaker than the class to whom

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they want to extend relief. Sir, their number is large and their condition on account of indebtedness is very much worse than the condition of the small holders to whom the Bill is intended to give relief. Sir, the agricultural tenant has to pay to the landlord, to the sowkar, and to the Government indirectly. Sir, the small holder has got only two burdens to bear : he has to pay to the Government and to the money-lender. So, even if you draw a rough comparison between the conditions of the small holders and the agricultural tenants, you will find that the agricultural tenants are in a much more miserable plight than the small holders, and are in dire need of relief measures to protect them from the clutches of the money-lender. But, Sir, this Bill does not extend any relief to the agricultural tenant so far as his burden of debt is concerned. Sir, Government want to give relief to the agriculturists—that is what has been stated in the statement of objects and reasons—and I should like to ask them whether they do not consider the agricultural tenant to be an agriculturist. Sir, if he is not, I should like to know who else is.

Sir, there is a third class of people who are in a still more serious condition due to their debts. This emergency measure, it has been stated in the statement of objects and reasons, is to give relief to all those whose condition has become helpless owing to heavy indebtedness. I should like to ask Government whether the condition of the agricultural labourers, who are in the neighbourhood of 24 lakhs in this Presidency is not pitiable and worse than that of the peasants to whom this measure is going to give relief.

Sir, a Bill which excludes the agricultural tenants and the agricultural labourers from its scope, must be pronounced as a measure which is totally inadequate. Even the small holder, whose interests this measure is intended to safeguard, is not really going to be protected against the onslaughts of the money-lender. All that is contemplated in this Bill—and I cannot speak of what the Honourable Minister contemplates in his mind—is to stay till 31st March 1939 all proceedings for sale of land. Sir, it must be remembered that this is a temporary measure. Had this principle been incorporated in a Bill of a permanent nature, one could have conceded that that Bill had some merits of its own. But the fact is that this is a temporary measure, and is to be in operation only for one year. Therefore, it is not a measure which gives adequate relief even to the small holder. The Bill does not allow the sale of land, but it allows the grain to be attached, the milch cattle to be attached, and some of the moveable property of the small holder to be attached. The Government fail to draw a distinction between the means of production and the product. Sir, there is a fundamental distinction between the means of production and the product. The Bill aims at protecting the means of production, which is land ; but does not protect the crop which is the product of land. Of what use, I should like to ask the Government, is land to me, which may be in my name, if the product of that land is not assured to me ? Of what use is the ownership of the land to a man unless its product is protected ? The Honourable Minister is an advocate of the principle

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of private property. I ask him, what is the use of private property if the owner does not get the benefit of it? The land may not be attached; but the produce of the land—the standing crops, the grain in his cottage—may be attached. How is this measure going to help the peasant at all? Of course, ownership of land may give him psychological satisfaction. If that is the object of the Bill, I have nothing to say. But psychological satisfaction cannot satisfy hunger which is a physical need.

Sir, this measure is really in the interest, not of the small holder, but of the savkars. If you protect the means of production of the peasant but not the product, it means that the means of production is to be used by its owner not for his own benefit but for the benefit of the sowcar who is the owner of the product. The small holder will sow in order that the money-lender may reap.

The Honourable Mr. K. M. MUNSHI : On a point of explanation, Sir, I have already stated—I hope my honourable friend has listened to it—that Government propose to issue a notification by which the agricultural produce will be non-attachable for a year.

Mr. S. V. PARULEKAR : Sir, Government announce that they propose to issue such and such orders. We cannot rely on mere proposals. We know that the “Lokashakti” circular was issued by Government.

The Honourable the SPEAKER : Order, order.

Mr. S. V. PARULEKAR : Sir, I will now deal with the details of the Bill. Even the limited relief which is proposed to be given to the small holder is not in any way likely to help him. The sale of land is not going to stop automatically as soon as this Bill comes into force. The debtor will have to apply to the Collector. Are the Government going to provide him with the money with the help of which he may apply to the Collector? Are they going to pay him the expenses involved in the process? Are they going to pay him his pleader's fees? Do not Government realise that they are putting the burden of applying to the Collector on an illiterate man? This is a measure which is intended to give relief to the peasant. But you do not realise what a heavy burden you are imposing upon him. I will tell you a story. It happened very recently in the Ratnagiri District. In that district the Deccan Agriculturists' Relief Act is in operation. A poor untouchable peasant was sued for recovery of debt amounting to Rs. 15. Naturally, he had no money to engage a pleader. He went to the court, and the creditor told the court that he was a merchant, because sometimes he sold grass in the bazar. So he was declared to be a merchant, and the relief which was intended to be given under the Deccan Agriculturists' Relief Act was denied to him.

Mr. S. L. KARANDIKAR : On a point of information. Will the honourable member please quote the name of the village for corroboration of the information that he has given?

The Honourable the SPEAKER: I will not allow the honourable member to criticise any judgment of a court of law. He has cited the case as an instance only; that is enough.

Mr. S. V. PARULEKAR: For the information of—

The Honourable the SPEAKER: It is not necessary; that would mean referring to the judgment. I do not think I should permit criticism of a judgment of a court of law.

Mr. S. V. PARULEKAR: I would have given credit to the Government if they had incorporated in the Bill a provision whereby instead of compelling the debtor to apply to the Collector, the creditor was made to make an application to that officer asking that the sale of land ought to take place. Instead of that, the burden of applying to the Collector has been thrown upon the debtor. And yet the debtor is being told by this Government that he is going to get relief. Sir, the peasant may be illiterate; he may be poor; but he is not so naive as to swallow all that is told to him by the Ministry.

There is another condition provided for in this Bill, and that is a still harsher condition. The debtor must pay one year's interest to the decree-holder before the sale can be stopped. He must deposit the amount either with the creditor or with the Collector. The whole difficulty arises because of the fact that in spite of all their protests, Government do not realise how horrible the conditions of the agriculturists are. I do not doubt that they may have swept or whitewashed the houses of the peasantry. But I must say that they fail to understand the problem of the agrarian indebtedness. The whole difficulty in the case of the small peasant arises because he has not got enough money to pay either interest or capital to the money-lender. I do not understand what difference it is going to make to him if he is asked to apply to the Collector after paying off one year's interest instead of paying the dues to the moneylender. If you add the expense that he has to incur in applying to the Collector to one year's interest, you will find that the relief which he is going to get under this Bill is practically nil.

Now, Sir, the Bill gives the Collector the power to allow the sale of land in certain cases. One phrase which I will quote from this Bill will reveal to the House the fact that in framing this Bill Government have taken more scrupulous care to safeguard the interests of the creditor than to protect those of the debtor. In the proviso to clause 3 (1) they say:

"Provided that such proceedings shall not be stayed if the Collector for reasons to be recorded in writing is of opinion on the application by the decree-holder that such stay will cause substantial loss to such decree-holder."

They are anxious about the loss that would be caused to the decree-holder, but they are not going to take into consideration the fact that if the debtor is compelled to pay, he will starve, that his family will starve, that they will have to go into the streets, that they will have to commit suicide. That is a state of affairs which does not appeal to the Government benches. All that they want and care for is that substantial loss

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should not be caused to the creditor class, the money-lender class, whose interests they represent. All the safeguards which are provided for in the Bill are such that if we consider the Bill in its totality, we will necessarily come to the conclusion that the Bill will not benefit the agriculturists.

The Bill is also intended to give some relief to the tenants. They have put down two conditions which will entitle the tenant to have some protection under the Act. The first condition is that he must be the continuous tiller of the particular piece of land since 1932. Now, if this condition were to be fulfilled, will Government tell us what percentage of agricultural tenants will get relief? It will be hardly 30 per cent. This is a temporary measure, and therefore it was necessary that the Bill should have provided that no tenant who had been in possession of the land last year should be evicted. If Government had done that, it would have been possible to say that they really wanted to do something to satisfy the claims of the agricultural tenants. They maintain that the tenant must have tilled the soil for six years uninterruptedly since 1932 before he could be allowed to continue to till it. Is that relief? A tenant tills the soil of another landlord because he has no other means of maintenance. This fact seems to have been lost sight of by the Honourable Minister. If that is the case, is it fair that a tenant who has cultivated the land for three years, should be asked to leave the land and go anywhere he liked? Can it be right? Where can he go? What can he do? This instance may not perhaps appeal to the honourable members of the lower middle classes on the opposite benches, and I would therefore take an instance which would appeal to them. Suppose there is a clerk who has worked for three years, and at the end of three years if the employer asked him to leave the job and go anywhere he liked, would it be a just proposition? Similarly, would it be a just proposition to ask the tenant who has tilled the soil for three years to leave the land and go anywhere he liked?

[At this stage an honourable member was seen crossing the floor.]

The Honourable the SPEAKER: Order, order. I have often and often invited the attention of the honourable members to the fact that they should not cross the floor when any honourable member is speaking. The honourable member Mr. Parulekar may continue his speech.

Mr. S. V. PARULEKAR: This is not a permanent measure; this is to be in force till the end of March 1939. If you really wanted to help the agricultural tenants, you ought to have laid down in this Bill that those persons who had tilled the piece of land last year should continue to till it. As they have not incorporated this principle even in this temporary measure, we can well imagine what will be the character of the permanent measure. It is bound to be much more reactionary than this Bill.

Sir, there is yet another condition which must be fulfilled before the tenant can continue to till the piece of land for another year and that

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condition is that he must pay the rent due from him for the previous year. If he is to pay the rent, where is the necessity of Government protection? No legislation would be necessary to compel the landlord to continue his tenant in that case. No doubt, legally the landlord can ask the tenant to leave his land. But what generally happens is that when a tenant pays the rent he is allowed to continue.

I, therefore, think that this Bill is not meant to give relief to the agricultural tenant, but it is meant to help the landlord to recover the rent compulsorily from the tenant. I doubt if you are really serious in your efforts to give some relief to the tenants. You have promised that you are going to consider the rent question, but till you have done that, let the tenants continue to till the land whether they pay the rent or not. Is not Government aware that the rents are so exorbitant that the tenants cannot afford to pay them? With all these safeguards in favour of the landlord and the moneylender, how can any one believe that the Bill is going to give any relief to the peasants? I do admit that this is a measure of relief; there is no doubt about it. It is a measure of relief, but it does not give relief to the agriculturists. It is a measure which gives relief to the Congress Ministry. It helps them to save their face. It gives them an opportunity to go to the masses again and to tell that they have done something though they have done nothing. That is why I have come to the conclusion that this is not a measure which will give relief to the peasantry, but that it is a Bill which will give relief to the Congress Ministry which is in power today. With these words, I resume my seat.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): The intention at the back of the mind of Government in bringing this measure—a brief, temporary, palliative measure—has been described by the last speaker as probably an attempt on the part of Government only to save their face before the public. How far that is true is a matter which we could find out only if we could peep into the conscience of the opposite benches. However, as things go, possibly my honourable friend (Mr. Parulekar) may be right. As to the merits and the details of the Bill, I think those honourable members who represent the agricultural classes are better fitted to enter into them. I, for one, wish to point out one difficulty, which appears to me as an important difficulty to which, I hope, the honourable members on the Government benches would give their best attention.

The Bill implies a moratorium to the agricultural classes—to the indebted classes. Our honourable friend (Mr. Parulekar) read out a long explanation of that word from the encyclopædia. I would like to add one more to it. I do not know whether that interpretation would be accepted by the authors of the encyclopædia, but it may be said, if that word can be interpreted as an interim, breathing time, it is a moratorium to the Government benches, to gain time to bring in a complete Bill which they promise to bring; and in the meanwhile, as the honourable

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member has alleged, to save their face before the public they have brought this Bill. However, whatever that be, I think the honourable members on the ministerial benches realise that whatever they do, they have to show and prove to this House that they do that thing as practical administrators. They have extended this Bill, as they call it, by way of breathing time to the indebted classes for about a year; but they have not told us as to how that indebted class is to carry on its affairs during the interim period. Knowing that this Bill is going to come out as an Act, the creditors who would be affected by it, are perhaps already taking steps to see that they do not suffer. The indebted class has suffered a great deal for many years, but their condition would be worse still during this one year. Where are they to go? Their needs arise every day. What is to be done? The procedure which has been dealt with by the last speaker and which the honourable mover of the Bill pointed out is that the debtor should go to the Collector and put his case before him for one thing or another. The last speaker has pointed out that it means expense to the man. Where is he to get that money? He is an indebted person. That little sowkar of his, who was very much disappointed in him for all the advances he made to him, is still willing to advance him a little money and he can carry on. That would be stopped. Where is this man to go? Possibly the reply would come that he can fall back upon the help of the co-operative credit societies. I do not know whether that is going to be the reply, but if that were the reply, I might inform the Honourable Minister—probably he knows it, I know it full well—that the process of getting money on credit from the co-operative credit societies is a long process and probably in many cases it takes about six months, half the period of the interim period which this Bill gives to the indebted class. How are his affairs to get on? Now, there is another little remedy provided for the yearly tenant who cannot be evicted by the landlord. As soon as the landlord knows that the poor tenant, who continues there not as a friend or as a useful element or a useful unit of the whole holding but as an enemy, as one whom the landlord intended to evict but cannot do so because of this Bill, he looks at him with abhorrence and therefore any assistance or any help his tenant could get from his landlord would also be stopped and would not be extended to him during this period. What is he to do in the meanwhile? Government have taken trouble to provide this remedy which I think is only a palliative, a sort of a peaceful breathing time for Government to bring in their Bill for which they want one long year. Why did they not give their best and full attention to redeeming their promises given to the country? That is one point I wanted to make as to what they have thought, if they are really studying the question, of the best interests of this poor man in the field. If that is their intention that he should be saved, what have they done or what do they intend to do to save him for the period of one year, until March 1939? Until they have a decided mind on that question, they would be sinning against the poor man in bringing this Bill and creating troubles for those unfortunate

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people to a worse degree than they have been suffering from in the past. I hope the Honourable Mover would point out to the House as to what is it that they have thought of in connection with this. I do not wish to enter into the details of the Bill because there are honourable members of the House who are better fitted, as I have said, but this one thing must be prominently brought to the notice of the members on the treasury benches, and some assurance must be given or some satisfactory reply, some practical tangible reply, must be given as to how these people are to get on for the 12 months that lie ahead.

The Honourable Mr. MORARJI R. DESAI : Mr. Speaker, Sir, my Honourable Colleague, when he moved the Bill, explained the purpose of the Bill and Government's intention connected with it. I may say in the beginning that the real purpose of bringing this Bill before the House is to see that Government get full time to prepare the Bills that they have the intention of preparing for the redemption of debts of agriculturists and tenancy legislation. It may be argued that the Bills could have been prepared straightway and could have been brought before this House. We tried to do so but found that it was not easy to prepare the Bills so hurriedly and bring them before this House in this session. It so happened in the meanwhile that on account of various rumours spread in this presidency in connection with measures that were going to be brought before this House, some of the sowkars got frightened and we received complaints after complaints that suits are filed in order to recover the debts. Notices are given by landlords to tenants in various places in order to vacate the land because the landlords want that if that way they will succeed in making all the tenants vacate lands they may not have to pay the penalty of allowing their tenants to be permanent tenants in case such legislation was passed by this House. It became, therefore, necessary that Government should in the meanwhile take steps to see that the classes of people to whom Government want to give relief are not cheated of that relief by any such actions in the meanwhile. It is open to some people to take credit for stampeding Government into a Bill like this. Whatever I may say is not going to prevent them from saying what they like, but I can only say that this Bill was decided upon about two months ago when Government decided what attitude to take and what steps to take for the relief of agricultural indebtedness. It is not necessary for Government to state just at present what Bills they mean to bring in in future in connection with the Bill that is brought before the House now. But I think, to have a better understanding of this Bill, it is necessary that I should give an idea as to what we expect to do in connection with relief to the agricultural indebtedness. The question can be met in two ways—one, by a compulsory composition of all agricultural debts, and the other way is by voluntary conciliation. After a long consideration, Government have come to the conclusion that it would not be possible or it would not be proper or even of advantage to the persons concerned to have a Bill for compulsory composition for all classes of people, but

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it is necessary to have a measure of compulsory composition for the class of small holders who are covered by the present Bill, and Government do intend to bring in a Bill to relieve their indebtedness by that method.

For the other class of people, Government intend to set up debt conciliation boards where there would be voluntary conciliation, and, as I said earlier, as we cannot or as we should not prepare a Bill like that in a hurry—so that hurry may not make us lose sight of the harmful effects of a provision like that—we decided not to bring in a Bill like that in a hurry but to take more time over it, and in the meanwhile to see that the people who are covered by this are not adversely affected on account of the delay in bringing in this Bill.

Then, as regards this Bill, it is argued that we have made no provision for agricultural tenants in this Bill. Unfortunately, these remarks are made because of ignorance of the provisions of the Land Revenue Code as it exists today. If a reference had been made to the definition of holding land, it would have been seen that to hold land means to be awfully in possession of land, whether such possession is actual or not. It does not mean ownership, but it means anybody who is in possession of land.

Mr. S. V. PARULEKAR : The agricultural tenants are not in possession of any land.

The Honourable Mr. MORARJI R. DESAI : I have nothing to say to persons who refuse to see reason, but what I have stated is what the English language of the Code plainly means, and I do maintain that a tenant is in possession of land and is in lawful possession of land. That is why he does hold it.

Then it is stated that we did not cover the agricultural labourers by this Bill ; but I do not know if there are any suits against agricultural labourers in a court of law and what judgments are passed against their property, as I believe they have no property. This Bill is primarily meant to save lands from going into the hands of non-agriculturists, and to save the large agricultural class and to enable it to improve the agricultural conditions in this country.

Then, it is said that on account of some provisions the payment of rent will be inequitable, that is, as regards the protection given to tenants. I do not know what would happen if we said that the tenants cannot be evicted at all under any conditions ; but I can easily imagine that no rents would be paid this year if such a provision were passed, and I do not think Government would be justified in bringing in a measure like that. There is no intention on the part of anybody to make the tenants dishonest and I do not see what harm there would be if the tenants pay a year's rent as they have been paying usually [*Interruption*]. And then we are not bringing here a legislation for wiping off debts or rents or expropriating property, but we are bringing in a measure to give help to the class which is at present engaged in agriculture and that help

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ought to be consistent with what we can do reasonably and legally. It has been asked what arrangements we have made for supplying credit to the people who will be affected by this Bill. It was mainly because of this that we have confined ourselves to the small holders, and Government do hope that they will be able to give help to those people for agricultural operations by way of co-operative credit societies and also in another form.

Sir ALI MAHOMED KHAN DEHLAVI : I am sorry to interrupt you ; I have pointed out that the real, practical difficulty that the process——

The Honourable Mr. MORARJI R. DESAI : If you would only give me a chance, I will explain.

The procedure of co-operative credit societies is certainly cumbersome in many cases, but we shall see that the lengthy procedure is shortened and that people are not put to difficulties because of that lengthy process ; and with regard to the short-term loans there is no lengthy process as the honourable the Leader of the Muslim League tells us in this House. Even if it is so, Government will certainly see that the procedure is shortened and help is given by the co-operative credit societies wherever they are functioning properly. But even where there are no co-operative societies, Government do intend, as far as possible, to give help for carrying on agricultural operations to this class of people.

Then there was a question about the help to tenants. I am afraid I am not able to see what help is needed to be given, because, so far as I know, a few of the landlords give any help to their tenants for carrying on cultivation. That is so far as I have been able to observe in many parts of this Presidency, and supposing they were receiving the help, what is the course that the honourable member would suggest ? Should we not give any protection as intended in this Bill ?

This Bill is brought before this House only in order to see that the tenants are not adversely affected before the tenancy legislation is brought before this House and it is also because of that that we have not included all the tenants in this Bill. The tenants who are tenants only for a year, that is, this year, have not been given protection, because Government do not contemplate making all tenants permanent tenants. If Government had intended that, they should certainly have made that provision in this Bill, because, if these tenants are not to be made permanent tenants, then it is no use giving them any protection for one year and then telling them next year that they are liable to be evicted and they should be evicted by the landlords. We have here placed the limit at 1932, because we thought that it would not be possible, perhaps, to give that sort of permanency to tenants who are of a shorter duration. Of course, there would be a desire on the part of many or of some to declare all tenants permanent tenants, but then there would also be the desire to take away all the lands from the

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absentee landlords and distribute them among the labourers. There may be also a desire in the minds of several people to destroy property altogether. But all these things are not possible at present at any rate or for some years, as far as I can see. But I am not concerned with that. I am only concerned with the fact that Government are bringing this Bill solely with the view of taking time to prepare the two Bills which they want to bring before this House for the relief of agricultural indebtedness on sound lines and to give protection to the people who are likely to be affected by these Bills in the meanwhile.

Mr. S. H. JHABVALA (Railway Unions): Mr. Speaker, Sir, had it not been for the desire excited in me by hearing the distribution of land among peasants by the Honourable Minister for Revenue, I would not have thought it necessary to stand up and offer my remarks on the present problem. But, Sir, further I am entitled to speak on this question in view of the fact that I have given notice of amendments, of the fate of which I am not aware. However, I shall take part in the debate whether my amendments are allowed to be moved or not—

The Honourable the SPEAKER: The amendments need not be debated upon at this stage, fearing their fate. The honourable member can go on with his speech and be optimistic about the fate of his amendments.

Mr. S. H. JHABVALA: The unfortunate position in which the Government are placed is that they are obliged to keep up the continuance of the existing capitalist system. As such, they will always be bringing measures like the one we have before us. From a capitalist point of view, it is a step forward in the right direction, but from a proletarian point of view, it is a step backward and in the wrong direction. It pretends to give some kind of relief from indebtedness to the agriculturists, but it does not satisfy the larger economic purpose in view. Government will begin to realise the glaring blunders in course of time when they actually begin to work the provisions of the Bill as the very principle of small holdings is unsound as an economic phase in any well-organised body politic.

About 18 or 19 years ago, a similar condition had arisen in Russia. There the problem was really faced and solved by the proletariat, the Government of the day handling the situation in a courageous manner and not in the sweet manner and with a suave-worded policy like that of the Honourable the Revenue Minister. They faced the problem in a truly proletarian spirit and got over the situation by removing the whole system of private possession and appropriation of lands of the land-owning class in the interest of socialism. They reserved lands only for the peasant agriculturists. Gradually they developed the system by which land could be held under the state only for the purpose of society as a whole. But even today the problem of the small-holding community they have not been completely able to solve, even though the whole economic system has been very cleverly and ingeniously devised under

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the requirements of increasing forces of the world socialism. These small-holders are yet a stumbling block in the matter of evolving the correct classless communistic state of society.

Under the present condition, Government think that they have under consideration the question of relief of agricultural indebtedness and the regulation of tenancy. The framing of a bold scheme for a correct purpose requires careful consideration at the hand of the State. The Honourable Minister for Revenue has declared, while expatiating on the problem, that it was the intention of Government to institute a system of debt conciliation. They are still running after measures of conciliation, arbitration and such other means which, I am sure, are not going to solve the very hard problem of a heavy indebtedness that is facing us. According to the report of the Banking Enquiry Committee, the agricultural indebtedness of this Presidency is 100 crores and over. I do not think that they will be able to wipe out this debt even within a century, if they go on in the way in which they are now doing, namely, relief, remission, conciliation and arbitration. Therefore, the best thing for Government to do is to totally wipe off the debt once for all. This was what was suggested to them in Poona when we were discussing the budget. Government have not yet thought about it seriously. The position in which they are placed is acceptedly an awkward one and so they have to bring in hopeless Bills of this kind which the House is not in a mood to accept without amending its many flaws, because it does not solve the problem radically. This measure will not appeal to the large masses outside and those who are sensible members inside the House. But I am afraid this will be carried. Now, Government want breathing time. That is what the Honourable Minister says. They say that they want to have breathing time to evolve a programme to wipe out this debt and the present one is an intermediary measure towards the suggested aim; but they have not declared how they are going to accomplish it. We do not know what conspiracy is going on behind the Secretariat.

The Honourable the SPEAKER : Order, order.

Mr. S. H. JHABVALA : I meant only, Sir, what consultations are going on. I say only that they have not taken us into confidence.

As regards the clauses of the Bill, we find that in clause 3 Government give some kind of relief or pretend to give to the small holder some kind of relief. We do not know why this power to the decree-holder can at all be given to him, if the aim of Government is what is put forth in the statement of objects and aims. If this power is given to him, naturally the balance will be turned against the poor small landholder himself. It is stated "and on the amount of the interest, as specified under sub-section (2) being paid to the decree-holder or deposited with the Collector": the proceedings shall be stayed only on that condition. That means, that the decree-holder has still a clutch upon the throat of the poor small holder or the agricultural tenant. The agriculturist has to pay the interest before proceedings can be stayed. And power is left to the Collector to determine that proceedings shall not be stayed

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even when interest is paid. Is this relief or sham of it? It is but a face-saving device.

Proceeding further to sub-clauses (2) and (3) of clause 3, these sub-clauses give more powers to the decree-holder, that is, the money-lender, the *shahukar*. They are entirely such as should not be permitted by a pre-supposedly liberal-minded Congress Government like this,—I mean to say a Government that pretend that they exist, somewhat at least, for the good of the masses. These sub-clauses take away even the very grace underlying the purpose of this Bill. Sole power is left in the hands of the decree-holder, that is, the creditor. Therefore, Sir, if sub-clauses (2) and (3) of clause 3 are not removed, then certainly the very purpose of this Bill will be frustrated, I am afraid.

Then, Sir, the period of time is very short. I should say that the period for moratorium intended under the Bill should be such as to permit of the resuscitation of the economic condition of the debtor himself. Till such time as the economic condition of the indebted man will enable him to stand on his own legs it will be impossible to help the very client in whose interest the Bill is obviously framed. This Bill must have effect only when the revised economic state of the land-holder permits him to repay the obligations.

Sir, coming to the last portion, clause 9, which gives powers to the Assistant Collector or the Deputy Collector or such officer as may be empowered by the Collector. Now, that is the longest rope possible with which this Bill must be hanged. What is the present condition? The subordinate officials are not a little known for their art of corruption. Therefore, it would be meet on the part of the Honourable Minister in charge to let the sanction come ultimately from the Collector himself. Investigations may be made by the subordinate officials as a matter of course, but the ultimate sanction must come from the Collector himself who may be directly responsible to the Minister, i.e. the State.

Last of all, Sir, I have to say one thing, and that is this. Instead of going about in this fashion, the present Government should have instituted a very large measure of system by which mass production could be advanced and for that purpose they should have gone in for the total abolition of the small holdings. The small holders are not going to solve the economic problem under our revised agrarian system. Mass production, communes, and artels: these are the live facts in our new renovated system under which our country can solve its problems to the common benefit of all. There should be equality of provision of food, clothing and other amenities of life for all the different factors in the State.

Sir, though I need not oppose the first reading of the Bill, yet I dare say that there are many flaws in the present Bill which should be repaired in a Select Committee appointed for the purpose. I assert Government have not gone about it in the right way.

Mr. G. K. PHADAKE (Thana South) : Sir, I support the Bill, because it is temporary. While doing so, I may assure you that I am not insensible, though my honourable friend Mr. Jhabvala may call me insensible. I support it because of the admission by Government that relief is necessary to the agriculturist. Up to this time, no Government have admitted that fact. The agriculturists are suffering for a long time on account of the abnormal fall in prices and on account of many other reasons. Beyond showing lip sympathy no Government have up to this time done anything in the matter. But here is a Government which not only admits the necessity, but is also doing something by legislation. For that reason, I support the Bill.

Honourable members think that it is a very simple matter to relieve the agriculturists from their indebtedness. I think it is not at all a simple matter; it is a very difficult matter. Not only this Government, but the next Government also will not be in a position to solve it completely. But while supporting the Bill I do not commit myself to the acceptance of the other principles involved in it. By this Bill we are deprived of the possession of our land; we are also deprived of the right of cultivating our land. I mean that even the small holders are deprived of the right of cultivating their land. I am a small holder; I did not cultivate my land from the year 1932 to 1937 for certain reasons, and I gave it to a certain tenant; and although in 1938 I want to cultivate my land, I cannot evict the tenant because he has paid the rent. That is a principle, which, if introduced in a permanent measure, will create a great wrong. So, in a permanent measure such principles should be introduced with great caution.

The next point is that it is not the holders of five acres of land alone that require relief. Holders holding more than five acres are also in actual need of relief. People think that landlords are flourishing while agriculturists are in distress. That is not the case at all. The landlords are in an equally miserable condition as the agriculturists themselves.

Mr. S. V. PARULEKAR : Are they ?

Mr. G. K. PHADAKE : They are. Therefore, not only the small holders but all the agriculturists as defined in the Deccan Agriculturists' Relief Act are in need of relief. And I hope that when the permanent measures are brought before the House, this fact will also be taken into consideration.

With these words, I support the Bill.

(The House re-assembled after tea at 4-30 p.m.)

Mr. R. R. BHOLE (Poona West) : Mr. Speaker, Sir, when I first read the statement of objects and reasons of this Bill, I was very glad and happy that the principle of moratorium had been accepted by the Congress Party. In fact, the wording used in that statement is really tall and noble. But after reading the statement of objects and reasons, if one

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turns to the body of the Bill, one finds oneself under an illusion which will not only continue when the Bill is read by a member, but also when it goes to the statute book. Even then it will be a sort of illusion for the common folks, for the common peasants, for the agriculturists at large, for whom it is meant.

I find, Sir, that there is nothing in this Bill which can properly be called a measure to relieve agricultural indebtedness. If I might say so, it is devoid of flesh and blood. I may even go to the extent of saying—I believe I will not be far from the truth—that it is nothing but a ghost of moratorium. I advisedly use the word “ghost”, because it will be a ghost in the form of warrant of seizure in the hands of the money-lender. I cannot at all see any clause which is fully and sincerely meant for the amelioration of the indebted agricultural classes.

At the outset, I would not be out of place if I read the election manifesto of the Congress Party, which perhaps they had drawn up in lighter vein when most of them were irresponsible leaders or party men. It was perhaps drafted in what I should call a forced heroic manner—

The Honourable the SPEAKER : I do not want to come in the way of the honourable member's reading any election manifestoes, but I may point out that whatever relevancy they may have, is, to my mind, very remote. These questions are being referred to in this House so many times that it is better that attention is confined only to specific measures. The measure before the House is this particular Bill. I therefore expect honourable members not to refer to these matters as far as possible. I am not prepared to say that they are not at all relevant. In my view, they may be very remotely relevant—the relevancy is so remote as to border on irrelevancy.

Mr. R. R. BHOLE : Sir, I was not going to read the whole of the manifesto. I was only going to read that part of it which is of immediate concern to this particular Bill. Paragraph 8 of the manifesto reads :

“ Pending the formulation of a fuller programme, the Congress reiterates its declaration made at Karachi that it stands for exempting uneconomic holdings from payment of rent.

The question of indebtedness requires urgent consideration, and the formulation of a scheme including the declaration of a moratorium—”

I want to impress those words upon the House—

“ including the declaration of a moratorium, and inquiry into and scaling down of debts and the provision of cheap credit facilities by the State. This relief should extend to the agricultural tenants, peasant proprietors, small land holders and petty traders.”

By reading this, Sir, one can easily understand and make out what their aspirations were when they were not in power. Today, naturally, their constituencies, the public at large, who have elected them, expect them to do what they promised to do. It was a public declaration for getting votes. Why should they not practise their gospel now? I ask that plain question to the Honourable Minister in charge as well as to the

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Government. I understand that a responsible Minister of the Government had uttered some words in the conferences held during the last two months, to the effect that agricultural indebtedness was mainly due to the agriculturists' own wrongs—in other words, agricultural indebtedness was technically unproductive. But this is an illusion under which the members as well as the Ministers live. I would like to clear that cloud which covers them and makes them draft Bills of the type that is presented for discussion in this House. I would ask them to read what is known as the Bombay Provincial Banking Enquiry Committee Report. Indebtedness is of two kinds—productive and unproductive. We will have three groups—one group representing indebtedness incurred for obviously productive purposes; for example, for the purpose of buying cattle and implements which are immediately concerned with agriculture. The second group represents indebtedness incurred for unproductive purposes but which is strictly incidental or auxiliary to the agricultural business, and the third group includes indebtedness which is incurred for what is called unproductive purposes. Taking these things into consideration, the Bombay Provincial Banking Enquiry Committee has broadly laid down that the agricultural indebtedness in our country, as existing today, is as follows:—

“ 27·4 per cent., obviously for productive purposes ;

60·6 per cent., immediately concerned with the productive purposes, and

12 per cent., only for unproductive purposes.”

From this quotation, the Honourable Minister will convince himself that agricultural indebtedness, as it is called, is not due to the fault of the peasants, but it is there because of the circumstances, because of the environments, because of the times, because of the country in which they live. Sir, if we read the books on the problem of indebtedness, we will find that the agricultural indebtedness in our country, especially in the Bombay Presidency, is to the extent of Rs. 150 crores. In the year 1929, it was only 80 crores of rupees, but when the morass of great depression caught hold of India, and other countries of the world, our indebtedness went up by leaps and bounds, and today it stands at 150 crores of rupees. I say this on the authority of that eminent publicist Sir M. Visvesvaraya. If this is the state of affairs in our country and if this is the state of affairs of our peasants, why should you not, as you have promised, bring in a Bill which would really serve the purpose—really and honestly serve the purpose of the peasants ?

If we go into the details of this Bill, we will find that there are many ugly features. In fact, I find that everything that has been given by the clauses has been taken away by the provisos and exceptions. It is like giving ten rupees to a man and taking back nine rupees from him. I do not think any reasonable person would say that this is a job which they are expected to do, or that this is a Bill which they are expected to bring.

I wanted to examine in detail the main features of the present Bill, but as amendments are coming, I would not take the time of the House ;

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yet, I would say that the provisos of the Bill take away almost everything that is given. I do not want to dispute what an economic holding is, but certainly in matters of non-agricultural lands, which they define as 15 acres of dry land, I do not think that 15 acres of land would be an economic holding from any point of view.

The second thing is, as stated by my honourable friend Mr. Parulekar, that the decrees should be stayed on the application of the judgment debtor. If we take into consideration all the circumstances under which the peasant lives, it will be impossible for him economically to find a person who would apply for the stay of a decree; it would be impossible for him to approach the Collector; it would be impossible for him to spend that money which he is expected to do for the stay of a decree. I find the provisions which are laid down in favour of the moneylender are so very exorbitant and are so favourable to him, that with the resources at his disposal he has only to lift his little finger and his purpose will be served. This Bill, therefore, does not at all serve the purpose of the peasant, but it serves the purpose of the person who troubles him off and on.

I would not, at this juncture, try to go into the other details of this Bill, but certainly I should like to impress upon the Government the results which would take place if a proper measure is not passed. If the peasant is not released from this heavy burden, then there will be, what I consider to be, a national loss. We all know that the profession of agriculture is the mainstay of our country, and if the person at the back of the plough is not properly treated, is not properly considered, then perhaps the whole country will remain poverty-stricken, as it was and as it is today. What will happen? The best which a peasant would like to put in the land will not be put. The second thing that will happen is the acceleration of the transfer of lands into the hands of the absentee landlords; and the third important thing that will happen is that the bigger landlords will swallow up the smaller peasants. The peasant proprietors would be converted into tenants-at-will. In the face of such results, would Government like to bring in such a half-hearted measure and pass it through this House? If they are really concerned with the welfare of the masses, with the welfare of the peasants, as they claim to be, I do not think they will try to solve this problem in this way.

As there are doubting Thomases who say that this is a solution curious to our own country, I would quote the instances of other foreign civilized countries which have tried to solve this problem successfully. For their information, I would like to quote from the League of Nations World Economic Survey for 1934-35—

“In Belgium a law was passed in July 1933 empowering courts to postpone mortgage debt payments. From June 1933 auction sales of farmers' property were suspended in Czecho-Slovakia. In the U. S. A. there was a good deal of refinancing of farm mortgages by new government agencies and the Frazier Lemke Act imposed virtually complete moratorium of farm indebtedness.”

I would not try to quote Italy and Germany. Now having quoted this, I want only to appeal to the House, I want to appeal to Government

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especially and ask them to see that whatever amendments might come from this part of the House will be gracefully accepted and passed. This is a problem which does not require piecemeal tinkering, but it shall be thoroughly overhauled. The Honourable Minister for Revenue said, it shall not be possible for ordinary tenants to be permanent tenants. I would not deal with that, but I would say that that sort of psychology should now evaporate. With these words, I might say that the peasants who are today hungering for bread shall not be awarded stone.

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*): Sir, I rise to make a few remarks only to elicit some explanations from the Honourable Minister for Revenue. The object of this legislation is to prevent lands of owners who possess 5 acres bagayat or 15 acres jirayat land from being sold. I want to know from the Honourable Revenue Minister whether one family of an agriculturist can live with a minimum of comfort on the small holding described in the Bill for one year. Then, suppose a man owns 5 acres and one guntha of bagayat or 15 acres and 2 or 3 gunthas of jirayat land. Will such a man be entitled to the benefit of this Bill?

The Honourable the Revenue Minister pleaded want of enough time to bring forward a properly prepared Bill. May I know from the Honourable Minister Mr. Desai how many years are necessary for the Ministry for framing a perfect Bill? The Congress Ministry has been in power since last 6 or 7 months. If they wanted more time to prepare a perfect Bill, they should have taken their own time instead of hurriedly bringing forward an ill-digested measure.

As regards the honourable member Mr. Parulekar's arguments regarding the poor people such as agriculturists being harassed over payment of debts, payment of assessment, sowkar's zoolum, as he speaks with authority gained from personal experience, I do not wish to take more time of the House on this question.

The Honourable the Revenue Minister said that he was giving the agricultural tenants valuable lessons in honesty by asking them to pay a year's rent. But I would like to ask the Honourable Minister whether he hugs to the conception that the tenant who works in the field with all the members of his family day and night throughout the year is starving and living in half naked condition because he is dishonest? Does he know the miserable life these tenants are living, for want of food, for want of clothes for themselves or for their children, for want of money and does he know how their children die from diseases for want of medical help which in turn is due to what of money? Does he dare to describe them as dishonest? I am sure no one will dispute the proposition that no one can be suddenly rich without being dishonest. I wish the Honourable Revenue Minister appreciates the fact that the poor labourers and workers in the field, after a very hard day's work, do not get the full benefit of their labour and

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toil because somebody else, by subtle means, must be depriving the poor tenant of the fruit of his labour. Who that somebody is it is for the Honourable Minister for Revenue to find out. I expect he knows who that somebody is. Is it not, therefore, ridiculous that the Honourable the Revenue Minister should give lessons in honesty to poor agriculturists instead of giving them to those who are dishonest and suck the blood of the poor labourers and agricultural tenants?

The Honourable Mr. MORARJI R. DESAI: I am afraid the honourable member did not properly understand my remarks.

Mr. B. K. GAIKWAD: I, for one, would respect the poor field worker for his hard work, for his honest work and for his honest rendering of assessment to the landlord. It is the labourer to whom great injustice is being done.

As regards assistance to be derived from co-operative credit society or tagai, I will tell you of one instance to show how the tagai system works. The poor man applies. From the time of his application to the time he actually receives cash, what sort of annoyance and misery has the man to go through? The talati has to be satisfied. The Circle Inspector has to be kept pleased. The Mamlatdar's clerk looks to his own share of the reward. Then the Mamlatdar is there, of course. One poor agriculturist got a tagai advance sanctioned. All these individuals, from the talati to the Mamlatdar's clerk, took their own share from the tagai amount, with the result that the actual cash which the man received was very little. He was a shrewd poor man. In order to ventilate his grievance before the Mamlatdar and to bring this matter to his notice, he went to him with the balance left and placed it before the Mamlatdar and said "Each and every one from the talati to your clerk has helped himself to his share out of the tagai loan made to me by you. As you too have helped me to get this advance, you may take your share from this balance". The Mamlatdar was a good officer. He of course put the matter right. But all poor men are not so shrewd as this man.

It looks to me that the Honourable Minister is afraid today of what may happen tomorrow. Why should a man, because he is going to die some day, be as good as dead today only?

The Honourable Mr. MORARJI R. DESAI: It is clear that the honourable member has misunderstood my speech.

Mr. B. K. GAIKWAD: My honourable friend Mr. Phadake said the workers and labourers are in no worse condition of life than the landlords and that the condition of the landlords also is similarly pitiable. Can he show me one landlord selling "*Molya*" or doing other odd jobs in order to eke out a living just as the labourer does? There is neither logic nor reason in his arguments and so I leave him at that.

Haste is waste. The honourable member said that because on the 10th there was a big procession of agriculturists and workers, Government brought forward this Bill. Government might have waited even for four

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months to bring a properly thought out measure. I would therefore suggest to them that they should withdraw the present Bill and take their own time and bring before us a Bill which will satisfy both sides of the House.

Sardar N. G. VINCHOORKAR (Deccan Sardars and Inamdars):

5 p.m. Sir, the Honourable the Home Minister in his statement yesterday conceded that this Bill meant a modification of rights in respect of land. As this means an encroachment on private and vested rights, I have to register my protest on behalf of my Constituency.

In the statement of objects it is mentioned that this Bill is meant to frustrate the sale of lands. But I do not think that landlords do indulge in sale of lands or eviction of tenants in a light or frivolous manner; nor are they happy to do so. Also the provisions of the Land Revenue Code are not so loose to the prejudice of the tenants.

However, Sir, Government have now asked for time; and their idea in asking for time is to enable them to bring in legislation for amelioration of the conditions of the agriculturists. Under these circumstances, to give Government full time, I do not propose to oppose the first reading of the Bill.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I have only a few words to say in reply. I want to say a word in reply to those honourable members opposite who thought that they alone had the interest of the peasants at heart and that neither this Government nor the members on this side of the House ever knew a village or the plight of the peasantry. I will remind them that there are more members on this side of the House than on the other side who have intimate relations with villagers and their difficulties. [*Interruption*].

The Honourable the SPEAKER: Order, order.

The Honourable Mr. K. M. MUNSHI: There are more members on the Government benches who have gone to villages, lived in the villages, and who know the conditions of villagers as well as, if not better than, members on the other side of the House who speak the language of peasants and walk in the footsteps of aristocrats. [*An Honourable Member: Question*]. It is all right for him to question. But consider what this Government have done already. We have not been advertising ourselves in the manner in which some members on the other side and their associations have been doing. Since this Government came into power, the first thing they did was to stop all coercive processes of land revenue levy throughout the presidency. [*Applause*]. It has not been flaunted on the pages of daily newspapers as some of the little petty activities in some distant villages by some of the gentlemen on the opposite benches have been. Secondly, Sir, the grazing fees, which operated most oppressively on the villagers, were immediately done away with. And thirdly, relief was given in many districts administratively.

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Was not two years' arrears of land revenue wiped out even during the first budget session? Now, are we to be told that the party in power does not know the villagers and does not care for their interests? It is all right to talk such things, because they happen to be in opposition. [Laughter]. Many things could be permitted to them, which, if I would let the honourable members on this side speak, will be proved to be not only exaggerations but worse. But we know our responsibility. We do not want to disregard the interests of the villagers or to be deflected even a hair's breadth from the policy of agrarian uplift which we have undertaken, either by the attacks of the other side or any motives that have been attributed to us maliciously.

Sir, even this measure, I claim, if it is properly looked into, gives the largest measure of benefit to a very large class which is really and truly interested in this kind of relief. It may be you can take a text book or the Encyclopædia Britannica and try to find out that this Bill falls short of the geometrical perfection of a moratorium prescribed by it. But if, as I said, you look to the number of people who will be benefited—13 lakhs out of 16 lakhs—and look at the needs of those people, you will see that this measure will give them much greater benefit than any theoretically perfect measure which may bring about a catastrophe in the presidency. Therefore, I commend this Bill for the acceptance of this House.

Question put, and agreed to.

The Honourable the SPEAKER : Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay) is read a first time.

The Honourable Mr. K. M. MUNSHI : Sir, I now move that Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay) be referred to a select committee consisting of the following members of this House :

The Honourable Mr. Morarji R. Desai,

Mr. D. J. Ferreira,

Mr. D. W. Raut,

Mr. S. L. Karandikar,

Mr. R. R. Bhole,

Mr. Aziz Gaffur Kazi,

Sardar N. G. Vinchurkar,

Mr. Musaji E. Patel,

Mr. A. V. Chitre,

Mr. Dinkerrao N. Desai,

Mr. G. H. Deshpande,

Mr. Kallangouda S. Patil,

[Mr. K. M. Munshi]

Mr. K. B. Deshmukh,
 Mr. Morarbhai Kasanji,
 Mr. S. N. Keshwain,
 Mr. V. N. Naik,
 Mr. S. R. Bhartiya,
 Mr. L. M. Shrikant,
 Mr. Atmaram N. Patil, and
 the mover of the Bill ;

the committee to submit its report by Friday, the 28th instant, and seven to form a quorum for the meeting of the committee.

Mr. D. G. JADHAV : I propose Mr. S. V. Parulekar's name.

The Honourable Mr. K. M. MUNSHI : An amendment may be moved, if that is what is meant.

Mr. S. L. KARANDIKAR : My suggestion is that in my place, the honourable member Mr. Phadake may be substituted.

The Honourable Mr. K. M. MUNSHI : You can move an amendment if you like.

Mr. A. V. CHITRE : [*Inaudible.*]

Mr. R. R. BHOLE : I would very much like to include in the committee the names of two members from our party, namely, those of Mr. Chitre and Mr. Parulekar. I would withdraw from the committee if the Honourable Minister could take one of those two members from our party.

The Honourable Mr. K. M. MUNSHI : If the honourable member wishes to withdraw, I cannot force the membership on him. I have moved a motion, and it may be put before the House.

Mr. S. V. PARULEKAR : I wish to move an amendment, that Mr. Khedgikar's name be included—

The Honourable the SPEAKER : Order, order.

Mr. B. K. GAIKWAD : I want to propose another amendment—

The Honourable the SPEAKER : I will put the motion before the House first, and then amendments may be moved and I will be prepared to propose them.

Question proposed.

Mr. B. K. GAIKWAD (Nasik West) : Sir, I move that the following three names be added to the Select Committee :—

1. Mr. G. A. Chavan (Patil).
2. Mr. R. A. Khedgikar.
3. Mr. S. V. Parulekar.

Mr. G. A. CHAVAN (PATIL) (*In Marathi*) : I beg to be excused, Sir.

Mr. B. K. GAIKWAD: Then only two names may be added, Mr. Khedgikar and Mr. Parulekar.

Question proposed.

Sir ALI MAHOMED KHAN DEHLAVI: May I say a word? I am sure the Honourable Minister in charge has his own reasons, perhaps very strong reasons, to stick to the list that he has submitted; but I should like to put in a word in the interest of the safety of the House. When the Bill is considered by a Select Committee and comes back to the House, the House should be in a position to see that as little time as possible is taken up in further discussion. The honourable member Mr. Parulekar has a number of amendments in his name which are at present in the melting pot—he has to receive the sanction which has been applied for.

The Honourable the SPEAKER: I may inform the honourable member that the sanction has been received.

Sir ALI MAHOMED KHAN DEHLAVI: So much the better. That supports my argument. He will come out with a string of amendments that he has tabled, and there will be a debate in the House, which can be avoided by having them discussed in the Select Committee. And that is the object of a Select Committee. The Honourable Minister may be persuaded to be both just and generous in accepting my suggestion.

The Honourable Mr. K. M. MUNSHI: The experience of this Legislature which my honourable friend opposite has got is unchallengeable and unparalleled. But I have also some experience, and I know the dangers of the course I am taking.

The Honourable the SPEAKER: I now put the amendment to the House. It seeks to add the names of Mr. R. A. Khedgikar and Mr. S. V. Parulekar to the Select Committee.

Amendment put. The House divided: Ayes, 32; Noes, 75.

Division No. 4.

Ayes.

AIDALE, Mr. J. S.
 BHAIJI, Mr. M. M. A.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 CHITRE, Mr. A. V.
 CHUNDRIGAR, Mr. ISMAIL I.
 DEHLAVI, Sir ALI MAHOMED KHAN
 FAIZ MAHOMED KHAN, Khan Sahab
 GAIKWAD, Mr. B. K.
 GAVIT, Mr. D. P.
 HAKEEM, Khan Sahab A. B.
 JADHAV, Mr. D. G.
 JHABVALA, Mr. S. H.
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KARANDIKAR, Mr. S. L.

KAZI, Mr. AZIZ GAFUR
 KHEDGIKAR, Mr. R. A.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MIRZA AKHTAR HASAN, Mr.
 MOHAMMEDALLY ALLABUX, Mr.
 PARULEKAR, Mr. S. V.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MUSAJI E.
 PHADAKE, Mr. G. K.
 RANE, Rao Sahab B. N.
 RAUT, Mr. D. W.
 SAVANT, Mr. K. S.
 THORAT, Mr. R. B.
 TYABJI, Mrs. FAIZ B.
 VARALE, Mr. B. H.

Tellers for the Ayes: Mr. D. G. JADHAV and Mr. MIRZA AKHTAR HASAN.

Noes.

ANTROLIKAR, Dr. K. B.	MEHTA, Mr. H. P.
ABADHYE, Mr. D. T.	MORABHAI KASANJI, Mr.
BHARTIYA, Mr. S. R.	MUKADAM, Mr. W. S.
CHAWDHARI, Mr. D. N.	MUNSHI, the Honourable Mr. K. M.
DABHI, Mr. FULSINHJI B.	MUNSHI, Mrs. LILAVATI K.
DANDEKAR, Mr. V. V.	NAIK, Mr. V. N.
DESAI, Mr. DINKERRAO N.	NALAVADI, Mr. G. R.
DESAI, the Honourable Mr. MORARJI R.	NESSI, Mr. T. R.
DESAI, Mr. RANDHIR P.	NEMANEE, Mr. P. A.
DESHPANDE, Mr. G. H.	NURIE, the Honourable Mr. M. Y.
DODMETI, Mr. A. D.	PATASKAR, Mr. H. V.
GANDHI, Mr. M. M.	PATEL, Mr. BABUBHAI J.
GAVANKER, Mr. S. K.	PATEL, Mr. BHAILALBHAI B.
GHIA, Dr. C. J.	PATEL, Mr. MANGESH B.
GHIA, Mr. M. C.	PATIL, Mr. ATMARAM N.
GILDER, the Honourable Dr. M. D. D.	PATIL, Mr. GAMBHIRAO A.
GOKHALE, Mr. K. G.	PATIL, Mr. KALLANGOUDA S.
GOPI, Mr. M. G.	PATIL, Mr. LAXMAN G.
GUPTA, Mr. B. M.	PATIL, Mr. MALGOUDA P.
HALLIKERI, Mr. N. F.	PATIL, Mrs. NAGAMMA
HIRAY, Mr. B. S.	PATIL, Mr. S. K.
JADHAV, Mr. T. S.	PURANI, Mr. C. B.
JOSHI, Mr. JINABHAI P.	RAJMAL LAKHICHAND, Mr.
JOSHI, Mr. N. G.	RANE, Mr. B. R.
JOG, Mr. V. N.	SATHE, Mr. S. H.
KANUGA, Mrs. VIJAYAGOURI BALVANTRAI	SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB
KARAVADE, Mr. R. K.	JADEORAO
KARGUDRI, Mr. S. S.	SHIRALEKAR, Mr. P. K.
KATE, Mr. APPAJI YESHWANTRAO <i>alias</i>	SHRIKANT, Mr. L. M.
BAPUSAHEB	SUGANDHI, Mr. M. S.
KATHALE, Mr. B. S.	TALKAR, Mr. K. R.
KESHWAIN, Mr. S. N.	THAKOR, Mr. B. P.
KHER, the Honourable Mr. B. G.	TULPULE, Mr. H. V.
KHIMJI, Mr. BHAWANJI A.	VAGHELA, Mr. B. U.
KUNTE, Mr. D. K.	VYAS, Mr. ISHVARLAL K.
LALA, Mr. BHOGILAL D.	WADEKAR, Mr. R. B.
LATTHE, the Honourable Mr. A. B.	WALVEKAR, Mr. B. B.
MAGANLAL NAGINDAS, Mr.	WANDREKAR, Mr. D. N.
MASTER, Mr. NAGINDAS T.	

Tellers for the Noes : Mr. S. K. PATIL and Mr. D. N. WANDREKAR.

The Honourable the SPEAKER : I now put to the House the original motion.

Original motion put, and agreed to.

Mr. R. R. BHOLE : Sir, I beg to say that I and the honourable member Mr. Chitre, on behalf of our Party, resign from the Select Committee.

The Honourable the SPEAKER : I do not think any explanation of that is needed at all. The honourable members may communicate their wishes to the Honourable Minister concerned.

Mr. D. W. RAUT : I also resign from the Select Committee.

The Honourable the SPEAKER : No declaration of any resignation need be made in the House. The House has carried the motion and it will be the pleasure or choice of individual members whether to continue or not to continue.

Mr. S. L. KARANDIKAR : Sir, tomorrow being the Independence Day, it is practically the unanimous desire of the House that the House should not sit tomorrow. May I request you, Sir, to take this fact into consideration ?

Khan Saheb FAIZ MOHAMED KHAN : Did the honourable member say that it was the unanimous desire of the House ?

Mr. S. L. KARANDIKAR : I said it was practically unanimous.

The Honourable the SPEAKER : If it is so, I shall certainly be glad to respect the desire of the House. I would, however, point out that tomorrow is fixed for presentation of the report of one of the select committees on one of the Bills ; and, instead of taking up any more time as to whether the desire is unanimous or not or as to what the wishes of the different parties in the House are, we may proceed to the next business. The desire of the House, whatever it may be, may be intimated to me at about 6 o'clock.

The Honourable Mr. B. G. KHER : May I say that we will certainly respect the wishes of the House ?

The Honourable the SPEAKER : I expect to have a further communication from the honourable members at 6-25.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I think we will wait till you finally give your decision on the question. However, if you desire to ascertain the wishes of the different groups or parties in the House, we are ready to give our views.

The Honourable the SPEAKER : My only desire was to save time, instead of having a discussion on this question in the House itself, as there is ample time yet and I may be informed at the end. The Honourable the Prime Minister has already stated that the Government are prepared to respect the wishes of the House.

BILL No. VII OF 1938 (A BILL TO REGULATE THE TRANSACTIONS OF MONEY-LENDING IN THE PROVINCE OF BOMBAY).

The Honourable Mr. K. M. MUNSHI : Sir, I beg leave to introduce Bill No. VII of 1938 (A Bill to regulate the transactions of money-lending in the Province of Bombay*).

The Honourable the SPEAKER : The Bill is introduced.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that Bill No. VII of 1938 (A Bill to regulate the Transactions of money-lending in the Province of Bombay) be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, this Bill seeks to regulate money-lending in the province of Bombay. It is a very

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comprehensive measure and of very great importance to this province. In a sense, it seeks to regulate and control the whole process of money-lending in the province, whether it is being conducted by a bank or a joint stock company or by a shroff or by a Marwari money-lender, big or small, or by a Pathan or by any one else whatsoever, and, therefore, it would certainly affect the economic life of the presidency in a very large measure. Sir, I may take this opportunity to mention at the outset that Government are quite willing to devote the attention and time which may be necessary for giving to this measure the best possible shape. After the first reading is passed Government propose to have it referred to a select committee which may take its own time to report. The Bill will also be circulated to different authorities and commercial bodies for their opinion, because, it would not be proper to place on the statute book a measure of this important character unless it was fully discussed by the whole province and all points of view properly and duly placed before the select committee. Therefore, Sir, at the present moment the House has merely to consider the first reading without dealing with the detailed provisions of the Bill.

Sir, the object with which Government has placed this Bill before the House is two-fold : first, to place the money-lenders' profession on the footing of a well regulated and honourable calling. When I say this, I do not mean to suggest that all the money-lenders do not answer the description, but there is, as in all professions, a certain element in this profession also which requires to be raised to the status of an "honourable calling" by proper regulation by the State. The second object of this Bill is to protect the ignorant and helpless borrower from the clutches of the dishonest money-lender.

Sir, it is a well-known fact that money-lending is one of the most ancient, the most important and perhaps the most abused profession from the earliest times. It is curious to find that even the Vedic Rishi refer to the money-lender as "the usurer who counted days for calculating interest" but found him rather too much for him. You also find in the Old Testament, similar reflections on this important section of our community. At the same time we find various prescriptions given by ancient and modern authorities for curing people of usury. It is not really a modern habit to try to regulate them; even in old days they regulated them in curious ways. Sir, in the seventh century one Archbishop of Canterbury laid down that a person who extracted interest by usury must make penitence for three years one of which should be only on bread and water. Well, this Bill luckily does not prescribe any such remedy. But it seeks, in the first instance, as I said, to regulate the conduct of money-lenders in such a way that all those who carry on honest business are not crippled in any way whatsoever. Secondly, its object is to see that there is some control over the class of money-lenders whom most of us know, and whom every one wants to control but without success. As a matter of fact, some devices of money-lenders have recently come into existence. I may for the benefit of the House mention

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a few of such devices adopted by the shady section of this community in order to earn a heavy return. Take, for instance, the body of small Marwari money-lenders with which the Small Causes Court in Bombay is very familiar. I may mention a few of their devices which will show the necessity of controlling and regulating this profession.

The Honourable the SPEAKER : I may request the Honourable Minister not to mention any community. Mention can be made generally.

The Honourable Mr. K. M. MUNSHI : As you please, Sir. I will not refer to the name. Some sharks are always on a lookout for young sons of rich men who have just attained majority. Such a shark is generally in league with a money-lender. Between them the boy is introduced either to some questionable character or to a cinema actress or to the race-course. The result is that the boy wants money to spend. The financial partner, the money-lender, steps in. What does he do? Rs. 200 is actually advanced. This is an actual instance I am quoting. But a promissory note is taken from the young man for Rs. 1,000 ; and another promissory note is taken from him for Rs. 1,000 in the name of the father. He passes the promissory note and signs it in his father's name. If, on the due date, the young man comes out with Rs. 500 or Rs. 700, both the promissory notes are returned to him. If he does not, the lender takes two steps. He files a suit on the promissory note against the boy and gives a notice to the father demanding a sum of Rs. 1,000 alleged to have been advanced to him on his promissory note. The father says that he has not received any money. The lender shows the promissory note to the father. The father recognises his signature forged by his son, and comes to know that his son has been guilty of an offence. The father is put to one of two alternatives : either he must pay Rs. 1,000 or expose his son to criminal prosecution. Between the promissory note of Rs. 1,000 and the threat of criminal prosecution of the son, Rs. 700 or Rs. 800 will be surely forthcoming.

Another device which I came across is this. A promissory note is taken for Rs. 1,000 against a payment of Rs. 200. The next thing done is to take two post cards from the borrower, say, the first dated 25th January and other dated 10th February. In the first one, the borrower says : " I have borrowed Rs. 1,000 on the pledge of my wife's necklace. I am thankful to you for giving to me yesterday the said necklace for use as she is attending a marriage." The second one is in the following terms : " I was to have returned the necklace to you. Unfortunately, my wife has gone to her father. I will, therefore, return to you the necklace soon after her return, which I hold in trust for you." On the 25th January the money-lender posts the first post card. On the 10th February the second post card is posted. He allows some time to lapse and then sends a demand from the lawyer saying, " On a particular date you pledged your necklace with our client and you have taken it away on the false pretext that your wife was going to a marriage. If you do not return the necklace, you will be prosecuted for breach of trust." The

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man says: "I never pledged the necklace with you." The money-lender says: "Look at the postcard." The man has no defence; either he has got to pay the amount or go to the Police Court.

The third device is adopted by the class of money-lenders which keeps no account book, and generally recovers the money with the big stick at the mill shop or factory where the borrower is working. Generally this money-lender, once money is advanced, refuses to take back the money. The rate of interest is 150 per cent. As long as you pay interest it is all right. No sooner you go and say "Take back your Rs. 100", the man says "No, you wanted money and I gave you. When I want money, I will take it from you. Pay only the interest." And if it is not paid, it is taken by force, locking up the man in a room or some other way.

Here, again, I have got a copy of a promissory note for Rs. 100. The interest is 2 annas per rupee per month, which comes to 150 per cent. The money is not payable in Bombay where the money is advanced but at 51 different places in India. I will only mention a few of them to show what the object of it is: Midnapore, Bankura, Asansole, Burdwan, Dumk, Madras, Waltair, Surat, Broach, Cuttack, Bilaspur, Jubbalpore, Allahabad, Calcutta, Berhampur, Agra, Bhusaval, Bombay, Thana, Gaya and so on. The result of this is that an action on the promissory note can be filed in any part of India. The Defendant, a poor workman or artisan in Bombay, soon is faced with an *ex parte* decree from a court in a distant place in India, and the decree is transferred to Bombay for the purpose of execution. A large number of small people who have little credit resort to money-lenders of this class. It is therefore absolutely necessary that this class of dealings which are criminal, both in intent and execution should be rigorously put a stop to.

To remedy this state of things, attempts are being made not only in Bombay but in many other parts of India. I will shortly give you a resumé of the legislations which are now in force in the whole of India.

The first attempt was made by the Bombay Government when it passed the Deccan Agriculturists' Relief Act. This Act restricted itself only to a judicial control of transactions. Under it, it is only when matters go before a court, that the court examines the transactions;—this is what I call a judicial control;—this control also is of a very general character. The agriculturist borrower is indeed ignorant and does not understand the implication of what he is doing. The money-lender's ways are not examined until they reach a court of law. The result of this Act has been that the honest money-lenders have disappeared and the agriculturists have to submit themselves to extortion by unscrupulous money-lenders. The Deccan Agriculturists' Relief Act is now generally considered to be practically a dead letter so far as protection from money-lenders is concerned.

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After that, the next attempt was made in 1918, when the Usurious Loans Act was passed by the Central Legislature. That also was

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restricted to judicial control of money-lending transactions when they actually went before a court. It was also narrow in its scope. First, the transactions had to be proved to be unfair. Secondly, the court was not obliged to use its powers. And thirdly, excessive rate of interest was not defined but was left to the discretion of the court to decide. The result has been that the Usurious Loans Act is invoked only in very rare cases. Even courts, I know, consider 36 per cent. as not an excessive rate of interest.

This having proved useless, as you know, in 1930 Banking Enquiry Committees were appointed both for the whole of India and for the provinces separately. They proposed judicial control over accounts; some judicial control over the rates of interest and the terms on which moneys are lent. But administrative control, as the one embodied in the English Money-lenders Act of 1927, was considered not feasible. Then, in 1930, the Punjab Regulation of Accounts Act was passed by law. There, for the first time, judicial control was given by law over accounts and submission of accounts. It was laid down that if proper books of accounts were not kept and statements of accounts were not submitted to the borrower, the court could deduct a part of the interest. That was all that was done by that Act. Sir, in the same year, an honourable member of this House (Mr. Syed Munawar) brought a similar Bill before the old Bombay Legislative Council. In 1933, Sir, the Bengal Government took up this question, and they enacted a Money-lenders Act, which followed more or less the lines of the Punjab Act. All that it did was to give the courts control over the rates of interest. It laid down the maximum rates of interest for secured and unsecured loans. That Act has been working satisfactorily as the reports show.

In 1934, Assam passed a Money-lenders Act, which was the first attempt to make judicial control over money-lending complete. It prohibited compound interest; it introduced the principle of *damdapat*; it imposed a penalty for stating a larger sum in a bond or a promissory note than was actually advanced; it also imposed a penalty for contravening the provisions of the Act. And the court was also authorised to pass an order prohibiting a money-lender from carrying on the business of money-lending, if he was found guilty of any contravention of the provisions of the Act. But, there again, the principle was one of judicial control—control by the courts—and not of administrative control. In 1934, the Central Provinces had an Act similar to the one passed by Bengal in 1934. Mr. Syed Munawar again brought a Bill before the old Bombay Legislative Council, but in 1935, the then Government threw out that Bill saying that it required great precautions before a measure of that kind could be accepted. In 1935, the Madras Debtors' Protection Act was passed. That also was more or less on the same lines as the Bengal Act.

Therefore, today, we have in different provinces in India several money-lending Acts which give to courts control over money-lending transactions

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which come before them. Now, as a matter of fact, most of them followed the lines suggested by the Banking Enquiry Committee which adopted the old English Act of 1900. But that Act which gave judicial control over money-lenders did not prove much of a success in England; and Parliament enacted another Money-lenders Act in 1927, which, for the first time, gave control over money-lenders not only to courts of law but also to the executive. It introduced administrative control in the shape of licensing and registration. The control was dual. The money-lender had to be licensed and registered. If he was disqualified for any reason, he was removed from the list of money-lenders. The court also could do the same if it found that he was disqualified. The judicial control over the terms and conditions of money-lending was maintained. The court had control over the rate of interest; it had control over various other terms. Penalties also could be imposed under certain circumstances. So, it was the 1927 Act which ultimately gave a complete machinery for administrative as well as judicial control over money-lenders. And experience during the last nine years in England shows that that Act has been working much more successfully than the previous Act.

As a matter of fact, this Bill follows the lines of the English money-lenders Act of 1927, with such additions as can usefully be borrowed from the different provincial Acts in India.

Sir, I will now take the House through the principal features of the Bill. In the first instance, I will refer to the definition of the word "money-lender" given in clause 2 (10). It is a very comprehensive definition; it includes not only individuals, but undivided Hindu families, associations, joint stock companies and banks, with the result that the whole field of money-lending is covered by this Bill. The pawn-broker is also included, as you will see from sub-clause (10) of clause 2.

Chapter III deals with the registration and licensing of money-lenders. In the first instance, the money-lender has to apply in the form which is prescribed by the Bill. If he is accepted by the Registrar, then only he can be qualified to trade as a money-lender. You will find that in clause 10, sub-clause (3), powers are given to the Registrar to inquire into the qualifications and the means of the money-lender. The Registrar in this respect possesses all the powers of the civil court under the Civil Procedure Code. The penalty imposed by clause 13 is not prohibitive. If a money-lender does not take out a licence, his remedies are not barred altogether. But whenever he goes to court to recover money, he cannot get a decree unless he gets himself registered. The result is, he has to go to the Registrar and get himself registered, and the Registrar would be entitled to recover from him not only the licence fee for that year, but all the arrears of licence fee from the time this Bill came into force as an Act or from the time he started money-lending business, whichever is later. In addition, he will have to pay a penalty not exceeding three times the license duty. This would ensure that money-lenders go and get

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themselves registered by paying all the arrears and penalty instead of taking the risk of their suits being stayed. Provision has been made under clause 16 for the cancellation of the licence. Power is given to the court to cancel the licence issued to a money-lender. Even when a suit is before the court, the court can cancel or suspend a licence. There is therefore sufficient guarantee that the money-lender will carry out the provisions of this Bill.

Chapter IV deals with regulation of accounts. This chapter follows some of our Indian Acts. The money-lender has to keep accounts. As I told you, there are classes of money-lenders who never keep accounts. They will be compelled to keep accounts in a particular manner and to furnish statements of accounts to the borrower once a year and whenever they are required to do so, subject to the payment of a very small fee.

Chapter V regulates the transactions between the money-lender and the borrower. "Damdupat", by Clause 27, is made applicable to all transactions. Clause 28 permits the court to give instalments in all cases. Clause 29 limits the rate of interest. It is 9 per cent. per annum for a secured loan, and 12 per cent. per annum for an unsecured loan. Of course, it is a suggestion made by Government, and this House will be free either to increase the rate of interest or to decrease it if it so chooses. Compound interest is prohibited by clause 30. Under clause 31, there is a prohibition against the charging of any extra expense on loans. Most members familiar with conditions in Bombay know that some classes of money-lenders first charge for "Dharmada"; secondly, they deduct a certain percentage for opening their bag; then, if it happens to be Ekadashi or Chaturdashi, they deduct something for that sacred day; and having done that, they deduct interest for the whole period for which the loan is to be given; and after all this, they enter double the amount of the loan and take the promissory note. The clause gives a right to the debtor to recover all the amounts which have been deducted in this manner. Clauses 32 and 33 deal with transfers of loans—purely a matter of law. Clause 34 deals with re-opening of accounts. The position in law is this. The borrower goes to the money-lender; he wants a further loan. He is given that loan only if he puts his signature in the book of accounts. He wants money; he does not care—and he simply makes a scrawl in the book. The result is that the law says to him, "This is an adjustment"; and the burden of proving that the loan was not advanced is shifted on to the borrower. Some decisions of our courts go to the length that if a statement of accounts is forwarded to the borrower and a certain time elapses, then that would be treated as a kind of acquiescence in the correction of the accounts. Both these provisions of law work very harshly. The money-lender must, with regard to the loans advanced within three years, come into the witness-box and prove that the amounts have been advanced. This is an attempt to save the borrower from the effects of certain provisions of law which appear to be, in the present condition of the country, rather stringent. Clause 36 deals with cases where the money-lender refuses to take back the loan. The reply of the

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money-lender is this: "You came to me when you wanted money; I will come to you when I want it". So, he will demand only interest, and will not take back the principal amount. The result is that 150 per cent. interest is running all along on the money, and the poor man cannot repay the loan. Provision has been made in this clause enabling him to go to the court and deposit the money, so that from that date interest ceases to run. Then comes clause 37, which makes it penal to enter in the bond or promissory note a larger sum than that advanced. Very often we find that although it is proved in a court of law that the full amount entered was not advanced, the man goes scot-free. In such a case, under this provision the money-lender can be prosecuted or disqualified forthwith from becoming a money-lender. This is a very useful power which the courts should possess, and so should the Registrar; because the greater part of dishonest dealings arise from this practice of taking bonds or promissory notes for larger amounts than are actually advanced. In one case, I know, a man went to the length of taking a decree for double the amount. The defendant wanted a loan of Rs. 2,000. The money-lender filed a suit claiming Rs. 4,000 for monies lent. The defendant submitted to a decree. A decree for Rs. 4,000 was passed, and after that Rs. 2,000 was advanced. Under this provision, even that would be a penal act. Clause 38 lays down the penalty for molestation. There are some creditors who do not believe in the process of law; they believe in the big stick as a very efficient instrument for recovering money. This clause is intended to protect borrowers from such people.

These, Sir, are the main provisions of the Bill, and, as you will see, the Bill is as comprehensive as it could be made. At the same time, as I said, merely the comprehensiveness of the measure is not its only test. It has got to work well. It has also to have safeguards, so that capital may not fly. It would be a catastrophe indeed if the fraternity which lends money suddenly restricts credit and ruins needy debtors. All these points of view have to be threshed out properly. That can only be done in a select committee after obtaining the opinions of the parties here, the courts of law, the authorities on the subject and the commercial bodies concerned. In the meantime, however, I commend this Bill for first reading.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers): Sir, I rise to congratulate the Honourable the Home Minister for having introduced a measure, the necessity of which was being felt for a long time past. Some of the principles enunciated here are actually based on experience, and I am very glad to note that a certain illustration cited here by the Honourable the Home Minister has been of the very latest growth in the Small Causes Court. The practice of issuing distress against person has been abolished only two months before. After the abolition of this practice, the Marwari money-lenders have resorted to another course to which the Honourable the Home Minister has referred.

The Honourable the SPEAKER : I would ask the honourable members not to refer to this or that community by name. Money-lending is a profession, and it is unfair that any one community should be referred to in that manner. Instead of referring to the money-lenders as Marwaris, it will be sufficient if they are referred to as money-lenders.

Mr. MIRZA AKHTAR HASAN : I am sorry, Sir. Then, it is only just to meet that particular provision of the law that now the money-lenders have resorted to the practice of getting a sort of postcard posted, as the Honourable the Home Minister stated.

The very valuable principle underlying this Bill is that the rate of interest is limited ; the second principal feature of the Bill is the principle of *Dam Dupat*, and the third principal feature is that there will be not only a judicial control over the money-lenders' transactions, but there will be administrative control also. But in the administrative control there are certain defects which, I am sure, it will be difficult to overcome. For example, it has been pointed out in the speech of the Honourable the Home Minister that very often money-lenders advance only Rs. 1,000 and get a writing or promissory note for Rs. 2,000 and get decrees passed on the strength of such promissory notes. I know of cases wherein cheques are issued to the debtors and when the cheques are cashed half the amount is taken away by the creditor, and the poor debtor has to pay back the whole amount mentioned in the cheque. In such a case, it will be only a miracle if the debtor can prove that the whole amount mentioned in the cheque was not handed over to him but that the creditor took away half the amount. Then there are cases in which the numbers of the currency notes—hundred rupee notes or thousand rupee notes—are mentioned in the pro-notes, but half of the proceeds of such notes is taken by the creditor then and there. I therefore think that the penal clause which is included in this Bill will be very difficult to work.

One thing more. On principle, I may point out that I do not agree with the Honourable the Home Minister in respect of Clause 38 of the Bill. We know that the clause is meant as a protection against molestation. We have already got a provision in the Indian Penal Code and there are other remedies also. If a man is molested, he can go to a court of law and seek relief under sections, 504 and 506 and sometimes under section 352 of the Indian Penal Code. I do not see why this clause should have been added in this Bill. In this connection, I think there will be another difficulty because, as we know, a debtor is always an interested person, and as such he may unnecessarily try to involve an honest creditor also. The philosophy of the human mind is such that it sides with the man in distress ; but a judicious body like this House has to safeguard the interests of the debtor as well as of the creditor. The institution of the debtor presupposes an institution of the creditor. What I feel is that on account of this clause some honest creditors may be victimised.

Then with regard to the Usurious Loans Act, I must disagree with the Honourable the Home Minister that it is a dead letter. In all cases of promissory notes, which are about 50 to 60 every day in the Small

[Mr. Mirza Akhtar Hasan]

Causes Court, Bombay, everywhere this Act is applied and on a promissory note showing a face value of Rs. 500 a decree for Rs. 300 is passed and it is made payable by instalments of Rs. 2 per month. What is the relief that a creditor gets? If the debtor does not pay the instalments regularly, he has to issue execution. He has to pay the process fee; then he has to wait upon the bailiff who also requires some payment; he has to spend for conveyance and then the man is arrested or his property is attached. When the amount of the instalment in arrear only is paid into Court, the property is returned to the debtor. The result of this whole procedure is that the creditor does not get even the amount that he spends on the bailiff, or the conveyance and so on.

Your attempt to limit the rate of interest is a very laudable attempt.

The Honourable the SPEAKER: Is the honourable member likely to take long? It is time for us to adjourn, but if the honourable member can finish within two or three minutes, he may do so now.

Mr. MIRZA AKHTAR HASAN: I will continue my speech tomorrow, Sir.

HOLIDAY ON ACCOUNT OF "INDEPENDENCE DAY".

The Honourable the SPEAKER: Now, there is a question as to whether we should sit tomorrow or not. I have been given to understand that it is the desire of a substantial section of the House that we should not sit tomorrow and that the other parties in the House have no objection to that. That is what I am told. I understand that the honourable the Leader of the Opposition wishes to say a few words in this connection.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, it is very kind of you to give me an opportunity to make a statement. It is really a matter within your province whether to accept a request of this kind and adjourn the sitting tomorrow or not. But I was approached and was asked my opinion on the point; I said that I would like to make a statement.

Speaking on behalf of the Muslim League Party and the party behind it outside, I may say that we have never observed the "Independence Day" at all, and that is not the line of our action on the question of independence. Notices have been distributed and have reached me from which I see that a pledge or an oath is going to be administered to all people. Sir, the angle of vision with which the Congress looks at this great question of independence is quite different from that of ours. I, therefore, do not ask for adjournment of the House tomorrow, but if you decide to adjourn the sitting tomorrow, I cannot go against that.

BUSINESS OF THE HOUSE.

The Honourable the SPEAKER: There are two other matters with reference to which some arrangement will have to be made by the House.

[The Speaker]

The report of the Select Committee appointed for Bill No. III of 1938 (A Bill to provide for the release on probation of offenders) is to be presented tomorrow.

On the 27th, the report of the Select Committee appointed on Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples) is to be presented, and on the 28th the report of the Select Committee appointed on Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay) is to be submitted to the House. That means tomorrow,—in case we sit,—and on the 27th and the 28th, on all these three days, except the Money-lenders' Bill (Bill No. VII of 1938), there is no other business in respect of which the House could carry on its work ; because after the Select Committees' reports are submitted to the House, I presume that the honourable members will require some time to go through the reports before they proceed further with the Bills. What length of time that should be is another matter, but it cannot be expected that those Bills will be proceeded with forthwith—or at least if a request is made to postpone further consideration of the Bills for some time, such a request will not be unreasonable. Some time will have to be given. Therefore, the question is how to utilise these two days in the best possible manner. I understand that the last two days of this session are reserved for non-official business ; if any adjustment can be made, it may be possible just to present the reports day after tomorrow and then take up the non-official business on those two days—27th and 28th—and take Government business on Saturday. I am making this suggestion for the convenience of the honourable members ; otherwise the honourable members will have to stay in Bombay for a longer time. If this kind of adjustment can be made, the stay in Bombay of the mofussil members will be curtailed. If my suggestion is acceptable to the House, we may fix Thursday and Friday for non-official business.

The Honourable Mr. B. G. KHER : I quite agree with what has fallen from the Chair. Thursday and Friday may be given for non-official business, if we do not sit tomorrow, so that there will be two full days for non-official business, and whatever Government business is left over, may be taken on Saturday, so that the non-official time may not be curtailed on any ground. If that suits the House, Thursday and Friday may be fixed for non-official business.

The Honourable the SPEAKER : With this rider that the reports may be presented on these days ; otherwise, if the reports are not presented on these days, there will be the same difficulty. This much of Government business will not take more than two minutes. The honourable members will be in possession of the reports for two days and no further time would be wasted ; otherwise, if the reports are submitted only on the official day, further time would be wasted. I do not want to have any misunderstanding ; Thursday and Friday would be mainly for non-official business ; but, if the House permits, the Select Committee reports can be presented on these days.

The Honourable Mr. B. G. KHER : As it will not take more than two or three minutes to submit the reports, I do hope that the non-official members will not object to that much Government business being done on non-official days.

Sir ALI MAHOMED KHAN DEHLAVI : To put it in a nutshell, the non-official business would be a series of Bills by the honourable member Mr. Jhabvala.

The Honourable Mr. B. G. KHER : No Bills now. Only resolutions.

Mr. S. H. JHABVALA : On a point of explanation, Sir. I should be so arranged that two or three Bills of mine may be taken up and then a few resolutions—

The Honourable the SPEAKER : On the principle of autonomy the honourable member may arrange himself in any way he likes. If he is keen on giving priority to others, he should try to drop his Bills. [*After a pause.*] Do I take it then that we are all agreed that Thursday and Friday should be fixed for non-official business, that means, for non-official resolutions and not Bills, with the rider that all the reports of the Select Committees which are to be made to the House can be and will be submitted on these two days ?

Sir ALI MAHOMED KHAN DEHLAVI : But what becomes of tomorrow ?

The Honourable the SPEAKER : I am coming to that. In view of the general desire—at least in the absence of any opposition—I think I should concede to the wishes of a majority of the House and not sit tomorrow. We therefore adjourn now and sit on Thursday, the 27th instant.

The House then adjourned till 2 p.m. on Thursday the 27th January 1938.

Thursday, the 27th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Thursday, the 27th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 AMBEDKAR, Dr. B. R.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOUBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHAKRANARAYAN, Mr. B. B.
 CHITRE, Mr. A. V.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHEEWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.

GILDER, the Honourable Dr. M. D. D.
 GIRASEY, Mr. G. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mr. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHMJI, Mr. BHAWANJI A.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.

NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RANE, Rao Sahab B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.

VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

LEAVE OF ABSENCE—SIR CHINUBHAI MADHOWLAL, Bart.

The Honourable the SPEAKER: There is an application for permission of the House to be absent on leave, and I am reading it to the House. It comes from Sir Chinubhai Madhowlal.

"I regret I am not able to attend the present session of the Bombay Legislative Assembly, owing to my ill-health.

"I have, therefore, to request you to grant me leave of absence due to the above reason."

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Sir, I wish once more to bring it to your notice that it must be now made known to all the honourable members that such applications are not necessary unless they see that they are likely to contravene the provisions of section 68 (4) of the Government of India Act. You might mention it in the House; otherwise, these applications would become a sort of convention, and everybody would put in an application.

The Honourable the SPEAKER: I might read again section 68 (4):

"If for sixty days a member of a Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days."

As I said on a previous occasion, a member does not know how long a session is going to last, and these applications are coming in as a matter of safeguard against the possibility of members being disqualified for being absent for a period of more than 60 days. But even if a member is absent for more than 60 days, it is in the discretion of this House to excuse that, because the wording is "the Chamber *may* declare his seat vacant". It may or it may not. If it is the wish of the House that members may not apply for leave, except for very serious reasons, I think it would be better if the House expressed that wish instead of granting the permission. That is one course; and the other course is to give permission. I am leaving it entirely to the House; the application is for the permission of the House and not for my permission.

The Honourable Mr. B. G. KHER: Perhaps the practice which we have been following of granting permission would be the better one; because it would avoid any inconvenience to the members concerned.

Sir ALI MAHOMED KHAN DEHLAVI: There is no necessity at all. The member is not bound to ask for permission unless his interest would suffer.

The Honourable the SPEAKER: The members are not bound to ask for permission, but I presume they do so for the sake of safety and to gain peace of mind. This is an application on the ground of illness. I take it that the member has got the permission of the House. [*After a pause.*] Leave is granted.

BILL No. III OF 1938 (A BILL TO PROVIDE FOR THE RELEASE ON PROBATION OF OFFENDERS).

The Honourable Mr. K. M. MUNSHI: Sir, I have the honour to present to the House the Report of the Select Committee appointed to consider and report on Bill No. III of 1938 (A Bill to provide for the release on probation of offenders).

The Honourable the SPEAKER: The Report of the Select Committee appointed to report on Bill No. III of 1938 is presented to the House.

BILL No. V OF 1938 (A BILL TO REMOVE DISABILITIES OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).

The Honourable Mr. K. M. MUNSHI: Sir, may I ask the indulgence of the House for one day more for presenting the Report of the Select Committee on Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples)? We have private business today and tomorrow; so, the programme of the House will not be upset in any manner. It has not been possible to get the report ready within the short time at the disposal of the Select Committee. So, I want an extension of 24 hours.

Question put, and agreed to.

BUSINESS OF THE HOUSE.

The Honourable the SPEAKER: Before we proceed to the non-official business, I should like the House to know the future programme with regard to the Government Bills. Today and tomorrow, we proceed with the non-official business; and day after tomorrow, that is, Saturday, the House will resume discussion on the Money-lenders Bill, the first reading of which was proceeding when we last adjourned. Assuming that the first reading is over by Saturday, we might take up on Monday Bill No. III of 1938—Probation of Offenders Bill—the

[The Speaker]

report of the Select Committee on which has been presented today. On the assumption that the Select Committee's report on Bill No. V—Harijan Temple Worship Bill—is presented tomorrow, we might proceed with that Bill also on Monday in case we get time. Tomorrow is the day fixed for presenting the report of the Select Committee on the Small Holders Relief Bill.

The Honourable Mr. K. M. MUNSHI: Yes, Sir; but it may become necessary perhaps to have an extension for 24 hours. But both the other reports will be ready tomorrow, and if the non-official business is over, I have no objection if the Probation of Offenders Bill and the Harijan Temple Worship Bill are taken up tomorrow.

The Honourable the SPEAKER: Tomorrow is allotted, I understand, for non-official business. As regards the two Bills mentioned by the Honourable Minister, the report of the Select Committee on the Probation of Offenders Bill has been presented, and the report on the Harijan Temple Worship Bill will be presented tomorrow. I presume that honourable members would like to have some time to go through the reports, study the amendments made by the Select Committees and table amendments if they so wish. They will require some time to do all that, and I think they should have some time. So, it is better that the Bills are taken up on Monday instead of Saturday—I mean the Probation of Offenders Bill and the Harijan Temple Worship Bill.

The Honourable Mr. K. M. MUNSHI: Then Saturday will be devoted to the first reading of the Money-lenders Bill only.

The Honourable the SPEAKER: That is what I suggest. If, as the Honourable Minister just stated, an extension is asked for in the case of the report of the Select Committee on the Small Holders Relief Bill, that report will be before the House on Saturday. I was just considering as to when it should be taken up, leaving some time for members to study the amendments made by the Committee and to table their own amendments. It is possible that some of the amendments tabled might require the previous sanction of His Excellency the Governor; in that case it would be necessary to give some time to enable members to obtain that sanction. So, I was just suggesting this programme: on Saturday, the Money-lenders Bill should be taken up; if it is finished, well and good; if not, it will continue on Monday. Then, on Monday, after finishing the Money-lenders Bill, we will take up Bill No. III—Probation of Offenders Bill; and if that too is finished, we will proceed with Bill No. V—Harijan Temple Entry Bill. The other Bill—Small Holders Relief Bill—may be taken up on Wednesday, so that, after the report is presented on Saturday, members will have some time to study it and table amendments and, if they require the Governor's sanction, to obtain such sanction. If the programme that I have suggested is agreed to, I would request members to give me their views as to the time which I should fix for tabling amendments, because honourable members will realise that the amendments require scrutiny and that some time has to be given for the purpose.

The Honourable Mr. K. M. MUNSHI : There is only one consideration which I may place before you and the House. If the Money-lenders Bill—first reading—is finished on Saturday, and if the Probation of Offenders Bill is also disposed of on Monday as well as the other Bill—Harijan Temple Entry Bill—then on Tuesday perhaps the House will have no work to do. I do not think there would be much discussion on the Probation of Offenders Bill and the Harijan Temple Entry Bill.

The Honourable the SPEAKER : I was contemplating only one difficulty. If the report on the Small Holders Relief Bill is presented tomorrow, members will get two days to consider it—Saturday and Sunday ; and on Monday they may be in a position to table amendments, and, in case any of them require sanction, to obtain it. But assuming that the report itself is presented on Saturday, then members wishing to table amendments will perhaps find it difficult to do so. In any case, the Bill may be taken up on Tuesday on one condition, namely, that if any amendments are tabled which require sanction, and the sanction is not obtained till Tuesday when the Bill is taken up, then the Bill should be taken up on Wednesday. That is the position which I want to safeguard so far as amendments are concerned. That is why I suggested the programme.

The Honourable Mr. B. G. KHER : In case there is any such difficulty as regards amendments, the Bill can certainly be taken up on Wednesday ; but provisionally it should be placed on the agenda for Tuesday. If for the purpose of discussing any amendments difficulty as regards sanction is felt, it can be taken up on Wednesday, as you, Sir, have suggested. But we may, at the same time, provisionally fix it for Tuesday, so that, now that members have nearly come to the end of the session, it may not be necessary to prolong the session unnecessarily. That was the idea in suggesting that the Bill might be placed on the agenda for Tuesday provisionally.

The Honourable the SPEAKER : I will accept that provisional programme on that understanding.

Now, I would request honourable members to table any amendments that they wish to table to the Bill the report on which has been presented today—Probation of Offenders Bill—by 12 noon on Saturday. To the other Bill—Harijan Temple Entry Bill—amendments may be tabled by noon on Monday. To the third Bill—Small Holders Relief Bill—amendments may be tabled by Monday evening. I think that will suit the convenience of the House.

Mr. K. F. NARIMAN : May we know when we sit on Saturday so that we may adjust our programme ?

The Honourable the SPEAKER : The usual time—10-30 to 1-30.

Mr. K. F. NARIMAN : Not in the afternoon ?

The Honourable the SPEAKER : No.

RESOLUTION RE: FACILITIES FOR INDIAN APPRENTICES.

Mr. K. G. GOKHALE (Belgaum South): Mr. Speaker, Sir, I beg to move:—

“This Assembly 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 non-Indian suppliers for the supply of stores, materials, machinery or services, a clause to the effect that the suppliers concerned shall afford 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 proposed.

The Honourable the SPEAKER: I have received one amendment with reference to this resolution. The honourable member will move the amendment at this stage and have his speech on it later on, so that the honourable member moving the resolution will be in a position to know the point of view of the mover of the amendment.

Mr. J. B. GREAVES: Sir, Do I understand that I should move my amendment now but not speak on it? I understood that you wished me to move it now.

The Honourable the SPEAKER: My idea is that if all the amendments are before the House at this stage, the speakers following will have an idea as to what is passing in the minds of various members and the subject may be discussed more thoroughly from the beginning.

Mr. D. G. JADHAV: Sir, I beg to move:

In line 6, after the word “apprentices” add the words “especially preference should be given for Scheduled Castes.”

Question proposed.

Mr. J. B. GREAVES: Sir, I beg to move:

For the words “non-Indian” substitute the word “all”. Delete the words “or patronised” and between the words “managed” and “controlled” insert the word “or”.

Question proposed.

The Honourable Mr. L. M. PATIL: Sir, I beg to move:

(1) In line 4 for the word “non-Indian” substitute the word “all”, and after the word “all” insert the words “manufacturers and”.

(2) In line 6 between the words “the” and “suppliers” insert the words “manufacturers concerned and the”; and after the words “concerned” where it occurs the second time, insert “who have facilities for training apprentices”.

(3) In line 7 delete the words “or patronised”.

Mr. J. B. GREAVES: Sir, in view of this amendment of the Honourable Minister, I should like to withdraw my amendment.

The Honourable the SPEAKER: First I will put the Honourable Minister's amendments to the House. After that I will put to the House the request of the honourable member Mr. Greaves for leave to withdraw his amendment.

Question proposed.

Amendment, (Mr. Greaves's) by leave, withdrawn.

Mr. S. L. KARANDIKAR: Sir, I beg to move an amendment to the amendment just now proposed by the Honourable Minister for Local Self-Government:

Insert the words "or procure as the case may be" after the words "shall afford".

My second amendment is:

Retain the word "patronised" appearing after the word "controlled".

I will just read the resolution as amended for the convenience of the members.

"This Assembly 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 suppliers for the supply of stores, materials, machinery or services, a clause to the effect that the manufacturers concerned and the suppliers concerned who have facilities for training apprentices 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."

The Honourable Mr. L. M. PATIL: Sir, I have no objection to the amendment moved by Mr. Karandikar.

Mr. R. A. KHEDGIKAR *rose*.

The Honourable the SPEAKER: I have not yet put the amendment of the honourable member Mr. Khedgikar to the House.

Mr. J. B. GREAVES: Sir, the acceptance of this amendment of Mr. Karandikar gives rise to a great difficulty because now the words "or patronised" are retained.

The Honourable the SPEAKER: In any case, the amendment of the Honourable Minister for Local Self-Government is before the House for discussion.

I will now put Mr. Karandikar's amendment to the House.

Question proposed.

Mr. R. A. KHEDGIKAR (Sholapur City: Textile Labour): Si
2-30 p.m. I beg to move—

(After a Pause.)

The Honourable the SPEAKER: If the honourable member is not quite ready with his amendment, he may move it at a later stage.

Mr. R. A. KHEDGIKAR: I have got it, Sir. Delete the words "a clause" in line 5 and substitute the word "clauses" instead and add the following after the—

The Honourable the SPEAKER: May I request the honourable member to write out the amendment legibly, so that I can put it to the House? He may complete writing out his amendment; in the meanwhile, the debate may proceed.

Mr. K. F. NARIMAN (Bombay City): Sir, I beg to move:

"In line 3, after the word 'Municipalities', add the words 'Port Trust and Railways'."

The Honourable the SPEAKER: I am doubtful about this particular amendment being in order.

Mr. K. F. NARIMAN: If the expression "semi-Government bodies" includes Port Trust and Railways, then there is no need for this amendment. I only want to specify them.

The Honourable the SPEAKER: These bodies are not the Provincial Government's concern. That is the difficulty.

Mr. K. F. NARIMAN: If the Provincial Governments have dealings with them of any description and if it is legally possible to include them, we may do so; but if there is any legal difficulty, then it cannot be done. But I think it will add to the strength of the resolution if these words are added.

The Honourable the SPEAKER: The point is that by this resolution we are making a recommendation to the Provincial Government to issue instructions to all departments of Government, semi-Government bodies, Municipal Corporations and Municipalities. This amendment means that they should issue instructions to the Port Trust and Railways also which are not under their control. That is the difficulty.

Mr. K. G. GOKHALE (Belgaum South): Mr. Speaker, Sir, the intent and purpose of this resolution, namely, to provide facilities for practical training of Indian youths, is so obvious that I think I need not detain this House very long to explain my reasons for this motion. In India, the middle class unemployment problem has assumed such terrible dimensions that time has come to make certain provisions for the proper training of the youths of this country. After the Great War was over, the Provincial Governments and the India Government thought it desirable that the Indian youths also should be given all possible facilities in the training of such professions and in 1921 the Government of India had actually inserted a clause to the following effect:

"Firms receiving orders in India will be expected to provide facilities in their works for the training of Indian technical students and where such firms have their main works outside India or are subsidiary companies promoted or closely connected with firms which have their main works outside India they will be expected to provide similar facilities to students recommended by the High Commissioner for India in London."

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So, the policy which was laid down by the Government of India is the same policy which we ask to continue.

Now, in India, we also know that the problem is more or less one of economics. Even the Viceroy had admitted that it was necessary to train the Indian youths and that they should be given all possible facilities to acquire full knowledge of the technique and work in all trades, industries, callings and professions.

The second point is that in India we have not got so many facilities for training our youths in this country. His Excellency the Viceroy recently in his welcome address to the eminent scientists at the jubilee session of the Indian Science Congress could mention only four such institutions in India. The first was the Indian Forest Institute at Dehra Dun; the second was the Imperial Agricultural Research Institute at Delhi; the third was the Central Medical Research Institute at Kasauli; and the fourth was the Indian Institute of Hygiene and Public Health in Calcutta. India's grievances and the reasons why India is comparatively backward in industrialisation are well known to all.

Later on, after the War was over and when aggressive nationalism had its firm hold, India is not at present getting all possible facilities for the training of Indian youths in the United Kingdom or in Europe or in America. I can reliably say from documentary evidence that the number is dwindling down day by day and we are not at present getting facilities for Indian youths as we used to do formerly. The following are the figures which will show as to why there is a necessity for bringing forward this resolution :

In 1929-30 applications received from the Indian students were 134 and facilities could be obtained only for 76 students ;

in 1930-31, 154 applications were received and facilities were provided only to 98 students ;

in 1931-32, 120 applications were received and 104 students got facilities ;

in 1932-33, 143 applications were received and facilities were given to 114 students ;

in 1933-34, 136 applications were received and facilities were given to 76 students only.

An Honourable MEMBER: By whom were the [applications received ?

Mr. K. G. GOKHALE: By Government. Now, the High Commissioner for India, to whom the applications are sent and who actually arranges for getting all possible facilities to Indian youths either in England or in the United Kingdom or in Europe, has to admit that at present Germany, Switzerland, Austria and other nations are reluctant

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to give facilities for the training of Indian youths. We are not getting any facilities in foreign lands now. Our students go there and the parents spend enormous money on their training there; but if they get only theoretical education and not the practical training and knowledge of these industries, then they cannot get any service on their return to India; hence the time has come now to pass such a resolution in this Assembly to impress upon the Provincial Government, as well as the Indian and Imperial Governments the necessity for providing such facilities. And pressure has to be brought on all these Government bodies, semi-Government bodies, Municipalities and other Corporations that when they want to buy any articles they should put it as a condition precedent in their contracts and in the terms of their tenders that they will not purchase articles from them if they do not give all possible facilities to Indian students for getting practical training and full knowledge of that particular trade, industry, calling or profession. If this condition is put in those contracts, it is quite likely that this kind of pressure will be of much use and the Indian youths will get all possible facilities in foreign countries.

Now, the goodwill, as I have already told the House, is actually vanishing and therefore this new kind of pressure is absolutely necessary. This is not a novel procedure which we are following. All other independent nations like Afghanistan, Persia, Turkey or China are putting up such conditions in their trade agreements when they purchase articles from the West or any other country. And no orders are given unless this condition is inserted. Hundreds of students are leaving China, Afghanistan, Turkey or Persia and they are actually admitted in all the European factories and in America also and every year they are getting hundreds of youths absolutely trained in all these crafts. They start factories in their own countries. And naturally with this outlet there is an all round development of the industries in their own countries. Unfortunately, in India, that is not the case. The foreign independent countries are not only satisfied by getting this particular kind of knowledge in trade, they go a step further and it was only last year that a batch of Afghan youths left from Bombay for Japan to learn military training. They say "if you are going to supply some articles to Afghanistan, not only you are to train our youths in trade but actually you must train them in military art also. And if you do not give that training to our youths, we shall not purchase anything." All those countries have gone far ahead. This resolution does not contemplate even to go so much further. Our only request to all these firms, from whom the municipalities or Government or semi-Government bodies will actually get supplies, is that they should give training to the Indian youths and prepare them actually to do that work here in India. We ask only for all possible facilities. If there are no facilities in your firm, put pressure upon some other firms and procure certain facilities for our Indian youth. If these facilities are thus given, it is quite likely

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that the industrial problem will be solved and our millionaires will invest money for starting hundreds of industries and if we get trained Indian youths in all the technicalities of the industries, then India's future is very bright. With that object in view, this resolution has been brought forward in this Assembly. If you look to certain banks in Bombay, you will find that without bringing a pie from their countries, their dividends run to two digits; but even they are not prepared to give any facilities to Indian youths to train in the art of banking.

One more factor is very important. In the western countries at present if there is any balance in favour of one country it squares up its ledger with the other by procuring all facilities in training the youth of its country. In spite of the adverse ratio, India has always got a balance in its own favour as far as trade goes and even if we also insist that our youths should be trained by all the foreign firms, I believe, youth being the invaluable asset of this country, will be trained and India will also gain in this particular field of life.

Then I have already said that the western nations are actually making trade agreements. There is the Afghan-Japan agreement, China-German agreement, and so on. In India also, the Indian High Commissioner or the Government enters into certain trade agreements and in all such trade agreements, if this condition is also put, I believe that the purpose of this resolution will be served. If the whole of the nation, all provincial assemblies, the Provincial, the Indian and Imperial Governments will all combine to see that the youth of this country is trained in all these arts, then alone progress is possible. Now the youth is in an absolutely desperate condition. They are not getting any facilities anywhere except two or three professions of a pleader or a doctor or an engineer. We have not got any other avenue open for our intelligence. India is not lacking in intelligence. But trained people are not getting service also. I know of certain cases in the Bombay Port Trust where even ordinary matriculates, not even Englishmen but Italians, have been given preference to the best Indian youths who have got western diplomas and who have passed higher examination in foreign countries. Indians have not been getting their due share even in this particular sphere of service. So we are moving in a vicious circle. If we ask an employer to employ Indian youths he says they have no practical training and there are no facilities for training available to the Indian youths. So this vicious circle must be broken.

Therefore, I appeal to this House to see the significance of my resolution which is absolutely simple. There will be no controversy on this resolution. And I hope that this House will give its unanimous support to my resolution. If this resolution is passed and if Government issues instructions to all the Municipalities, Local Boards, Corporations and all Government and self-governing bodies that in their tenders they should put this as a condition precedent that our Indian apprentices will receive practical training in factories, workshops, offices, this will

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enable Indian apprentices to acquire a full knowledge of the technique and work of all trades, industries, callings and professions. Then the youth of the country will give this House its whole-hearted blessings. And therefore it is our primary duty to see that the youth of the country is well-equipped. There is no way open except to bring this kind of direct and indirect pressure on all those suppliers concerned whose articles we purchase and do not take free. It is not charity. We do not want charity. We are not beggars. We stand on our own rights. We say, when we give you cash money, when we take things from you, why don't you do this small thing to us which you are doing already in case of all other countries like Afghanistan, Turkey, China and Persia. This is a resolution which is non-controversial and so I commend it for the universal acceptance of this House.

Mr. SAKARLAL BALABHAI (Ahmedabad Millowners' Association) : Sir, I rise to support this resolution. The resolution is self-explanatory. Unemployment has reached such a stage, both among the intelligent and the manual workers, that unless India is more industrialised, unemployment cannot be relieved to a great extent. Even in the Report of the Indian Fiscal Commission, 1921-22, they have said :

"There is one direction however in which we consider that Government could with advantage take action. We think that whenever important Government orders are placed with firms outside India, one of the conditions of the tender should be that the firms should, if required, agree to afford facilities for technical training to Indian apprentices sent by the Government of India. The competition for Indian orders is so great that in practice we believe few firms would decline to accept such a condition, and consequently the adoption of the policy would entail no appreciable extra expenditure on the State. We observe that a resolution in this sense was moved in the Legislative Assembly by Sir Vithaldas Thackersey on the 23rd September 1921 and was treated sympathetically by the Government."

And that resolution held that firms receiving orders in India should be expected to provide facilities for training. If the amendment as moved by Government is adopted, the resolution will have no effect. Every firm will say that there are no facilities. Who is going to find out whether facilities do exist there or not? So, the resolution as moved originally should be adopted. Practically, all the countries like Japan and others who have advanced considerably in industry have made such a condition compulsory and they have benefited to a great extent, with the result that in those countries industries have developed enormously. So, Government must insist on such a condition in the contracts. Again, Sir, this is a most opportune time that when Congress is in power they should try to insist on the insertion of such conditions as will give more facilities to Indian apprentices for further training. I think, Sir, this resolution is a very simple one and should be adopted without the amendment moved by the Honourable the Minister.

Sir, I support the resolution without the amendment.

Mr. J. B. GREAVES (Bombay Chamber of Commerce): Mr. Speaker, Sir, I rise to support the resolution as amended by the Honourable Minister Mr. Patil and I oppose the amendment of the honourable member Mr. Karandikar. I imagine that the House would like to know what British industrialists are doing with regard to apprentices and what their views are on the question of training apprentices in England.

Sir, one of the most important industries in India is the cotton mill industry. No cotton mill machinery itself is sold to any bodies contemplated under this resolution. Cotton mill machinery is sold to private enterprise in India. Yet, it has been the practice for the last forty years for almost any suitable Indian apprentice who applies to be trained in any of the English works to get facilities for training. I know of many instances of Indian apprentices who have been so trained, and in the four or five works today who manufacture this machinery in England there are fifteen to twenty Indian apprentices undergoing training there today. That will give you some indication of what the British machinery industry is prepared to do in regard to the training of Indian apprentices.

Now, take the large engineering firms in England. My difficulty as a seller of machinery has been to find Indian apprentices. I have the greatest difficulty in getting suitable apprentices. The other day I had the pleasure of hearing the Honourable the Prime Minister address the Dufferin Cadets, and I disagreed very strongly with him on one thing he said. He said that all the boys trained on the Dufferin should take to the sea as a career and that if they did not do so the time and money spent on their training was wasted, and he expressed the view that every boy trained on the Dufferin who did not go to sea was wasted. Two boy-apprentices that I have had trained in England are Dufferin boys who did not go to sea. One of them is already doing very well and the other who has just gone to England will also do well. The point I am making, Sir, is that the Dufferin Training Ship also turns out boys who are suitable for training as apprentices.

Sir, the attitude of the English engineering works is that they are prepared to take up suitable Indian apprentices if they can get them. Moreover, most of the bigger works I find are prepared to pay Indian apprentices double the rate that they are paying to English apprentices, solely to encourage Indians to come to them. The cost to these boys going to England is considerable. I reckon that it costs the firm which gives training to an apprentice about £300 and it costs the apprentice about the same sum for three years' training. A number of parents cannot afford that. Government give very few facilities to assist these boys. That is a point Government might take notice of and see whether they cannot do something about it.

Sir, we have heard a lot about the High Commissioner in London. My experience of sending Indian boys Home is that I cannot expect much help from the High Commissioner, who appears to be concerning himself more with University students and boys in engineering colleges and not with the class of boys envisaged in this resolution.

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I was glad to note that honourable members think that German and Italian firms are the worst offenders against the spirit of this resolution. I have no knowledge of this. But I think the High Commissioner should take up the question when carrying on trade negotiations with these countries.

Now, Sir, there is one thing I do object to in this resolution and that is the words "or patronised." The Honourable Minister Mr. Patil first of all deleted those words. Then, I understand, he agreed that they should be retained. Our objections to the words "or patronised" are these: take the case of a German supplier selling an electric power plant to a municipality or a public body. It is right that a clause should be in the contract compelling him to take an Indian apprentice or apprentices into his works. But suppose there is a clock supplied, costing three rupees. You cannot compel that German supplier, because of his sale to the public body of a three rupee clock, to take an Indian apprentice into the clock factory. That is an illustration of how impracticable the words "or patronised" are. Take again the case of cotton mills. I understand the position there is fairly satisfactory under the excellent scheme which has been worked out recently by the Department of Industries. But, in the other trades where there is very little control of apprentices, I find one very objectionable practice that has crept in. I know of one firm—I am not going to mention the name of the firm—where the total labour force employed is 100 and out of that 100, 70 are so-called apprentices, none of them getting any pay. We do not want to encourage that form of apprenticeship. First of all, the "apprentices" get no training, they are merely there to provide the firm concerned with free labour. As the clause is worded, if a penal provision is inserted in a contract, it is bound to result in suppliers taking in free apprentices and merely getting free coolly labour thereby. That is being done today and it is a most objectionable practice. So, while we support the resolution, great care will have to be taken in drafting the provision in the contracts, and I would suggest that the Government avail themselves of the opportunity of consulting commercial and manufacturing interests in the city as to the best means of phrasing the clause in the contracts. The suggested wording that has been put forward by the honourable mover of the resolution is not practicable. It lends itself to all sorts of abuses. What he wants is a provision put in a contract for the supply of an article of the value of Rs. 4 that the supplier of an article of the value of rupees four should take in apprentices. That is not practicable. But it is practicable to put it in in the case of big contracts. It is practicable to see that great pressure is put on, so that it shall be carried out in the case of big contracts. If you put it in small contracts, for instance, for the supply of an article worth rupees four, you may find, because of this provision, the article will cost thousands of rupees, unless you are prepared to allow the clause to be got over by the taking in of free apprentices who receive no training and who are merely

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treated as coolies by their employers. With these words, I support the resolution as amended by the Honourable Minister Mr. Patil, and I oppose the amendment of the honourable member Mr. Karandikar.

Mr. MUSAJI E. PATEL (Broach Sub-Division): Sir, I support the resolution moved by the honourable member Mr. Gokhale, and I am authorised by the leader of my party to speak on behalf of my party also that the whole of the Muslim League Party supports this resolution and endorses every word that has fallen from the lips of the honourable mover. My grievance is that the resolution as drafted is very mild. It is only in a recommendatory form and not in a mandatory form. We have heard enough of these recommendations, and really we have got sick of these recommendations, and it is high time that we keep away from all these expressions like "recommendation", "consideration" and "under consideration". I say that this resolution is very mild because no machinery has been provided in it by which the spirit of the resolution is carried out or put into practice. It would have been better if certain provision were made or certain machinery established by which we could see that this condition is really carried out and given effect to. We should ask the firms, both Indian and non-Indian, who supply goods how many applications for apprenticeships they receive every year and how many apprentices have been actually taken in their factories. If such a condition is kept in the contract, then I think it would be better, and the meaning and spirit of the recommendation could be carried out more effectively.

It is a pity really that there are many Indian firms also who employ experts from Germany, America and Japan. They do not want that other Indians should pick up their work, and so they deliberately keep Indian youths from picking up the work. They are kept away for fear that they may start rival business concerns. Not only we have to see that non-Indian suppliers take up Indian youths as apprentices, but we have also to tell the Indian firms that when they engage any non-Indian experts they have to see that side by side suitable Indian youths are also employed in order to pick up the work and get a knowledge of the technique of the work.

A reference has been made by the honourable member to the fact that only two or three professions are at present open to our educated youths, namely, the lawyer's profession and the doctor's profession. I say that it is high time these professions were not at all looked to. Already both these professions are overcrowded, and a move is afoot and certain suggestions have been actually made and are being made that strict rules should be made for the admission of educated young men into the profession of lawyers. The suggestions made are so drastic as to close these examinations for some years, or to see that young lawyers do not start practice unless they serve as apprentices under some senior lawyers. So I say that these two professions also will be very shortly closed. These professions are already overcrowded, and it is high time our educated young men looked to other professions requiring technical skill

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and therefore we have to see that our educated young men and youths get the necessary practical training. Really the question of unemployment specially among educated young men is becoming very acute, and I think all the Provincial Governments of India will very shortly have to consider this question very seriously. We see that in many places public peace is disturbed and there is dissatisfaction, and of course the cause or the root of this lies in the fact that there are a number of dissatisfied and disgruntled young men who are out of employment. That is one of the reasons why we see, of course not always but many a time, that the public peace is disturbed by all these people who are dissatisfied and disgruntled. So, it would be better, before placing an order for supplies, if a condition is imposed that the suppliers should report as to how many apprentices they have actually taken for training every year. Unless such conditions are put in the contracts which are made for the supply of articles, I do not think any useful purpose will be served, and this recommendation will be merely a paper recommendation. With these words, I support the resolution.

Mr. R. A. KHEDGIKAR : May I move my amendment, Sir ?

The Honourable the SPEAKER : I have read the honourable member's amendment. I am afraid it is out of order. Does he want me to read it out ?

Mr. R. A. KHEDGIKAR : Yes, Sir.

The Honourable the SPEAKER : The amendment which, in my view, is out of order and which has been tabled by the honourable member Mr. Khedgikar runs thus :

Delete the word "clause" in line 5 and substitute the word "clauses", and add the following at the end of the resolution :

That means, he suggests that Government should issue instructions for inserting two clauses instead of one clause, one of the clauses being the one mentioned in the resolution ; and now follows the clause which he is suggesting to be added to the original resolution :

" that the contractors shall pay the same wages and give other facilities as obtaining in the Departments of Government, semi-Government bodies, Municipal Corporations and Municipalities for the same type of work."

It is clearly beyond the scope of the original resolution and, therefore, o my mind, it is out of order.

Mr. K. F. NARIMAN : Is the fate of my amendment also the same as my honourable friend's ?

The Honourable the SPEAKER : I thought the honourable member did not wish to move his amendment.

Mr. K. F. NARIMAN : If my amendment is not in order in the form in which I have given notice, I shall put it in some such way : "This Assembly recommends to the Government of India to issue similar instructions to the Port Trust and the Railways....."

The Honourable the SPEAKER : I am afraid it is extending the scope of the resolution, which is restricted to definite recommendations to be made to the Provincial Government. Is the honourable member anxious to move his amendment ?

Mr. K. F. NARIMAN : Yes. Shall I say "Insert the words 'Port Trust and the Railways' after the word 'Municipality' " ?

The Honourable the SPEAKER : The difficulty is not about the form but about the substance of it. I am unable to suggest any form by which the substance, which is out of order, can be made in order. I took it that, after the short discussion we had, the honourable member did not want to move it.

Mr. K. F. NARIMAN : I was anxious if I could devise ways and means to move it.

Mr. M. C. GHIA (Indian Merchants' Chamber) : Sir, I support the resolution moved by the honourable member Mr. Gokhale. I am sorry to see the amendment brought forward to insert the words "who have facilities for training apprentices" by the Honourable Minister Mr. L. M. Patil. It will nullify the very aim of this resolution. I can tell you the amount of hardship the Indian apprentices are undergoing in England and other countries, with whom we place large orders. I know for a fact, when once I was in England, a student who was receiving scholarship from the Tatas was not allowed to enter some works. Because of my dealings with various manufacturers, I was able to put him for some days in one of the important works. Now, if you put this condition "who have facilities for training apprentices", it is very likely that the manufacturers will say "We are very sorry we have no facility and we cannot take Indian students in our works". From my experience of 1933, I can say that, while as a matter of fact students of the United Kingdom are trained in the same works, the Indian students are not allowed to get into them and take training.

I can see from our Chamber's record that a correspondence was passed by our Chamber in February 1936 with the Department of Industries and Labour, Government of India. The reply the Chamber got was as follows :

"The attempts of the High Commissioner were latterly hampered. There have been cases in which it was not possible for the High Commissioner for India to secure the required facilities in the United Kingdom."

They further add :

"Even foreign firms are no more anxious than the firms in the United Kingdom to offer training facilities to the Indian apprentices."

[Mr. M. C. Ghia]

This was received from the Department of Industries and Labour on 3rd February 1936, No. 1332. For the information of the House I may add that I can give statistics as regards the facilities given to the Indian apprentices in the United Kingdom. In 1929-30, applications were received from 134 students, whereas facilities were obtained by only 74; in 1933-34, 136 students applied for training but only 76 were allowed facilities for training. I may further add that Mr. Satyamurti has brought in a resolution in the Central Assembly, where, according to what is appearing in the *Times of India*, dated 11th January, it says:

“Facilities for practical training for Indian apprentices in workshops of non-Indian concerns which supply goods to Government or semi-Government bodies are insisted upon.”

I am sorry to say these things against the popular Government. Though the original resolution is very mild, unfortunately it is not palatable to the Honourable Minister Mr. Patil, and hence my comments. I would request the House to consider the original resolution and I hope the House will accept the same without any modification.

Mr. S. K. PATIL (Bombay City): Sir, while supporting the original resolution moved by the honourable member Mr. Gokhale, I have to move an amendment to the amendment which the Honourable Minister for Local Self-Government and Industries has moved. It is more in the nature of a rider to the amendment which he has moved. I shall first read my amendment, which runs as follows:

“Delete from that amendment the words ‘who have facilities for training apprentices’.”

Sir, it has been pointed out by honourable members of this House, especially by the representatives of the Indian Merchants' Chamber and the Ahmedabad Millowners' Association, that when you include this proviso “who have facilities for training apprentices” you practically nullify the effect of that resolution, because, with all the good intentions, what foreign manufacturer or supplier will come forward and say that they have got these facilities? It is an impossibility. In order to make the resolution effective, we must delete that proviso from the amendment. Therefore, my appeal to the Honourable Minister is that he should see his way to take out these words from his amendment.

This is an old question of 16 or 17 years. It has got a history passing through various phases. Though it is an interesting history, it is equally disappointing. Therefore, it has been felt by most honourable members that a resolution of this description must be passed. The fact that so many honourable members of this House have given notice of this resolution demonstrates conclusively the keen interest of the House so far as this question is concerned. As was pointed out by the honourable member the representative of the Millowners' Association, as early as

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September, 1921, Sir Vithaldas Thackersey moved a resolution in the Central Legislative Assembly almost of an identical character. In the Report of the Fiscal Commission which was then sitting, it was clearly stated as their recommendation :

" There is one direction, however, in which we consider that Government could with advantage take action. We think that, whenever important Government orders are placed with firms outside India, one of the conditions of the tender should be that the firms should, if required, agree to afford facilities for technical training to Indian apprentices sent by the Government of India. The competition for Indian orders is so great that in practice we believe few firms would decline to accept such a condition, and consequently the adoption of the policy would entail no appreciable extra expenditure on the State."

This is the recommendation of the Fiscal Commission. And as a result of this, the Government of India laid down the policy to which reference has already been made by my honourable friend, the mover of this resolution. Even after the adumbration of that policy, the attitude of the Government of India has been really step-motherly. The figures that were quoted by more than one honourable member demonstrate that instead of getting facilities for more and more apprentices, year after year we are going practically in the opposite direction. Whenever the non-Indian manufacturers are asked why they are not providing facilities they give two stereotyped replies, namely, that they have not got these facilities or that things should be done by goodwill instead of by a definite provision in the contracts as suggested in the resolution now moved by my honourable friend. Now if we look to other countries that are industrially advanced, this problem does not arise. They are exchanging goods on a system of barter. One country exchanges its finished products for the finished products of another country, and they take good care to see that commodity is exchanged for commodity. But so far as India is concerned, our position is quite different from that of any Western country or Japan. We cannot exchange one finished commodity for another finished commodity. We have got to exchange only our raw materials for the finished products of other countries. Therefore, we cannot square the ledger in a manner advantageous to us. How can we? Our aim should be to convert our raw materials into finished products in this country. Therefore, we cannot square the ledger without loss to us. Placed as we are at present, there is one thing that we can do. It has been made abundantly clear in the report of the Indian Fiscal Commission that we are in need of so many articles and there is such a keen competition among foreign countries to supply these articles to us, that we can always insist on a provision for the training of our apprentices by our suppliers. We can tell our suppliers: "We shall not buy from you unless you make provision for the training of our youths." And that is what is suggested in the resolution of my honourable friend.

If you look to other industrially backward countries, such as Afghanistan and China, you will find that during the last two years there

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has been a definite tendency on the part of those countries that whenever they enter into commercial agreements with other countries they make a stipulation—and they strictly enforce that stipulation—that all facilities should be given for the training of apprentices. Those countries, like India, are not in a position to barter finished products for finished products, but are suppliers of raw materials in exchange for finished products. Thus they ensure that in years to come they will be able to start industries in their own soil to produce the finished products they are now importing. We must have regard for human psychology which is the same wherever we go. If it is left to the sweet will and goodwill of the manufacturers of other countries, they will not be so foolish as to voluntarily lose their market in this country by giving facilities to apprentices from our country and making it possible for them to start factories in our country. Therefore, unless we make the necessary stipulation, and strictly adhere to that stipulation, it will be impossible to secure the necessary facilities. I may state here that last year China sent her selected young men to Germany for such training. Afghanistan did the same with Russia and Japan. Whenever they import finished articles into Afghanistan from other countries, the Afghan Government stipulates that Afghan youths should be given ample opportunities for getting training in the manufacture of those articles. When Iran and Afghanistan entered into a trade treaty with Russia, this stipulation was made, and their youths are already under training in Russia. That happens in most other countries that are not industrially advanced and are on a par with India in this respect. Therefore, Sir, if we want to build industries in our countries, we must also insert a proviso in every contract that Indian youths should be given training facilities.

This question has now become particularly important, because the Congress is running governments in seven out of the eleven provinces. If these seven provinces make it a point to insert such a condition in the contracts, it will have results more or less throughout the country. The resolution tabled in the Central Assembly was not reached for discussion but I am sure that when that resolution is moved there, it will be passed. But so far as the provincial Governments are concerned, there is absolutely no reason why we should not pass this resolution and make the training of Indian youths an obligatory condition in every contract for purchase of goods.

With these words, I move my amendment and support the resolution of my honourable friend Mr. Gokhale.

Mrs. LILAVATI K. MUNSHI (Bombay City): Sir, I rise to support the resolution moved by my honourable friend Mr. Gokhale. There are many amendments moved; but without going into the merits of any of them, I hope the House will adopt the resolution in a form that is workable.

[Mrs. Lilavati K. Munshi]

Sir, if I mistake not, this resolution was tabled by Mr. Mathradas Vasanji in the Central Assembly. He represented the Indian Merchants' Chamber in that Assembly. I do not know whether he got any chance to move it, but it shows that the minds of the mercantile community were so much agitated over this question that they wanted this resolution to be passed in the Central Assembly long ago.

Sir, there was one point made by the honourable member Mr. Greaves that even if we made a condition, proper facilities would not be given to Indian apprentices. Well, I can see the danger: our conditions may be made ineffective. But I would point out that hitherto our boys went as private apprentices, but hereafter they would be going through Government and Government should see that the contracts are properly observed and the apprentices are given proper facilities. We can quite understand that people who are desirous of obtaining orders from India, would not be very ready to give training to Indian youths. They want India to be a perpetual buyer of their manufactures. I can quite understand that. But no country can afford to go on buying from foreign countries goods which it can manufacture from its own raw products. India's youths are India's assets; they have to develop our industries. Therefore, every opportunity should be given to them to get training.

In 1930, when I was the Secretary of the Boycott Committee of the Provincial Congress Committee, I remember we had a scheme for sending some youths abroad every year for training. We had then the late Mr. F. E. Dinshaw, who was always ready to listen to any good suggestions made and ready to advance the cause of the country.

3-30 p.m. There was such a scheme; but, unfortunately, because of the political situation, it did not materialise. Anyway, when the Government take steps in accordance with this resolution, I hope they will be able to obtain every facility for Indian youths whenever they have an opportunity to do so.

With these words, I support the resolution.

Mr. K. F. NARIMAN (Bombay City): Mr. Speaker, Sir, if any fault is to be found with the resolution as moved, it is that it does not go far enough. We should have expected the Government to give it a little more push forward rather than to recede it a little more backward. As my honourable friend Mr. Patil and also other honourable members have suggested, if any option or loophole is left in this matter, it can be taken for granted that the recommendation made in this resolution will remain a dead letter and nullify the whole resolution. Unless, as an honourable member belonging to the Muslim League Party said, there is some sanction behind this resolution, all the potential good which it is intended to do is not likely to be effected. Therefore, we must put as much sanction in this resolution as it is possible for us to do, in order to make it more effective.

[Mr. K. F. Nariman]

I thought, when my honourable friend Mr. Patil pointed out the recommendations of the Fiscal Commission, that he would move an amendment to that effect, namely, that it should be made a condition precedent before placing future orders that the manufacturers or suppliers concerned should take up Indian apprentices and that unless they do that, all future dealings with the firms concerned should stop. As my honourable friend has pointed out, the dealings with those manufacturers and suppliers have been so large that many of them have been subsisting on those orders for years, and they would not like to take the risk of shutting down their business. Therefore, even at this late stage, I would like to suggest an amendment to the resolution in accordance with the suggestion of the Fiscal Commission, that such acceptance of Indian apprentices be made a condition precedent to placing future orders with such manufacturers, suppliers and firms concerned. I am sure this is quite within the scope of the resolution. It only gives a sanction to the resolution and makes it a little more effective. I am certain that the honourable mover and the House desire the resolution to be taken seriously and made really effective so that some real good may come out of it. I therefore hope that there will be no objection to embodying the proviso which I have suggested. If we leave loopholes by saying "as far as possible", I am quite sure they will give excuses in order to turn down our demand. They will say, "We regret we have no facilities". They will give a thousand and one excuses when they are unwilling to accept our direction.

More than that, Sir, I should like the scope of the resolution to be extended, if it is possible to do it, keeping it within the limits within which it is moved. I have heard so much about the difficulties of the Indian apprentices going abroad. As against the difficulties that the small number of apprentices going abroad meet with—their number does not exceed 100 or 150—I want to point out the difficulties of thousands of Indian apprentices in India itself who desire to take practical training in this country. What facilities are given to them? What opportunities are afforded to them to take practical training in India itself, where so many facilities and opportunities exist? Out of about 10,000 students, 10 students may be able to go abroad through the help of their parents or guardians. But what is to become of the remaining 9,990 students? What about those students, who are equally capable and who are in a position, if given the opportunities, to take advantage of them? There are any number of facilities and opportunities even in the limited industrial scope of this country that could be made available to our young men. Take such concerns as railways, port trusts, and other concerns with which the Government of India are directly or indirectly concerned or over which that Government exercise control. Therefore, Sir, if we can bring in this recommendation also by changing the wording so as to keep it within its original scope

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it will help considerably the object which the honourable mover and the whole House have in view. That, I submit, we should do in the following form :

“This Assembly further recommends to the Government to request the Government of India to issue similar directions to Railways, Port Trusts and other institutions under their control and with whom they have dealings.”

Similar directions can be issued by the Government of India to the railways, port trusts, armament factories, shipyards and other concerns in which facilities are available but the doors of which are shut against Indian apprentices. I do submit that this altered form is absolutely in order, because it is within the scope of the original resolution. The original resolution intends to open for Indian students the doors of concerns which have dealings with the Government of Bombay. We can request the Government of India to issue similar directions to the concerns with which they have dealings.

With the enlarging of the scope and with the embodying of the sanction in the manner I have suggested, this resolution has got very great potentialities. I know it is a small beginning, but it is a very good beginning towards the solution of the very large problem of Indian unemployment. I do not think there is any problem which is so acute and of such vital importance and which necessitates urgent solution as this question of unemployment, particularly educated middle class unemployment. There have been schemes ; there have been educational reforms ; there have been so many other suggestions. But so far they have failed. The tragedies of unemployment are increasing month by month, week by week. Only the other day we had a case in the precincts of the Congress House itself in which an absolutely unemployed couple tried to commit suicide. The only shelter they could find was the graveyard. Such tragedies are repeated day after day. The only way to mitigate that tragedy and make even a small beginning towards a solution of the problem is to find this kind of potential, fertile employment whereby those apprentices who get themselves trained will not only find employment for themselves but will open doors to employment for hundreds of similar youths. We know, Sir, that some young men from this very city who had gone through their own enterprise to Japan, America and other countries and taken training in factories, started, after their return from those countries, factories like electric bulb factories and so on and provided employment for young men in this country. That shows the vast potentialities of this resolution. The effect of it will be to produce in this country not only more money but more new industries which are the foundation of the solution of the unemployment problem. I do hope that my suggestion to improve the efficacy and potentialities of the resolution by giving it a sanction and by extending its scope within the limits which the honourable mover has laid down will be accepted by the mover and by the House.

Mr. B. P. THAKOR (Ahmedabad City): Sir, I rise to support the resolution that has been moved by my honourable friend Mr. Gokhale. I cannot help remarking that it is a misfortune that the Assembly should have, as a result of the legacy which we have inherited from the past bureaucratic Government, to recommend to Government to take these steps for the training of our youths. There have been certain amendments to the resolution. The word non-Indian is sought to be substituted by "all". I do not understand the object of making this change, because many of the Indian concerns which are running at present try to give facilities to the youths of the country, and the new scheme which has been started by the Provincial Government, and which has come into force since last year, provides facilities to about 300 youths of our Presidency.

Then the addition of the clause "who have facilities for training" is, I think, undesirable. I agree with the previous speakers that no loophole should be given to these concerns. Otherwise they will surely take advantage of it and will not come forth and admit that they have facilities for training our youths. Some of the honourable members have referred to the steps taken by Afghanistan, Persia, China and other big countries. But they forget that they have their own Governments while we were under the Government which was in no way responsible to the people. So, that was, I say our misfortune and had it not been for this fact our country would have advanced considerably and occupied a prominent position in the world. All along, in such matters we have received step-motherly treatment, and as a result of this we find unemployment hovering all over the country and many youths without any employment making themselves miserable and also adding to the troubles of the country.

Then there was some objection taken to the word "patronised". The word "patronised" ought to be in the resolution, because some of the manufacturers purchase parts of the machines they supply from other countries, so the word "patronised" would apply to these countries. There ought to be no alteration on that score also. I would therefore appeal to the Honourable Mr. Patil to drop the words "who have facilities for training" and I think that will serve our purpose for the present.

With these words, I support the resolution moved by my honourable friend Mr. Gokhale.

Mr. F. H. FRENCH (Presidency): Sir, I rise to support the amendment of my honourable friend Mr. Greaves, which, having been accepted by the Honourable Minister for Local Self-Government, was withdrawn, but was subsequently repudiated by the Honourable Minister. In supporting this amendment I would like to make it perfectly clear that I have every sympathy with the resolution. I consider it a thoroughly laudable object to give young Indians every possible facility for technical training to fit them for industrial careers in their own country. As I have said, I have no quarrel with the intention underlying the resolution. But why the word "non-Indian" has been inserted I cannot conceive. As you know, recently the Director of Industries started an apprentice

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scheme and he appealed to the various industries throughout the Province to take on as many young men as possible and train them up to be skilled workers. He naturally levelled his appeal in particular at the textile industry, it being the largest in the Province. I cannot help thinking that he must have been very much disappointed with the response which he received. In Bombay, in all the textile mills only 118 apprentices have been taken. Of these, 60 per cent. have been taken by non-Indian managed mills. In Ahmedabad the position is somewhat worse. There, only 82 apprentices were taken less, comparatively, loom for loom, than were taken by the non-Indian managed mills in Bombay. Under these circumstances, I commend to the mover of the resolution, that Government would do well to concentrate on conditions nearer home rather than look further afield. This, I think, is a very good reason for deleting the word "non-Indian" and substituting the word "all."

Now, Sir, as you know, it is the fixed policy of very many of the big manufacturing houses in England to take apprentices in large numbers. Their primary object, of course, is to train up these young men eventually to serve them as skilled artisans in their own works. This is a point which I would like to commend to the Indian mills in this country. Train your young men yourselves, and you will get skilled men in large numbers to serve you.

This resolution, I appreciate, is merely a recommendation to the Government and is not a Bill. But I submit it is loosely worded. What does "every facility" mean? Most factories in England, or America, or Japan, or the Continent, wherever they may be, do give some facilities for training apprentices. Quite apart from safeguarding their own business interests, if Government were to desire them to take an unreasonably large number of apprentices, they could not do so, because it would not be in the interest of the apprentices themselves.

Then, Sir, I come to the word "patronised." Now, the word "patronised" either means nothing or it means too much. My honourable friend Mr. Greaves gave you an illustration of how unpractical that word is. But I would give you a simpler illustration. A municipality buys a bicycle for a peon. On that bicycle the tyres are made by Dunlop, the lamp is made by Lucas, the bell by someone else and the saddle by still another firm. Is it seriously suggested that before the order for that bicycle is placed every one of the various manufacturers who made all these component parts should be brought under the scheme? It is really impracticable. Therefore, I do appeal to the Honourable Minister for Local Self-Government to reconsider his previous decision, to go back to what he first thought and take out the word "patronised."

There is just one other point which is worthy of consideration. It is a serious point and it is a disadvantage to the scheme. We hear so much now-a-days, and rightly so, of the pressing need for economy. But when you are calling for tenders, if you impose conditions, then

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obviously you will get fewer tenders and competition will not be so keen. Prices, therefore, are bound to go up, and this recommendation being to public bodies, it will be the tax-payer who will have to pay ultimately.

With these words, I would ask the mover of the resolution to accept the amendment proposed by my honourable friend Mr. Greaves.

Mr. NAGINDAS T. MASTER (Bombay City): This resolution, I am quite sure, has commended itself to the whole House. There have been a few amendments, but the object underlying the resolution has been accepted, and rightly so. It is to be remembered that we must have industrial development in our country. When we realise that imports in the vicinity of 240 crores are received annually, while raw materials are at our doors, every one will agree that a special scheme, which is necessary, must be developed in this country. Our students go to foreign countries in large numbers; vast sums of money are spent, and they come back with a few theories but without any equipment which can make them useful either for developing or working in an industrial concern to the benefit of the country. Sir, it has been observed, instances have been given and figures quoted to show how up to now this idea has not been realised. Wherever it is possible, we should see that industries, properly carried on, thrive in the country and we give points in industries to other countries. Therefore, whilst supporting the resolution, I take it that in the carrying out of it the various suggestions made will be kept in view, and in this reciprocity the least we can expect and enforce is what is enunciated in the resolution.

With these words, I commend this resolution to the House and I am quite sure it will be carried.

Mr. BHOGILAL D. LALA (Ahmedabad North): Sir, I rise to support this resolution. The principle underlying the resolution is such as would appeal to every member in this House. I shall not, therefore, be justified in taking up the time of this House by a long speech. I would refer to one or two points which appeal to me.

To my mind, Sir, the resolution is very mild and it is being made milder still by the introduction of the words "wherever facilities for training exist". I think that we rely too much upon the goodwill of the other nations, and I would submit, therefore, that we must stand upon our rights and must bargain and barter. We have seen the result of the goodwill of the other nations; we have seen the result of the efforts of the High Commissioner in London and we have seen that applications from Indian students have been turned down on one pretext or another by the producers in England and other countries. Therefore, I think that we should not give them any loophole; we should not give them any pretext. We must put such conditions as

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they must fulfil if they want to have the Indian market. We know that there is a large competition for finding new markets in Europe, and therefore, if we take advantage of this opportunity, and try to insert such conditions, I think such conditions will be fulfilled and fulfilled to a letter. I will go further and say that the condition may be made even strict and stricter, and a clause may be inserted that if in the execution of the agreement it is found that the agreement is not carried out both in letter and in spirit, then the Government would have the power to put an end to that agreement, and that the Government's decision would be final. I submit that it is necessary to stand upon our rights; it is necessary now not to depend upon the good will of other nations; it is necessary that such conditions should be put in the agreement, and unless we are serious in doing away with the unemployment which is so rampant in the country, I think it is no good passing resolutions which are very mild. It is no good making any suggestion which would not fulfil the object underlying the resolution. I will appeal to the mover of the amendment that he will see to this fact and will not make the resolution more mild.

Mr. S. H. JHABVALA (Railway Unions): Sir, I have been much amused at the whole trend of discussion carried on on the resolution so ably moved by my honourable friend comrade Gokhale, and my only excuse to speak on this resolution is to show that most of the friends who have expressed their opinion on the question have been living in what has been described by my honourable friend comrade Karandikar the other day as Fool's Paradise. They have been living in a Fool's Paradise. I myself had given notice of moving a resolution of this kind, but, Sir, the ballot changed the destiny of this resolution and put the motion of this resolution in the hands of another member, who has carved out a line of discussion which is entirely foreign to my mentality. The reason why I gave notice of this resolution was entirely different, and unless the whole House begins to think in the light which I am now going to suggest. I do not think there will be any purpose served by making a formal recommendation of this academical character. The purpose is, as my honourable friend (Mr. Lala) stated just now, to get a certain amount of knowledge for our Indian youths who are debarred from learning certain technical arts in foreign countries, and I think they mean England primarily. But, Sir, it is not that only. Knowledge of foreign arts is not everything. What is wanted is real power in our hands. But supposing, as the reins of government are now in the hands of a kind of body which we all know to be preaching capitalist nationalism, they make this modest move. I am prepared to agree, but that is not going to solve the problem. The meaning of the resolution is not merely to make a recommendation; it is something different, and I shall unfold the whole theory shortly. The idea that these modest friends seem to imagine is this. Supposing, our honourable comrade Nurie desires to build a bridge, say, across the Nermada, and he places an order of a certain amount of money,

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say about 5 lakhs, with a firm in Birmingham. In Birmingham, suppose there are 4 or 5 Indian students who desire to have entrance into a workshop. The purpose of this resolution is that, while placing this order of 5 lakhs of rupees, Government should make a recommendation that these five students should be given an opportunity of learning all the details of the craft and various items pertaining to those works in the workshops concerned. That idea is laudable, but is that going to solve the problem of unemployment staring us in the face? These young lads will come to India from Birmingham, and they will say, "Well, we have learnt a particular craft, and we want to start similar works here in India". What will they do? They will go to some capitalist Mr. X and get one lakh from him and two lakhs from another capitalist, and they will announce a Company called "Indo-Birmingham Company of Bombay".

The Deputy SPEAKER : We will now adjourn for tea.

Mr. S. H. JHABVALA : I will continue after recess, Sir.

(The House re-assembled after tea at 4-30 p.m.)

Mr. S. H. JHABVALA (Railway Unions) : Sir, I was saying supposing these five lads came to Bombay and they started what is known as the Indo-Birmingham Bridge-making Company and they gathered together some capital and on the basis of a joint stock company, they started a company on the western model here and attempted to provide various articles pertaining to the preparation of bridges in India, what would be the ultimate condition? Shall we really gain thereby? Will that solve the essential problem of the prosperity and the economic benefit of the country? I say emphatically that it will not. This will be an institution which will implant the foreign capitalistic notions and foreign capitalistic organisations upon the soil of India. These friends will be only instrumental in implanting in the soil of India a kind of system which has been only too well-known even to the foreign countries themselves as agencies of exploitation. However, what are these Indian manufacturers and Indian merchants in reality? They are nothing but the *dalals* and *adatyas* of the foreign firms. They are *entreprenéurs* and agents of foreign tradesmen. There is nothing like originality about them either in trade or in industry. There is nothing like purposiveness about them in their economic system. There is nothing like system even about them in their financial life. They are a band of exploiters that have habitually gone on exploiting till exploitation has descended into the very lowest strata of our social order. There will be an addition of Indian exploiter to what exploitation has already been imposed upon India. However, I say, in spite of that, I myself was of one those who had given notice of a motion or resolution of this kind because I had a different purpose in view. My purpose was different and I would have moved it in a different fashion.

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I would have given the introductory remarks in a different fashion. My definite suggestion is this, that there ought to be a purposive organisation of the whole of our economic life. There ought to be a socialist purposive organisation of the whole economic life. There is more of the kind in foreign capitalist countries so that when these young lads to whom doors should be opened up in foreign countries for the purpose of learning particular arts and particular industries would realize for themselves the industrial life they would be naturally be faced with and they could then be provided with an opportunity of seeing the anarchism that is prevailing in foreign capitalistic society. That is the point. The opportunity would open their eyes to the realities of the situation.

This resolution, if passed, would certainly give the Indian youths an opportunity of understanding what oppositions, what contradictions, are prevailing in the foreign capitalistic society. Having been fully aware owing to the indirect touch with the whole system of management in the works and the factories, these youths will come here fully inspired with socialistic ideas. Then they will understand how best to solve the economic problem of our country. They would be inspired with a thorough understanding as to how anarchic the whole system of production is in those capitalistic countries and they should not implant, they should not import that anarchy inspired by foreign knowledge in our country. With that intention I had given notice. This will open up an opportunity of learning the true philosophy of economic life in that direction. What is the present position in our country? Is there anything like a purpose behind it? Is there anything like a system behind it? No. Even if there is a purpose, it is a purpose of exploitation. These young lads are simply explorers of a system which is prevailing in foreign countries to their competitive ruination. The result will be that they will be the exploiters of the working people here. That is not the line of argument which our friends have adopted at the time of proposing this resolution. The line of argument ought to be that they will understand the opposite side, the negative side, of utility. What is that? That behind every economic system, there ought to be a socialistic purpose and unless that purpose of socialism prevails and unless that thing continues, it will not be possible for the country to save itself.

What do we find here at present? At present we find that in these different countries there is a commodity economy. There is mass production. But this mass production is in the hands of a few capitalistic monopolists. Do you desire by the passing of a resolution like this, that the same system should be upheld here? No. If that is so, then certainly socialists like me would oppose it tooth and nail. But the outcome of the passage of a resolution of this kind would be that our youths will enter the factories, will enter the workshops and will learn the harrowing condition of the miserable working-class people. They will understand how distressful the condition of the working-classes

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is in the western countries, because even there, the working classes are in the same miserable condition in which our people are here. The worker is the same everywhere. Then they will get into a live touch with the actual conditions there and be inspired in the spirit of opposition to the existing order of things in our country. These lads will then come here and infuse into the whole social system an ideology which shoots itself in a correct direction and that would be the solution of the problem. Is that the solution of this problem that we should copy what happens in the factories in Birmingham or elsewhere? No, absolutely not. If that is so, then certainly a socialist like me would oppose the resolution. I do not visualise that possibility. There has been all throughout the western countries a capitalist system prevailing. That system is crumbling down surely and slowly in the different parts of the western countries, and when our young men entering the workshops and factories will see with their eyes open the crumbling down of the system obtaining in foreign countries, then they will be enlightened and they will come here breathing those new, those vital, those vigorous socialistic ideas with which to enlighten the capitalists here, with which to enlighten the Indian industrialists here as to the proper course to adopt, and in this manner they would advance the true ideology of socialism in our country. It is with that object that I support the resolution.

Sir, I do not see any possibility of these poor lads coming here and starting these workshops to earn for themselves or to help others. No. I know of several instances of these lads having gone to foreign countries, having learnt some art and having come back to India only to find that they have no chance here of putting their hard-earned knowledge to practical purposes and that they have either to take up some service in a bank or in a workshop or in a factory on a small stipend in spite of their costly knowledge. The same knowledge which our friends here who have spoken on the resolution have told us is faulty is not helpful, the perception of the young lads so trained being inaccurate. It was exactly that mental attitude of our capitalist friends here which has been responsible for bringing about starvation to these foreign-trained youths. These lads would not be stranded if they could understand the purposiveness of true economic life that ought to prevail in properly organized countries and, unless socialistic ideas are evolved, unless redemption is given to the working classes, unless the system of exploitation is stopped, unless the Indian manufacturers and Indian artisans are resolved to give up the following up of foreign systems, there cannot be a true economic salvation of this country. It was with that purpose that I tabled the resolution, thinking at first that support would be given here but I find that our friends here seem to imagine that immediately the young men go to foreign countries and return they will be able to start new industries, that they will become full-fledged manufacturers and industrialists and will collect capital here and start factories here and that there will be a new heaven and

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a new earth so far as these industries are concerned. Sir, years have passed, several lads have gone, several lads have been sent to foreign countries and several of them have come back, but they have made failures of themselves here because of the adverse nature of the circumstances, adverse unsocialistic economic basis of the whole structure of society. That is a fundamental fact.

The DEPUTY SPEAKER: A speaker on a resolution has fifteen minutes. The honourable member has spoken five minutes before the recess and now he has spoken ten minutes. I hope he will bring his remarks to a close within a short time now.

Mr. S. H. JHABVALA: Within five minutes, Sir, I will bring my remarks to a close.

I think I have stated what I wanted to state, but then, I have still not been able to deliver my goods as completely as possible. Any way when the next resolution—

The Honourable Mr. K. M. MUNSHI: Why not the next shipment?

Mr. S. H. JHABVALA: When the next resolution comes on I shall do so.

Sir, I am prepared to support Comrade S. K. Patil in the suggestion that he has made with regard to the object of the resolution plus the addendum of my honourable friend Comrade Nariman, but I do not agree with his second paragraph as regards the Railways and Port Trust, because I personally believe that it does not fall within the purview of the provincial Government, even as regards the matter of recommendation, for I myself had given two resolutions of that kind—one as regards the Port Trust and the other as regards the Railways—and the Honourable Speaker ruled them out of order in view of the fact that both of them pertain to concurrent subjects which are foreign to our autonomous system.

In connection with this, I have to say only this much that I extend my support to the resolution with the change that I have suggested only with the object that our youths might come back here full-fledged socialists and implant socialistic ideas and revolutionise the whole economic system and not with the object that they will implant the foreign capitalist systems which will land the country nowhere and which will only create anarchy here in our country just as they have done in western countries as well.

The Honourable Mr. L. M. PATIL: Sir, I wholeheartedly support the principle enunciated in the present resolution. The principle is not a new one. It has already been laid down by the Indian Fiscal Commission in 1921 and it has also been accepted by the Government

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of India. Sir, I would like to refer to the speech made by Mr. Chatterji on behalf of the Government of India on 2nd March 1922. He says:—

“The settled policy of the Government of India—as I think we have mentioned more than once in this Assembly—is that no concession should be given to any firms in regard to industries in India unless such firms have a rupee capital, unless such firms have a proportion at any rate of Indian Directors and unless such firms allow facilities for Indian apprentices to be trained in their works.”

And as far as I know, the Government of India has given effect to this principle. Sir, I will explain the purport of the amendment which I have moved. Some of the honourable members who have spoken on this resolution have charged Government with curtailing the scope of the resolution. Let me make it clear that there is no intention on the part of Government to restrict in any way the scope of the resolution. Nobody is so eager and alive to its responsibilities in this respect than the Government to give effect to the resolution and to train Indian boys in the industries. I will first explain to the House the first change that I have made in the resolution. I have substituted the word “all” in the place of the word “non-Indian”, and that is done with the best of intentions in order to make the Indian firms and manufacturers as well realise the importance and the usefulness of the scheme of apprenticeship. Government did not wait for this resolution being passed in the House, but they have already started work in this direction. They have, by carrying on negotiations with the owners of different firms and industries, induced them to admit to their workshops or factories a certain number of apprentices. Nearly thirty per cent. of such industrialists at Bombay and Ahmedabad have admitted 300 students. Sir, it is not of any use to accept an overriding resolution and then whittle it down in practice. It is with the intention of giving a better effect to the will of the House without curtailing the scope of the resolution that I have moved this amendment. I have, by adding the word “all”, included both Indian and non-Indian industrialists.

The second change that I have suggested is to insert “manufacturers” before the word “suppliers”. In the original resolution it is only the suppliers who are compelled to give facilities for the training of Indian boys in different industries. The number of suppliers is not very great and so, in order to make it more comprehensive and all-embracing, I have inserted the word “manufacturers”, as manufacturers are great in number and are more favourably placed to give facilities for industrial training.

Then, Sir, I have made certain verbal changes in order to see that the resolution is enforced not only in the spirit but even in the letter. It is because of this anxiety on the part of the Government that certain changes are made in the resolution.

Sir, boys can be trained in the different industries in three ways, either by legislation, or by carrying on negotiations with the industrialists or by patronage. In Canada the State has passed an enactment which

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compels industrialists to admit to their firms apprentices. In England there is no such law, but the industrialists there have realised the importance and usefulness of the scheme of apprenticeships and they generally admit a number of students to their firms. Effect to the scheme of apprenticeships can also be given by affording preferential treatment, concessions or patronage. The resolution intends to give training to boys by affording patronage to the industrialist. The words which I have accepted after the word "afford" in the resolution are "or procure as the case may be". And these words are necessary in order to enable the Government to give practical effect to the resolution. Suppliers are of two kinds. There are suppliers who have got their own factories, or workshops. So they are in a position to give training or to afford facilities for training in the industries. But there is another class of suppliers, who have not got their own workshops or factories, and they are not in a position themselves to give training in industries. Now how are we to compel these suppliers to afford facilities for industrial training? That was the difficulty; and once the resolution is passed, it is the duty of the Government to carry it out perfectly. It is on account of this difficulty that I have made certain changes in the resolution, and I have accepted the word "procure" because such suppliers can only bring pressure on the manufacturers from whom they make their purchases. They themselves have not got factories or workshops and cannot afford the facilities for training boys in industries.

A scheme of apprenticeship will not only help to solve the intricate problem of unemployment amongst the educated and uneducated classes, but it will also help the development of industries. This resolution is really sound in principle and deserves support from all sides. I also accept the amendment moved by the honourable member Mr. S. K. Patil as I have accepted the words "or procure as the case may be". His amendment intends to delete the words "which have facilities for training apprentices". This means that even the suppliers who do not own factories or workshops and so are not themselves in a position to afford facilities for training apprentices should bring pressure on the manufacturers from whom they make their purchases and thus patronise the producers. I hope the misunderstandings which are created in the minds of certain honourable members will be removed by my explanation.

Mr. F. H. FRENCH: On a point of information. The Honourable Minister has inserted the word "manufacturers". Having inserted that word, I simply fail to understand what the word "patronised" means. A supplier presumably patronises a certain manufacturer. If the manufacturer is already within the scope of any future Bill that may be moved, then why the word "patronised"? It seems to me to be either redundant or to have no meaning whatsoever.

The Honourable Mr. L. M. PATIL: The word "patronised" is necessary, because suppliers who have not got any factories or workshops can only command facilities by patronising certain manufacturers from

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whom they purchase their goods. So, the word "patronised" ought to be retained in the resolution in order to compel such suppliers to procure facilities for training Indian boys in industries from the producers whom they patronise.

Mr. D. G. JADHAV (East Khandesh East): Sir, I have given notice of an amendment to the effect that I wholeheartedly support the spirit of the resolution that has been moved by Mr. Gokhale, but I wish to add a few words here that special preference should be given to the scheduled castes. My object in giving this amendment is this. The condition of the depressed classes is very bad. Socially they are so much handicapped that their disabilities do not allow them to have any kind of special profession in their life, and especially when giving effect to this resolution if special preference is given to the scheduled castes, they will have no obstacle in their way to have any profession, and if they get training in the various professions they can even start their independent profession. Not only that, but economically also the position of the depressed classes is worse than that of the ordinary Indian. With regard to the attitude of the Congress Government towards the depressed classes, it has been very many times clearly shown that they are doing something for the uplift of the depressed classes. So, I would like to ask, not only ask but to appeal to them to give these facilities by including in the resolution the words "preference should be given to the scheduled castes", which will be more beneficial to the scheduled castes. With these words I move my amendment.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I rise to support the resolution that has been moved by my honourable friend Mr. Gokhale, and which has been practically accepted by the Minister in charge of the Department, with a few amendments here and there. I rise to support the resolution very gladly, because it marks a definite progress in the outlook of the party that is now in power. Looking to the industrial philosophy that has been in vogue with this party for the last 17 years or more, it was never expected by us on this side that they would indicate any such welcome signs here, because their philosophy has been a philosophy of negation so far as industrial development is concerned. When the whole world is marching ahead with machines and power, they are returning to hand power and manual labour. Therefore, when they come out with this resolution to acknowledge the fact that technical skill is necessary if we are to march ahead industrially, I think it to be a welcome sign, and I therefore accord my wholehearted support to the resolution. I had, really speaking, thought before this resolution was actually moved that this party would try to industrialise this Province not by technical skill, not by power or machinery, but by their peculiar philosophy, because what I have noticed about them is that from the mill they came down to the hand-loom, from the hand-loom they came down to the *charkha*, and from the *charkha* they came down to the *takli*. I thought that their industrial outlook would be perhaps entirely based on that model of thinking and their handling of the problem of the

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industrialisation of this Province would also be worked in that very fashion. I am very glad to find that whatever their pet theories may be so far as their individual opinions are taken into account, they, as Government and as part of the Government, are not going to be led away by their own pet theories, that they are alive to the necessities of modern life, and that they are keeping up a modernised outlook in tackling the industrial questions that lie ahead of us. It is in that spirit that I welcome the resolution that has been moved by my honourable friend, and though I have to say very candidly that the resolution does not go as far as it ought to have gone, still I give support to the spirit of the resolution. Even if we get what the resolution promises to give, it will

5 p.m. mark some progress in the right direction. Some of my honourable friends, while criticising or supporting the resolution, were afraid that the resolution does not contain that much amount of sanction in it as was expected. I believe there is sanction and I am satisfied with it, at least at this initial stage. When as a part of a contract, a party undertakes to take some apprentices, it is naturally expected that the contract should be fulfilled, because otherwise the party will stand to lose the benefit of the contract to make purchases. This sanction-part in the resolution will be sufficient warning to those who may be inclined to break the contract which they may enter into. The sanction-part may not be exactly to the satisfaction of all sections of people. We need not wrangle over that portion and we can accept the resolution with the sanction contained in it.

I have to give one warning which is necessary. If Government have thought that by passing this resolution they have done what they are expected to do so far as the unemployment problem is concerned, I am afraid they are entirely wrong. The unemployment problem in this Province is so huge that any effort that we may make in the direction of solving it will never be found to be sufficient to solve this problem. Simply passing a resolution of this type and sending a few apprentices to England will not even touch the fringe of the problem. Therefore, my suggestion to Government is that they should not remain quiet after passing this resolution. They should take the initiative in this matter of tackling the problem of unemployment in this Province. The cry that this Province is greatly industrialised is not the right kind of cry. This Province appears to be industrialised, but what is the real position? It is only in one industry we are much industrialised. That is as regards cotton-mill industry. So far as the other industries are concerned we, as a province, are entirely depending upon the other provinces of India. Of course, the problem of the dependence of India on foreign countries is one which we have all to face. When we look at the industrial situation in this Province, we see that there were many industries some of which are dying out; and, if there is no help in time, they will be wiped out of existence. My suggestion to Government is that they should undertake an industrial survey, at the earliest possible date, of the entire Presidency. When they have undertaken the industrial survey, they will

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find out what industries are likely to be encouraged and what chances there are of starting new industries. When there are industries started, then alone will the problem of unemployment both among the educated and uneducated find a solution. Therefore, when I give my support to the resolution, I give it in the hope that these cautions and suggestions will be taken by Government in the spirit in which they are offered. I hope that Government will tackle the problem of unemployment in this Province seriously ere long.

Mr. BABUBHAI J. PATEL (Kaira District): Sir I rise to support the resolution; but not in the spirit and manner in which Comrade Jhabvala supported it. He happens to be himself in a fool's paradise, though he characterised the House to be in a fool's paradise, as he seems to look at things through jaundiced eyes. In season and out of season, he brings in his pet communist theories and doctrines in every discussion. He says that our apprentices should go to England to see the working of relations between labour and capital there, to see the working of the labour movement there, learn those doctrines and preach them here. I do not think it is essential for our apprentices to go all the way to England, to spend money over it, in order to learn the working of the labour movement in that country. We want to send apprentices to England, not for the purpose of learning the technique of labour movement there, but to learn the technicalities of the industries there. Further, I agree with the suggestion made by an honourable member of the Progress Group who moved the amendment that this resolution should apply to all concerns, both Indian and non-Indian, because the technique of the industry must be learnt from all manufacturers. Since our idea is to develop all industries and solve the unemployment problem, it is essential that all concerns, irrespective of their origin, must give an opportunity to Indian apprentices for training in their branches of industry; and, since our country is one with many potentialities of raw material, and a country which can be made to develop industrially, it is absolutely essential that the step-motherly attitude of the Government of India should be thoroughly denounced by us. As my honourable friend Mr. Nariman suggested, this Government should recommend to the Government of India that this policy should be adopted by the Government of India itself. The provincial Governments will not be in a position to solve this problem single-handedly. It requires the help of the Government of India which makes large purchases in England having under its thumb the office of the High Commissioner for India.

I quite appreciate the object of the amendment moved by my honourable friend Mr. Jadhav inasmuch as he says that preference should be given to the depressed classes, but I am unable to accept the position that it should be put in the resolution itself, because it would create some hardships in actual working. If we put in the words, it would mean that the depressed class candidates should be sent in as apprentices because they belong to the depressed classes, irrespective of their

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capacity. I think that will not be the proper spirit with which we should look at the question. To undergo training as apprentices, we want men with a high capacity and training to master the technique of the industry. If we send for training men who have not the capacity that will be required to master the technique of the industry, we will not be able to solve the problem of unemployment and we will not be even nearer the goal we want to reach. In a matter like this, I would not make a fetish of giving preference to scheduled castes, though I desire that it should be the policy of the Government and public bodies to give preference to communities which are economically backward and which have less opportunities of public service. In that spirit I agree with him.

The honourable member Mr. Karandikar criticised the policy of the Indian National Congress inasmuch as it has passed the resolution of the village industries programme. This shows that my honourable friend has not understood what the village industries association stands for. It stands for the solving of the unemployment problem. It is merely a step forward in that direction and this resolution is complementary to that. It is distinctly stated in the resolution of the Indian National Congress that the village industries association programme should be made to solve the unemployment problem as far as possible. It is not possible for the Indian National Congress to industrialise the country in order to find employment for its starving millions in the face of the step-motherly attitude of the Government of India which rules over us in the interests of a foreign nation and which does not wish to industrialise our country, for fear of losing its own market. It is impossible for us to solve the problem of unemployment in the highly industrial manner in which he suggests. Therefore, the Congress has chosen to solve it in the poor manner that has suggested to itself. It is in the hands of every honourable member of this House to help the Congress in relieving the unemployment in this country. And it is in that spirit, Sir, that the Congress has fostered this movement of village industries for the relief of unemployment. This resolution does not negative that attitude of the Congress; it only helps that attitude. The Congress stands for solving the problem of unemployment. The Congress has never stated that it is against mechanization or against large scale industries. In fact, it stands for them. And if proof is needed, it is here: the Congress party wholeheartedly supports this resolution in order to help the country's industrial policy. So, the honourable member Mr. Karandikar who made that remark was himself under a delusion as regards the policy of the Congress in this matter.

I suggest that the honourable member Mr. S. K. Patil's amendment should be accepted. If we say that facilities need be given only where they exist, it is not possible that the people concerned would themselves come forward and say that they have got the necessary arrangement for training of apprentices. I do not think they themselves would volunteer to train our apprentices saying that there are vacancies. It

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should be made absolutely compulsory. It is essential that they should take in apprentices even if they have no vacancies. If they have no vacancies, it is for them to find them out.

With these words, I wholeheartedly support the resolution moved.

Mrs. ANNAPURNA G. DESHMUKH (Bombay City) : Sir, I support the resolution moved by the honourable member Mr. Gokhale. This resolution will help in giving technical training to the youths of this country. India is industrially a backward country, and she should try to advance industrially. The initial problem is to get training for our youths. If our young men go abroad, the foreign manufacturers do not give them the necessary training. As we purchase goods from them, we must compel them to train our young men. Such a policy is adopted by every other country. Why should we not follow other countries in this respect ? Our policy should be to see that in India all our factories are staffed by Indians. This resolution has, as its aim, the attainment of that object.

Mr. R. A. KHEDGIKAR (Sholapur City) : Sir, I had no desire to take part in this debate until my honourable friend to the left (Mr. Babubhai Patel) attacked my honourable friend Mr. Jhabvala. It is unfortunate, Sir, that it has become the duty of my honourable friend Mr. Jhabvala to preach socialism every now and then, and he will continue to do so until this House accepts that doctrine of his.

My honourable friend (Mr. Babubhai Patel) said that this resolution would solve the problem of unemployment. [*An Honourable Member* : "He never said that."] He said it was to try to solve the problem of unemployment. Sir, if this resolution is accepted, our youths may go to England and other foreign countries, obtain diplomas and qualify themselves ; but when they return to India, what will be their fate ? To-day, I know more than 50 qualified engineers are unemployed. Are you going to add to their number by spending money on training our youths in foreign countries ? I know very well, Sir, that some factory owners in foreign countries, for the sake of getting contracts, may agree to accept some apprentices for training. They may also extract sufficient fees both from the individual youths and from the Government. But real training is never given to Indian apprentices. They are allowed to sit in the factories, but they are not given proper training so as to enable them to start factories when they return to India. I have not seen any engineer who has taken training in England and has started a factory in India. There may be some exceptional cases that I do not know of. If the real object of the resolution is to train Indians to start factories in India, then my wholehearted support will go to the resolution. But so far, no arrangement has been made for the employment of the persons already trained. It is no use, therefore, simply sending more Indians to foreign countries and spending money on them, when we know that when they return they will be unemployed. So, I wholeheartedly support the

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resolution, but I go a step further and say: do not rest satisfied with training Indian youths, but make some provision for their employment when they return to India. If that is not done, it will simply be an eye-wash, and you will make these apprentices miserable when they return to India.

With these words, I support the resolution.

Mr. ISHVARLAL K. VYAS (Ahmedabad South): Sir, I support the resolution moved by the honourable member Mr. Gokhale. Of course, the resolution has got its own limitation. It does not say whether the apprentices, when they return to India, will be capitalists or socialists. That is not the aim of this resolution. Nor does the resolution say that it alone is going to solve the great problem of unemployment. The honourable mover never told us that this resolution would be the only means or would be adequate means for the solution of the unemployment problem. Some honourable members criticised this resolution and suggested other methods. Of course, they are at liberty to suggest other methods, but they can do it by moving other resolutions. The resolution as it stands must be argued on its own merits. We know that our country is very poor. At the same time we know that it is predominantly agricultural. We have got plenty of raw materials. Past history tells us that we were capable industrially also and that we could compete with foreign countries. We possess the aptitude to become industrialists; we have also got the artisan spirit. We have been told that countries like Afghanistan which were more backward than our country have advanced during the last decades, while we have not been able to do so.

The whole problem rests with the Government that was ruling over us and that is ruling over us even to-day. Had there been our own Government, then probably we would not have been placed in the position of having to make such requests. This resolution has been brought forward by a member of the Congress Party. It requires the support of the whole House.

The honourable member Mr. Karandikar told us about *takli* and other things. The honourable members Mr. Jhabvala and Mr. Khedgikar told us that they wanted to think in terms of the masses. I submit that *akli* has been introduced to serve that very purpose—to teach the nation to think in terms of the masses. Do the honourable members Messrs. Jhabvala and Khedgikar mean to say that by sending 100 or 200 or even 500 apprentices to foreign countries we will be able to solve, say, even within five years, the whole problem of poverty in the country?

Mr. R. A. KHEDGIKAR: That is actually what we do not say.

Mr. ISHVARLAL K. VYAS: It is merely supplementary to the main method. It does not mean that we should not adopt other methods.

I think, Sir, that the resolution is quite acceptable to all sections of the House, and it ought to be accepted. The honourable member

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Comrade Jhabvala would not be averse to more production if our own students come back from foreign countries equipped with better knowledge and are instrumental in producing more wealth. He can then gird up his loins to solve the problem of distribution. I think his great complaint is that more attention is not paid to distribution. As far as production is concerned, if he looks at the question from the point of view that I have explained, I am sure he also will welcome the resolution.

Mr. K. G. GOKHALE (Belgaum South): Sir, I am very glad to see the universal support which my resolution has received from all sides of the House. I want to reply to one or two points that were raised by a few honourable members while supporting the resolution.

My honourable friend Mr. Jadhav appealed to me and to Government to provide that special preference should be given to Harijan candidates in the matter of facilities for training. Government would have been too glad to accept that suggestion, and I also would have been equally glad to do so, had there not been practical difficulties in the way.

Mr. B. K. GAIKWAD: On a point of information. Will the honourable member please explain those difficulties?

Mr. K. G. GOKHALE: Yes, I was going to explain. This resolution is intended to deal with only those students who have already passed certain higher examinations of the university and are qualified to be taken up as apprentices. The students whom it is intended to help by means of this resolution are not of that type who can be taught anything in this country. It is not simply a process in some cottage or village industry. This resolution is intended to apply to students who have passed, say, the M.Sc. examination or any other similar examination of the University. In the case of such Indian students, Government is going to request foreign firms to take them as apprentices. That is one difficulty. Another difficulty that arises is this. How can the Bombay Government tell the foreign firms, "Do not accept this Mahomedan, or that Christian, or the other Anglo-Indian; you must accept and give special preference to our Harijan brethren."? It is not possible for any Government to insist on such a condition, as it brings in a communal bias. Had it been a matter exclusively in the hands of the Government itself—Government service, for example—my honourable friends Mr. Jadhav and others would have been entitled to claim any kind of preference from it. But when they say that Government should go beyond this and put in a condition that special facilities should be given to Harijans, I believe they are going too far. It is neither practicable nor feasible. My honourable friend Mr. Jadhav stated in his speech that he was convinced of the *bona fides* of the present Congress Government and that their whole heart was with the Harijans and that they were trying to do everything for their uplift. I assure him that absolute sympathy is writ large on every heart on this side including the Government benches.

Mr. D. G. JADHAV : Lip sympathy !

Mr. K. G. GOKHALE : The honourable member said an hour before that Government had real sympathy for the Harijans. Now he says that it is lip sympathy. It is highly unfair.

Mr. D. K. JAGTAP : It is only in words !

Mr. K. G. GOKHALE : No, it is proved by actions. I appeal to the honourable member Mr. Jadhav not to press his amendment, because Government will take the utmost care to see that the people belonging to the Harijan community are brought up to the level of other communities by giving them all possible facilities to become M.Sc.'s and B.A.'s and so on. After they come up to that level, preference will be given to them to be trained in any of these lines. Therefore, I request my honourable friend once more to withdraw his amendment.

Mr. B. K. GAIKWAD : On a point of information. May I know what the honourable member's difficulties are in this respect ? If suitable candidates from the scheduled castes are available, then they should be selected. If no such candidates are available, then naturally nobody will be selected from the scheduled castes. If my honourable friend Mr. Gokhale accepts this amendment, it will mean that only if suitable candidates from the scheduled castes are available, they should be sent out for training. That is our contention.

Mr. K. G. GOKHALE : The real difficulty is as regards putting in such stipulations when dealing with foreign firms. If that point is appreciated, the whole difficulty will be solved.

Now, coming to the second important point, a suggestion was made that a condition precedent should be made that Indian apprentices should be taken up in all contracts. As far as the legal position goes, if, for example, a legal contract is made and a condition imposed that Indian apprentices should be taken up by the firms concerned, then it cannot be a legal contract unless it is fulfilled. There might be suits for damages and many other legal complications might arise if we put in that condition precedent.

Mr. K. F. NARIMAN : Do not place orders.

Mr. K. G. GOKHALE : Ultimately the result will be that. Therefore, it is desirable that there should not be any such condition precedent as is suggested. The resolution as drafted, with the amendment accepted by Government, should be passed by this House unanimously.

Now, Sir, coming to my honourable friend Mr. Karandikar, I am very glad to see that at last our opponents have realised what the intentions of the Congress Government and the Congress people are. (An Honourable Member : Not fully). (Mr. S. L. Karandikar : We are not your opponents). In the Poona Assembly the point was made clear times out of number that the Congress people were not against the machine as such or against the industrial progress of the nation.

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Sir, the honourable member Mr. Karandikar ridiculed us by saying that we began with a spinning wheel and ended with a *takli*. I again say that if there is any more simple machine than *takli* which will solve the problem of our cottage industries and which will procure a morsel of bread for our poor brothers, we shall certainly make use of that machine. The idea of procuring bread for our poor villagers is certainly not counter to the policy of the Congress Government in securing all possible facilities to Indian youths in the foreign countries.

Then, Sir, he has given us a warning which was absolutely unnecessary. If my honourable friend had taken the trouble of reading the resolution No. 2 which stands in my name and in the name of not less than 10 Congress members, and the resolution No. 6 tabled by Mrs. Lilavati Munshi, he would have at once seen that the object of the Congress Party by passing this resolution is not merely to train Indian youths, but to go further and see that the unemployment problem of this Presidency is properly tackled. Therefore, such warnings are entirely uncalled for. We are fully alert to the necessity of effectively dealing with the unemployment problem that now exists in our Presidency.

Then a somewhat similar point was raised by my honourable friend Mr. Khedgikar. He said that he has got 50 trained engineers, but that they do not get employment anywhere. He cited this illustration to argue "Why send more men for technical training, when there are already technically trained person who are out of employment"? Sir, I believe this is not a fair argument to advance in supporting a proposition which only deals with one part and not with the other. As I have already said, if really there are 50 engineers who are out of employment and who in spite of their efforts do not get employment anywhere, then it would be the duty of the Government to secure some employment for them. I am sure the Government are also trying to grapple with that problem of unemployment. My honourable friend Mr. Khedgikar supported the honourable member Mr. Jhabvala. But does he suggest that no one need be trained in industries? Sir, may I ask him if such a step would solve the unemployment problem? Sir, the problem of unemployment and the question of giving technical training to our youths are really two independent problems. Supposing these 50 engineers, to whom Mr. Khedgikar referred, are able in course of time to secure employment, will he be satisfied and would he then be in favour of this resolution?

Then I come to the suggestions made by my honourable friend Mr. Greaves. I gladly accept his first suggestion and substitute the word 'all' instead of "non-Indian". When this is accepted by me, I think the principal difficulty is over. Mr. Greaves further said that his experience of sending boys to England showed to him that we cannot expect much help from the High Commissioner who, in his opinion, seemed to be concerning himself more with University. The students in engineering colleges are not at all the class of boys envisaged in this

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resolution of mine. My point in this case is that while we buy so many goods from these firms, we should expect from them as a matter of right that they should give facilities for training our young men, and if mere goodwill is not sufficient we should stipulate a condition while making the contract itself that they must provide all possible facilities for the technical training of our youths.

Then his third point was with regard to the word "patronised". Sir, another honourable member from his group gave us the illustration of a municipality purchasing 10 bicycles. He went on to say that in the case of such purchases, the frames of cycles are made by one firm, while the other parts like seats, lamp and pump are made by other firms. So, his point was that if we bring pressure upon all these firms that supplied us these petty articles worth £0-1-2 and odd, then there would be no keen competition and prices will rise. Sir, we are not ourselves going to approach these subsidiary firms, but we are going to ask the original or the main firm from which we buy the bicycles, to take so many of our youths for training and then that firm will bring pressure upon these subsidiary firms to take up our youths for technical training in their factories. Sir, we have put this word "patronised" in this spirit and we do not desire to put any embarrassment in the way of those who supply us with such petty articles. I therefore feel that my honourable friend will appreciate our spirit and will accept the resolution as it has been brought forward and subsequently amended by the Honourable Minister for Local Self-Government. I appeal to the House to give their wholehearted and unanimous support to this resolution.

The DEPUTY SPEAKER: The Honourable the Minister for Industries might perhaps like to offer some remarks.

The Honourable Mr. L. M. PATIL: Sir, I have nothing to add to the remarks which I have already made on the resolution and my amendment.

The DEPUTY SPEAKER: The resolution as originally moved reads thus:

"This Assembly 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 non-Indian suppliers for the supply of stores, materials, machinery or services, a clause to the effect that the suppliers concerned shall afford 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."

To this resolution there are two amendments. One was moved by the honourable member Mr. D. G. Jadhav and the other by the Honourable Minister for Industries. To the amendment of the Honourable Minister

[The Deputy Speaker]

there are two amendments, one by Mr. Karandikar and the other by Mr. S. K. Patil. Mr. Karandikar's amendment is divided into two parts :

Insert the words "or procure as the case may be" after the words "shall afford".

And

Retain the word "patronised" appearing after the word "controlled".

Mr. J. B. GREAVES: On a point of order, Sir. I understand that this is an amendment to the amendment of the Honourable Minister for Local Self-Government. With regard to the second part of the amendment to the amendment, I submit that it is out of order because it is against the amendment of the Honourable Minister. The Honourable Minister moved the amendment to delete the words "or patronised", while now the honourable member Mr. Karandikar moves an amendment to that which is a complete negation of the Honourable Minister's amendment so far as the words "or patronised" are concerned. I therefore submit that Mr. Karandikar's amendment to the amendment is out of order so far as the words "or patronised" are concerned.

The DEPUTY SPEAKER: The amendment moved by the Honourable Minister must be taken as a whole. I think that the amendment to this amendment by the honourable member Mr. Karandikar is quite in order.

Now, as regards the amendment to the amendment moved by the honourable member Mr. Karandikar—

The Honourable Mr. L. M. PATIL: Sir, I have accepted both the amendments—the amendment moved by the honourable member Mr. Karandikar and also the amendment moved by the honourable member Mr. S. K. Patil.

The DEPUTY SPEAKER: I propose to put this amendment of the honourable member Mr. Karandikar in two parts separately, so that there will be no difficulty for any section of the House to vote on it.

Mr. J. B. GREAVES: Is the second part of the amendment to the amendment moved by the honourable member Mr. Karandikar in order, because I think it is a negation of the original resolution?

The DEPUTY SPEAKER: If the amendment moved by the Honourable Minister is taken as a whole, I think the amendment to it moved by the honourable member Mr. Karandikar would be in order.

Now, I shall first put the first part of the honourable member Mr. Karandikar's amendment to the amendment which reads thus:

"Insert after the words 'shall afford' and before the words 'every facility' the words 'or procure as the case may be'."

Question put, and agreed to.

The DEPUTY SPEAKER: Then I shall put the second part of the amendment to the amendment moved by the honourable member Mr. Karandikar. It is as follows:

"Insert the words 'or patronised' after the word 'controlled' and before the words 'by them'."

Question put, and agreed to.

The DEPUTY SPEAKER: Then there is another amendment to the amendment moved by the honourable member Mr. S. K. Patil. His amendment to the amendment is—

"Delete the words 'who have facilities for training apprentices'."

Question put, and agreed to.

The DEPUTY SPEAKER: Then I shall put the amendment moved by the Honourable Minister Mr. L. M. Patil.

Amendment (the Honourable Minister's), as amended, put, and agreed to.

The DEPUTY SPEAKER: Then the next amendment that will be put to the House is the amendment moved by the honourable member Mr. Jadhav. I think that amendment requires a certain verbal alteration to fit in with the grammar of the original resolution. His amendment is—

"In line 6 after the word 'apprentices' add the words 'especially preference should be given for Scheduled Castes'."

It should be "preference being given to Scheduled Castes". That will be in order. It will read thus:

"every facility to Indian apprentices especially preference being given to Scheduled Castes".

Amendment put, and negatived.

The DEPUTY SPEAKER: Then I shall put the original Resolution—

Mr. R. A. KHEDGIKAR: I think an amendment was moved by the honourable member Mr. Nariman.

The DEPUTY SPEAKER: As regards the so-called amendment moved by the honourable member Mr. Nariman, certainly he did make some suggestions in the course of his speech, but he did not move any amendment as such.

Mr. K. F. NARIMAN: Excuse me, Sir. But there seems to be some misunderstanding. I sent in an amendment in writing. I do not know whether it reached you. I was serious about it. I may not press my amendment, but I did move it.

The DEPUTY SPEAKER : No doubt, the honourable member made some suggestions—and very useful suggestions too—in his speech, but he did not formally move the amendment. Then before the mover of the resolution rose for a reply, I myself wanted to make a suggestion to the honourable member (Mr. Nariman) to move his amendment, but at that time the honourable member was not in the House. That is the difficulty.

Now, I shall put the original resolution, as amended, to the House. I need not read it again.

Resolution, as amended, put, and agreed to.

RESOLUTION RE : SCHOLARSHIPS TO MUSLIM STUDENTS.

Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB RAIS (Thana District) : Sir, I beg to move :

“This Assembly recommends to Government to provide sufficient number of scholarships in the primary and secondary schools and in the colleges for the Muslim students of the Province in order to spread education amongst them.”

Question proposed.

Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB RAIS (*Addressed the House in Marathi*) : Sir, it is an admitted fact that Muslims are backward in education and they are very poor. In order to encourage primary, secondary and college education among the Muslim community, Muslim students should be given sufficient number of scholarships. I have brought this resolution with the above object. This fact is known to all. I therefore request all to pass this resolution.

The DEPUTY SPEAKER : To this resolution an amendment has been received from the honourable member Mr. Gaikwad.

Mr. B. K. GAIKWAD (Nasik West) : Sir, I beg to move :

“In line 3, after the word ‘Muslim’, add ‘scheduled castes and aboriginal tribes.’”

Question proposed.

Mr. B. K. GAIKWAD (*Addressed the House in Marathi*) : My honourable friend has proposed a resolution for Muslim students and I am merely moving this amendment as a supplement to that resolution. The scheduled castes and aboriginal tribes are equally backward in education and therefore Government should try to help these people also. I do not wish to take much time of the House, as the fact has been agreed to by all and I shall request the honourable mover of the resolution to accept my amendment.

Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB RAIS : Sir, I accept the amendment.

Mr. G. K. PHADAKE (Thana South) : Sir, I want to move an amendment to the amendment of Mr. Gaikwad, to add after the words “in the colleges”, “for students of Muslim and other minority communities”.

The DEPUTY SPEAKER : Will the honourable member repeat the amendment ?

Mr. G. K. PHADAKE : Add after the word "colleges". "for students of Muslim and other minority communities".

The DEPUTY SPEAKER : That would be an amendment to the original proposition and not an amendment to the amendment.

Mr. G. K. PHADAKE : That clause does not specify—

The DEPUTY SPEAKER : Whatever the amendment is, he may formally move it. It will be an amendment to the original proposition. He may move it.

Mr. G. K. PHADAKE : Sir, I thoroughly agree with the resolution moved by my friend, Khan Bahadur Sardar Haji Amirsahab Mohiddin Saheb Rais. I also do not want to speak much on this point.

The DEPUTY SPEAKER : The amendment is yet to be formally moved.

Mr. G. K. PHADAKE : Sir, I beg to move :

"After the word 'colleges' add 'students of Muslim and other minority communities'."

Question proposed.

Mr. G. K. PHADAKE : Sir, my amendment does not specify the minority communities. It only says Muslims and other minority communities. So my amendment will include all the other minority communities. I thoroughly agree with the resolution and I do not want to speak much on this point because the semi-official resolution has taken so much time of the non-official day and if we speak in this way much of our time will be taken up. So I think it is much better to speak as little as possible and that is why I only support the resolution while moving my amendment.

Mr. B. K. GAIKWAD : On a point of information, Sir. May I know which minority communities are meant ?

Mr. G. K. PHADAKE : In the sense in which it is used always.

Mr. B. K. GAIKWAD : Do you mean educationally backward minority communities ?

The DEPUTY SPEAKER : Order, order. I take it that no other honourable member wants to say anything.

The Honourable Mr. B. G. KHER : Sir, the resolution that is now moved before the House is really unimpeachable in this that it says "sufficient" number of scholarships should be provided, and I have often declared it from this bench that in the matter of education, it will be the policy of Government to do everything that is possible to strain all possible resources to give education to those who are educationally backward. Now, we have got an amendment to the original proposition which says that sufficient number of scholarships should be given in the primary and secondary schools and colleges to Muslim students, that they should be given also to members of the backward classes and the

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scheduled castes. That again is unimpeachable. We have a further amendment which says that the scholarships should be given to Muslims and other minority communities. As the honourable member Mr. Gaikwad very pertinently pointed out, minority communities may mean Europeans, Jews, Christians, Pargees, etc. It also means Brahmins.

6 p.m.

It would mean a number of communities which I do not believe the honourable member Mr. Phadake wishes to include in his amendment.

Mr. S. L. KARANDIKAR : On a point of information. Is the assurance that the Honourable the Prime Minister contemplates in respect of educationally backward communities—minority communities which are educationally backward ?

The Honourable Mr. B. G. KHER : What I did say was this that those communities who are educationally backward must certainly receive the assistance of Government. If, therefore, the honourable member Mr. Phadake's amendment had contained words to this effect, viz. "minorities which are educationally backward", I should certainly not have taken any exception to it; but as he chose to word his amendment, he says "Muslims and other minority communities", and I only wished to point out what the true implication of his amendment was. I do not believe he wants us to give a sufficient number of scholarships for Jews, Parsis, Europeans, Christians, or such other minority communities, because indeed they are not educationally backward and I do not think they wish to take the benefit of the honourable member Mr. Phadake's advocacy. So that we shall now restrict ourselves to the original proposition as it relates to the Mussalmans and the backward classes, "backward" meaning those who are educationally backward.

Now, I would like to draw the attention of the House as to what the position today is as to the number of scholarships that have been awarded by Government. Inasmuch as the resolution says that "a sufficient" number of scholarships should be given to the Muslim students, if it is sought to imply that the existing provision of scholarships is insufficient or is disproportionate or has not been made with due regard to their numbers, then I must inform the honourable mover of the resolution, as also the other members of the House, that his impression is not correct. I will show now to the House what the present position as to scholarships that have been provided by Government is.

There are two types of scholarships—one is open to all communities and is awarded on the basis of merit. Then there are special scholarships sanctioned for encouraging education among the backward—I mean educationally backward—communities, including the scheduled classes. I will now give facts and figures which will show how these scholarships are distributed. Let us first take primary education. For Mahomedans there are 172 sets of stipends amounting to Rs. 15,192. For the back-

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ward classes there are 142 sets of scholarships amounting to Rs. 17,040. Then, we go to secondary education. For the Mahomedans there are 91 sets of scholarships amounting to Rs. 42,588. For the backward classes there are 87 sets of scholarships amounting to Rs. 40,716. For the intermediate classes there are 167 sets of scholarships amounting to Rs. 78,156.

We then go to the Arts Colleges. There are 10½ sets of scholarships amounting to Rs. 7,560. For the backward classes there are 21½ sets of scholarships amounting to Rs. 15,480, and for the intermediate classes there are 29 sets of scholarships amounting to Rs. 20,880.

Then we take up professional colleges such as the Engineering College, the Commerce College and the Law College :—

College of Engineering..	..	Intermediate Classes..	5
		Backward Classes ..	2
		Mahomedans ..	3
College of Commerce ..	..	Intermediate ..	2
		Backward ..	1
		Mahomedans ..	1
Law College ..	..	Intermediate ..	5
		Backward ..	3
		Mahomedans ..	3

Now, I wish to give the percentage of pupils in primary schools to the total population. These figures will convince honourable members that attention is paid to the special needs of communities which are educationally backward, and I have already said that more and more attention will be paid to the needs of education of those communities, because indeed if there is one thing in which we will be delighted if more and more is asked, it is in the matter of education compatible of course with the claims of the other sections of the population. The percentage of pupils to the total population is as follows :—

Intermediate Classes	Boys ..	8·3
		Girls ..	2
Backward Classes	Boys ..	5·9
		Girls ..	1
Mahomedans	Boys ..	12·7
		Girls ..	5·9

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This is the percentage of the pupils to the total population and the percentage of scholarships on the basis of population works out as follows :—

In secondary education, for intermediate classes, there is 1 for 63,000 population ; for backward classes, there is 1 for 43,000 population and for Mahomedans there is 1 for 17,400 population. In Arts Colleges there is 1 for 175,000 for intermediate classes ; for backward classes there is 1 for 363,000 population and for Mahomedans there is 1 for 150,000 population. It will be seen from this that the Mahomedans have been adequately attended to in the scheme of special scholarships. As a matter of fact, when the first scheme of special scholarships was sanctioned in 1924, there was a strong protest in the Legislative Council and outside about the disproportionately large number of scholarships given to the Mahomedans then in 1924, but Government did not reduce any of their scholarships but attempted to increase the scholarships that were given to the other communities to bring up the proportion instead of bringing it lower by reducing the scholarships given to Mahomedans.

Then, there is another principle which members ought to note and which is taken count of in the matter of awarding scholarships. In the case of the intermediate classes, scholarships are given to those who pass in all subjects and always the number of eligible students is much more than the number of scholarships. In the case of Mahomedans and Backward Class students, the award is made on less rigid terms ; the test is not quite so rigid and scholarships are given even to those who have failed in one or two subjects.

Then, if we examine the percentage of population to pupils of different communities attending secondary schools, I have given the figures. The percentage of pupils attending the secondary schools is as follows :—

Advanced Classes	..	..	4·25 (a fairly large one).
Intermediate Classes	..	..	·23
Backward Classes	..	..	·07
Mahomedans	..	..	·66

and if you take up the average for all Hindus it is ·53. These figures will show that Mahomedan students do get proportionately more scholarships than intermediate class students and backward class students and also more than the average for all the Hindus.

Now, Sir, my object in stating this is, as I said, not to quarrel about the demands that are made by representatives of the communities for more and more adequate provision for scholarships in order to encourage education. As I said, if there was any implication in the resolution that Government is not paying adequate attention to, or is not making sufficient provision for, encouraging education, then it is not a correct impression and I would have to oppose it. As I said, it is my desire to provide for education for the Mussalmans and for the members of the depressed classes as also for those communities

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which we can safely consider as educationally backward, to give them as much facility as it is possible to give, to increase the amounts provided for their education if that can be done. I think we have given an earnest of our intention even during the short time we have administered our policy of education by providing a fairly decent amount for the education of the scheduled castes. We are also now taking active steps to encourage education not only among Muslim boys, but also what is according to me of far greater importance, education among Muslim girls. It is therefore the object of Government to act according to the spirit of this resolution, which I do not think there is any reason to oppose. I will certainly accept the suggestion that is made, if the honourable members accept the statements that I have made, which show that Government has already acted on the principle of the resolution which, I understand, is that adequate provision may be made for awarding scholarships to those communities which are educationally backward. To that principle I do not take any exception. From the fact that I have not heard many remarks on this resolution from any other members of this House, I do not think that this is really a controversial resolution. Whatever may be the unfortunate position of the communities, whatever may be their rivalries or feelings in other matters, I am sure there is not a single member in this House who is not agreed on principle on the necessity of providing more and more education to those who are unfortunately educationally backward, behind their fellows. The reason is obvious. It is only if we give the benefit of education to the large numbers of people in this country that we are likely to advance in every aspect of our public life. We see that with education we generally begin to take, or at least ought to take, broader views of affairs. Sometimes we do indeed see that the result is not as happy as it ought to be, and the temptation is very strong even on the part of those who have received education to think and to act on narrow sectarian and communal grounds and not to take a view which will be more in consonance with the general interests of society as a whole. But, on the whole, I may safely assume the benefits of education are not a subject on which at this time of the day it is necessary for me to expatiate. I therefore accept the principle of this resolution and I assure the House that even as scholarships are provided at present, Government have been keenly alive to their duty to provide sufficient educational facilities to members of communities which are educationally backward, and the same principle will be continued to be observed in future with due regard to the finances at our disposal and to the general claims of all other communities.

Mr. S. L. KARANDIKAR : On a point of information. It being an accepted fact that the Mahomedan community is a bit in advance of the Hindu community in general so far as literacy is concerned, is Government going to look upon the Mahomedan community as educationally backward even hereafter ?

The Honourable Mr. B. G. KHER: If this had been Question time, I should have asked for notice of the question. Sir, the resolution as worded says that we should make sufficient provision. I do not think the honourable member can take exception to the word "sufficient". "Sufficient" enables you to take all the factors into consideration, and having once accepted the principle that those who are educationally backward ought to be adequately provided with sufficient facilities, I do hope that we will not now enter into long and elaborate discussions which do not seem to be at all likely to facilitate our work any more.

Mr. B. K. GAIKWAD: I have moved my amendment, Sir. Do I have a right of reply?

The DEPUTY SPEAKER: The mover of an amendment has no right of reply.

The Honourable Mr. B. G. KHER: If I had known that there were other remarks to follow, I would not have been in a hurry to state anything at all.

Mr. G. K. PHADAKE: On a point of explanation. If I may be allowed to explain my amendment, I would say that by my amendment I meant other educationally backward minority communities, and if I am allowed to add these words to my amendment, I am prepared to do so.

The Honourable Mr. B. G. KHER: If the debate is to continue in this fashion, I hope, Sir, you will allow me to have my final reply after this. Only one word with regard to what was just said by the honourable member Mr. Phadake. He said that he meant educationally backward minorities. May I draw his attention to the fact that there are very large majorities which are educationally backward? Is it his intention to exclude them from the benefit of his amendment?

Mr. G. K. PHADAKE: I have not followed the Honourable the Prime Minister properly.

Khan Bahadur SHAIK JAN MAHOMED (Poona District) (*Addressed the House in Urdu*): Sir, I support the resolution moved by my honourable friend Khan Bahadur--Sardar Haji Amirsahab Rais, requesting that more scholarships should be given to the Mahomedans. The honourable member Mr. Phadake has moved an amendment that all the minority communities which are educationally backward should be given more scholarships. The Honourable the Prime Minister has replied to the point. Sir, the Mahomedans cannot be said to be educationally as forward as the Parsis, the Brahmins, the Europeans, the Indian Christians and some other communities, and I do not think it is necessary to labour the point any further. The Honourable the Prime Minister in the course of his statement has made it clear that the claims of the Mussalmans for increased scholarships will be duly considered as far as funds permit. I on behalf of the Muslim League welcome that statement. In conclusion, I am grateful to the Honourable the Prime Minister for accepting the spirit of the resolution. I hope it will be acted upon.

Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDIN SAHEB RAIS : Sir, I have nothing to say in reply.

The Honourable Mr. B. G. KHER : I do not wish to say anything more.

The DEPUTY SPEAKER : To the original resolution there are two amendments, one by the honourable member Mr. Gaikwad and the other by the honourable member Mr. Phadake. I shall put the amendments first.

Mr. B. K. GAIKWAD : My amendment has already been accepted by the honourable mover of the resolution.

The DEPUTY SPEAKER : That will have to be accepted by the House. I will now put the amendment of the honourable member Mr. Phadake.

Mr. G. K. PHADAKE : I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

The DEPUTY SPEAKER : Now I will put the amendment of the honourable member Mr. Gaikwad :

“In line 3, after the word ‘Muslim’ add the words ‘Scheduled Castes and Aboriginal tribes’.”

Amendment put, and agreed to.

The DEPUTY SPEAKER : I will now put the original resolution as amended.

Resolution put, and agreed to.

RESOLUTION RE : COMMITTEE ON UNEMPLOYMENT.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I move :

“This Assembly recommends to Government that in view—

Mr. ALI BAHADUR BAHADUR KHAN : On a point of order. The first resolution that stands in the name of the honourable member is the same as stood in the name of the honourable member Mr. Gokhale. Since that resolution has been taken into consideration and disposed of, the honourable member Mrs. Munshi has forfeited her right.

The DEPUTY SPEAKER : The first resolution is the same as that of the honourable member Mr. Gokhale. The second one of the honourable member Mrs. Munshi becomes the first.

Mrs. LILAVATI K. MUNSHI : Sir, I move :

“This Assembly recommends to Government that in view of widespread prevalence of unemployment in the Presidency a committee should be appointed to inquire into its causes and to recommend measures for its relief.”

Question proposed.

Mrs. LILAVATI K. MUNSHI : Sir, I have a very easy task, because my resolution is such that it affects all classes and masses, and members belonging to different sections of this House. Besides, it is a very simple resolution and, I believe, non-controversial. Unfortunately, we have no data to go upon about unemployment. There is no census taken at any time to show how many unemployed people are there in our Presidency, educated or uneducated. But, Sir, it is a common experience, I believe, of almost all of us, that, day after day, so many people come at our doors asking for employment, not belonging to one class or the other, but belonging to all castes and creeds, and belonging to all strata of society. Really, Sir, it is very heart-breaking not to be able to find out any solution or not to be able to give them anything when they ask for it. In other countries, we find that this question is agitating the minds of not only the people but of the Government also. They have a machinery by which they know how many unemployed people there are in their realm and also they try to find out some employment or other, or, as I said the other day, give them doles. It is a question of giving bread ; you will have to give a living person bread. You may not be able to give anything else, but a living person must have his bread. There is no escape from it. In other countries, they go to such length that, if they cannot find employment in their own country, they even invite wars and try to take away what belongs to other persons—even their colonies. We are a very non-violent people, Sir, and we do not want things which belong to others. But surely we want some solution to be found in our own country for our unemployed.

In this respect, I may point out that our countrymen who have established themselves in other countries are driven out from those countries. Take the question of Zanzibar, Africa and so many other countries, where we are peacefully established, where we are doing some kind of trade, where some of our unemployed youths find employment. Even these avenues are shut to us. Besides, we are turned out from every other country. We cannot acquire lands in so many countries. We cannot do business there and there are so many other disabilities from which we suffer. But only in India we can find other people coming and establishing themselves and the result is that all our key industries are in the hands of foreigners. Take, for instance, insurance. We cannot go and start an insurance company in any other country, because the conditions

[Mrs. Lilavati K. Munshi]

and rules there are such as prevent us from doing so. But here, anybody can come in—Italians, Japanese or Czechoslovakians—and do business and nobody will prevent them from doing so. Take, for instance, railways and shipping, which really should belong to this country, and which should give employment to the people of our own country, also which should be instrumental in keeping the wealth of this country in the country itself. But they are all dominated or owned by foreign interests. Somehow, our Central Government, or even our provincial Governments, are not in a position to protect us. Year after year, times without number, they go on doing things and jeopardising our interests by giving preferences to other countries. This is not a place to go on relating the difficulties that we are suffering from.

What I ask for is this. Everybody is conscious about the prevalence of unemployment in this country, and especially in our Presidency, and some kind of census should be taken by which we can know how many unemployed are there in our Presidency, and how far we can help them in finding out suitable employment. I believe a similar resolution was tabled in the Upper House and it was accepted by the Government. Government have promised that they are considering this problem in a very sympathetic manner. Therefore, Sir, it is really asking Government about things which they are already considering. By passing this resolution we will be supporting Government with the unanimous voice of this House. I am sure every honourable member of this House will support the resolution, which will strengthen the hands of Government in any measure they take for the relief of the unemployed. As it is time for the House to rise, only with these words I commend the resolution for the acceptance of the House.

The House then adjourned till 2 p.m. on Friday, the 28th January 1938.

Friday, the 28th January 1938.

The Assembly re-assembled at the Assembly Hall, Bombay, on Friday, the 28th January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khau Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FRENCH, Mr. F. II.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GIRASEY, Mr. G. B.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.

GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAUURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATHALE, Mr. B. S.
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.

NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.

VYAS, Mr. ISHVARLAL K.

WADEKAR, Mr. R. B.

WAGH, Mr. P. W.

WALVEKAR, Mr. B. B.

WANDREKAR, Mr. D. N.

STARRED QUESTIONS AND ANSWERS.

REVISION OF CONSTITUTION OF MUNICIPAL BOARD OF BANDRA.

*Mr. S. H. JHABVALA (Railway Unions): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government have received proposals from the Collector, Bombay Suburban District, or the Commissioner, Northern Division, regarding the revision of the constitution of the Municipal Board of Bandra as a result of the inclusion of Santa Cruz within the limits of the Municipal Borough;

(b) whether Government are aware that the term of the Bandra Municipality is due to expire shortly;

(c) if so, whether Government propose to deal with the matter, urgently?

The Honourable Mr. K. M. MUNSHI: (a) and (b) Yes.

(c) A Bill to amend the Bombay Municipal Boroughs Act, 1925, with a view to abolishing nominations and reserving seats for certain backward communities and minorities in joint electorates is to be introduced in the current session of the Bombay Legislative Assembly and the question of the reconstitution of the Bandra Municipality will be taken up as soon as this Bill is passed into law. In the meantime it is proposed to extend the existing term of office of the Municipality by a suitable period.

Mr. S. H. JHABVALA: With regard to the reply to (c)—“In the meantime it is proposed to extend the existing term of the Municipality by a suitable period”—may I know what is meant by “a suitable period”? What is the amount of time that will be required?

The Honourable Mr. K. M. MUNSHI: I want notice.

Mr. S. H. JHABVALA: Shall I ask the question when the Honourable Minister for Local Self-Government comes into the House?

Mr. D. N. WANDREKAR: With reference to the reply to (c), has not the Bill to amend the Bombay Municipal Boroughs Act been dropped for this session at least?

The Honourable Mr. K. M. MUNSHI: That question does not arise out of the reply.

The Honourable the SPEAKER: I am afraid I have to invite the Honourable Minister's attention to the reply, which says:

"A Bill to amend the Bombay Municipal Boroughs Act, 1925, with a view to abolishing nominations and reserving seats for certain backward communities and minorities in joint electorates is to be introduced in the current session of the Bombay Legislative Assembly...."

According to the Honourable the Prime Minister's declaration, this Bill is not to be taken up during this session. That is what the honourable member Mr. Wandrekar refers to.

(At this stage, the Honourable Minister for Local Self-Government came in and took his seat.)

Mr. D. N. WANDREKAR: The reply states that it is proposed to extend the existing term of office of the Municipality by a suitable period pending the passing of the amending Bill. Is it not a fact that this Bill has been dropped for the present session at least?

The Honourable Mr. L. M. PATIL: In the first place, the term of office of the Bandra Municipality has not been extended. The question of extending the period of the Bandra Municipality is still under consideration. The question whether the Bill referred to should be introduced or not has not yet been decided by Government.

Mr. S. H. JHABVALA: May I ask the Honourable Minister for Local Self-Government, now that he is here, to explain what is meant by "suitable period"?

The Honourable the SPEAKER: Order, order. That question has once been replied to.

Mr. D. N. WANDREKAR: When do Government propose to come to a decision regarding the reconstitution of the Bandra Municipality?

The Honourable Mr. L. M. PATIL: It is impossible to say at present, unless the case is examined.

REVIVAL OF CONCESSION GIVEN TO KHOTS FOR TAKING OUT COPIES FROM BOT KHATS.

*Mr. S. L. KARANDIKAR (Ratnagiri, North): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that the bot khats in the several Taluka Offices in the Ratnagiri District have some of their pages torn both at the beginning and at the end;

(b) whether Government are aware that under the Khoti Settlement Act, 1880, every khot is required to keep a copy of the bot khat with him;

(c) whether Government are aware that till recently the Khots were allowed to have copies of extracts from the bot khat in the Taluka Offices without being required to pay for them;

(d) whether Government are aware that since recently this practice has been discontinued;

(e) whether Government are aware of the inconvenience to which the Khots are put on account of the discontinuance of this practice ;

(f) if the answers to the above questions are in the affirmative whether Government have considered the advisability of directing the revenue officers concerned to revive the old practice ?

The Honourable Mr. MORARJI R. DESAI : (a) This sometimes occurs. When it does, fresh copies of the torn pages are supplied from the copies of the *bot khats* kept in the Collector's records.

(b) The rules under the Khoti Settlement Act require the khot to take a copy of the *bot khat* at his own expense and to keep it properly corrected.

(c) and (d) Until 1929-30 the practice of allowing khots to take extracts from *bot khats* without payment of inspection fees was in vogue ; it has, however, been discontinued and inspection fees are now charged according to the Land Revenue Rules.

(e) No complaints have been received by Government.

(f) No.

Mr. S. L. KARANDIKAR : As regards the answer to (a), my question is of a specific nature, but the reply as printed is in general terms. Will the Honourable Minister give a specific reply to a specific question ?

The Honourable Mr. MORARJI R. DESAI : No instances are mentioned in (a). If specific instances had been mentioned, I would have dealt with them in my reply.

Mr. S. L. KARANDIKAR : My question was with regard to several talukas. Does the Honourable Minister mean to say that there are no instances of this type in any of the talukas ?

The Honourable the SPEAKER : Order, order. The question has been replied to.

Mr. S. L. KARANDIKAR : With regard to the reply to (c) and (d), up to 1929-30 a certain practice was in vogue. Why did Government discontinue that practice ?

The Honourable Mr. MORARJI R. DESAI : That practice was against the rules in force ; it was wrong.

Mr. S. L. KARANDIKAR : After how many years did the Government find out that mistake ?

The Honourable Mr. MORARJI R. DESAI : It was found out in 1929-30.

Mr. S. L. KARANDIKAR : My question is, how long did that mistake continue ?

The Honourable Mr. MORARJI R. DESAI : I require notice. I have not inquired into it.

USE OF TAIL-WATER FROM TATA HYDRO-ELECTRIC POWER HOUSES
FOR REGENERATION OF ELECTRIC POWER.

*Mr. S. L. KARANDIKAR (Ratnagiri North): Will the Honourable Minister for Public Works be pleased to state—

(a) whether it is a fact that most of the Tata Hydro-Electric Power Houses are situated on the western side of the Sahyadri mountains;

(b) whether it is a fact that the tail-water from these power houses flows chiefly through the Kolaba District;

(c) whether Government have considered the possibility of developing industries by allowing the tail-water to be used for the regeneration of electric power;

(d) whether Government propose to allow the tail-water to be used for the regeneration of electric power, and, if so, on what conditions?

The Honourable Mr. M. Y. NURIE: (a) All the three Tata Hydro-Electric power houses are situated on the Western Ghats of the Sahyadri mountains.

(b) Yes.

(c) The plant installed by Messrs. Tatas is capable of generating much more energy than can be disposed of at present and it is not therefore considered advisable to generate additional energy in the same area. Possibilities of utilising the tail-waters for water supply and irrigation purposes are, however, being investigated at present.

(d) Does not arise.

Mr. S. L. KARANDIKAR: The reply to (d) is that the question does not arise. It is an independent question.

The Honourable Mr. M. Y. NURIE: The question is about the generation of electric power. The reply is that there is a sufficient quantity of electric power available. That is the reason for the answer to (d).

Mr. S. L. KARANDIKAR: Does it mean that Government has no answer to give?

The Honourable Mr. M. Y. NURIE: The answer is already given there.

Mr. G. K. PHADAKE: With regard to (c), will the Honourable Minister consider the feasibility of supplying that extra quantity referred to in the answer to the same area?

The Honourable Mr. M. Y. NURIE: If it is demanded, Government will consider the question.

REFUSAL OF PERMISSION TO INTERVIEW PRISONERS IKBAL SING
AND SOMNATH LAHERI.

*Mr. R. A. KHEDGIKAR (Sholapur City) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that an application was made to Government by Mr. S. S. Mirajker asking permission to interview the prisoners, Ikbal Sing and Somnath Laheri ;

(b) whether it is a fact that the application was refused ;

(c) if so, what were the reasons for refusing the same ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) Yes.

(c) Mr. Mirajker gave no reason for his request and Government were not satisfied that any useful purpose would be served by permitting the interview.

Mr. R. A. KHEDGIKAR : With regard to the reply to (c), is it not a fact that applications for interview are made in order to find out the state of the health of the prisoners ?

The Honourable Mr. K. M. MUNSHI : Generally, the applications are made by relations to see the prisoners and not necessarily to enquire after their health.

Mr. R. A. KHEDGIKAR : If the relations are not near by, is it not a fact that the friends of the prisoners can make application ?

The Honourable Mr. K. M. MUNSHI : The friends can give reasons for the interview.

Mr. S. V. PARULEKAR : With regard to the reply to (c), is it true that interviews are not granted unless Government are satisfied that some useful purpose will be served by them ?

The Honourable Mr. K. M. MUNSHI : Yes.

Mr. S. H. JHABVALA : Is there any customary form in which the request is to be made so that any reason could be specified, or is it only a formal request, for instance, "I want to see so and so" ?

The Honourable Mr. K. M. MUNSHI : In the case of relations it is not necessary ; in the case of others it is.

Mr. S. V. PARULEKAR : Was Mr. Mirajker informed why his request for an interview was not granted ?

The Honourable Mr. K. M. MUNSHI : No ; it was for him to give the reason.

GRIEVANCES OF ACCUSED IN POLICE LOCK-UPS.

* Mr. R. N. MANDLIK (Kolaba District): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether there are any rules as regards treating the accused in criminal cases as A and B class prisoners while kept under custody in the Police lock-ups ;

(b) what are the rules as regards scavenging work in the Police lock-ups ;

(c) whether it is a fact that the accused are required to do that work while in Police custody ;

(d) whether Government are aware that the practice is against the religious sentiments of the people ;

(e) if so, whether Government have considered the advisability of putting a stop to that practice ;

(f) if the accused are not required to do that work, who else does it ;

(g) what are the monthly expenses incurred on this account at each taluka Police lock-up in the Kolaba District during the year 1935-36 ;

(h) whether there is any rule which requires that the inmates of the Police lock-ups must have a daily bath and must keep their clothes clean by washing them at least once a week ;

(i) whether there is any rule which requires that the inmates of the Police lock-ups should be given a shave once a fortnight or at least once a month ;

(j) whether there is any rule which requires that the inmates of the Police lock-up should be allowed to have free air for some time daily by taking a walk or exercise outside their cells in Police custody ;

(k) if the answers to clauses (a), (h), (i) and (j) are in the negative, whether Government have considered the advisability of making rules in this behalf ?

The Honourable Mr. K. M. MUNSHI : (a), (b), (h), (i) and (j) As Police lock-ups are intended only for the detention of prisoners pending production before a Magistrate—a period which may not exceed 24 hours, and as cases of prisoners being remanded into police custody by Courts are rare, no detailed rules for these places of detention have been framed. The responsible police officers are, however, expected to use a wise discretion in dealing with persons in their custody and should ordinarily follow, in so far as may be possible, the rules relating to undertrial prisoners detained in sub-jails.

(c) Yes, as a general rule.

(d) and (e) To meet the circumstances rules have already been framed in so far as undertrial prisoners in sub-jails are concerned. Rule 159 of the Sub-Jail Manual prohibits any interference with the religious and caste prejudices of prisoners, and in so far as undertrial prisoners in Police lock-ups are concerned rule 1264 (11) of the Police Manual lays down that they should be treated with consideration.

(f) Such contingencies are not known to have arisen yet, but suitable arrangements will be made whenever necessary.

(g) There are no Taluka Police lock-ups in this District.

(k) No. But so far as Sub-Jails are concerned Government have taken steps to improve conditions. The Inspector General of Prisons now receives fortnightly reports from every Sub-Jail in the Province and he issues orders regarding sanitation, bathing and exercise of prisoners. He also visits as many Sub-Jails as possible, and efforts are being made to reduce the periods for which convicted persons are kept in Sub-Jails to the minimum consistent with economy and administrative requirements.

Mr. K. F. NARIMAN : With reference to the replies to (b) and (c), do not Government think that the practice of making undertrials do scavenging work is highly objectionable ?

The Honourable Mr. K. M. MUNSHI : There is nothing extraordinary in making the prisoners cleanse their own room.

Mr. K. F. NARIMAN : I am not referring to ordinary cleansing work. I am referring to scavenging work which, according to the reply, the undertrials are made to do as a general rule.

The Honourable Mr. K. M. MUNSHI : I want notice if any further facts are wanted.

Mr. K. F. NARIMAN : I am only asking, as it is admitted that this practice prevails, whether Government do not think it objectionable and whether they will not take steps to discontinue it.

The Honourable Mr. K. M. MUNSHI : Government will consider the point of view placed by the honourable member.

Mr. D. G. JADHAV : Supplementary with regard to (b). Is it a fact that scavenging work is got done by the depressed class convicts in jails ?

The Honourable Mr. K. M. MUNSHI : No.

Mr. R. N. MANDLIK : The answer to (a) is : "The responsible police officers are, however, expected to use a wise discretion" Will Government issue definite orders to the officers concerned instead of depending upon the police officers' discretion ?

The Honourable Mr. K. M. MUNSHI : It is a suggestion for action and if necessary Government will issue such orders.

Mr. R. R. BHOLE : Will Government get information from the Jails as to whether only the scheduled class convicts are asked to do the scavenging work or not ?

The Honourable Mr. K. M. MUNSHI : The question relates only to Police Lock-ups, while the honourable member Mr. Bhole refers to jails. If he will give me notice, I will find out.

Mr. R. N. MANDLIK : Supplementary to (d) and (e). Sir, in the answer it is stated "...rule 1264 (11) of the Police Manual lays down that they should be treated with consideration." May I know what is meant by "with consideration"?

The Honourable Mr. K. M. MUNSHI : It means what it says, I think. If the honourable member Mr. Mandlik will read the whole sentence, it is stated "Rule 159 of the Sub-Jail Manual prohibits any interference with the religious and caste prejudices of prisoners...." It is clearly said that the undertrials should be treated with consideration with regard to their habits, caste prejudices, various needs, and so on.

Mr. K. F. NARIMAN : Are there no privies provided for the convenience of undertrials, because it is stated that the accused are required to do the work of scavenging? Are they asked to clean the privies? What is the practice?

The Honourable Mr. K. M. MUNSHI : Scavenging work in their cells only. I do not think there are privies for undertrials in the cells. They are given pots for the night and for the day they go outside.

Mr. K. F. NARIMAN : Is it suggested that the undertrials are asked to clean the pots provided for the night?

The Honourable Mr. K. M. MUNSHI : I require notice.

Mr. K. F. NARIMAN : Will Government please issue instructions to discontinue this practice?

The Honourable Mr. K. M. MUNSHI : It is a suggestion for action.

Mr. R. N. MANDLIK : It is stated in reply to (c) that as a general rule the accused are required to do the scavenging work while in Police custody. Supposing the accused is a high-caste Hindu, and if he is required to do scavenging work, then what would be the consideration shown by the Police Officers?

The Honourable Mr. K. M. MUNSHI : I would like to have notice with regard to these details about the scavenging work. By ordinary scavenging work, as I understand it, it would be to cleanse their own rooms and remove the pots and pans that may have been supplied to them.

Mr. H. V. TULPULE : Will the Government issue proper instructions?

The Honourable Mr. K. M. MUNSHI : Government will certainly issue proper orders. If the honourable member wants to make any suggestion as to the nature of the orders, he can make it.

Mr. H. V. TULPULE : They should not be asked to do scavenging work.

Mr. B. K. GAIKWAD : May we know whether caste distinction is observed in jails, so far as high-caste and low-caste Hindus are concerned ?

The Honourable Mr. K. M. MUNSHI : I do not think so.

Mr. R. N. MANDLIK : With regard to reply to (f) it is stated " . . . but suitable arrangements will be made whenever necessary." They are necessary even now ; will the Government be pleased to issue the necessary orders ?

The Honourable Mr. K. M. MUNSHI : It is a suggestion for action.

Mr. R. N. MANDLIK : With regard to reply to (g) it is said that there are no Taluka Police lock-ups in this District, i.e., in the Kolaba District ? May I know where the undertrial prisoners are kept then ?

The Honourable Mr. K. M. MUNSHI : Sir, I require notice.

INTERIM MINISTRY : RELEASE OF COMMUNIST LEADERS.

* Mr. R. N. MANDLIK (Kolaba District) : Will the Honourable Minister for Home Department (and Legal) be pleased to state whether it is a fact that the Interim Ministry had passed orders that the Communist leaders should not be released at all ?

The Honourable Mr. K. M. MUNSHI : No. The Interim Ministry had decided that the outstanding orders under section 4 of the Bombay Special (Emergency) Powers Act, 1932, against Communist leaders and others should continue in force, subject to the usual six-monthly review under sub-section (4) of the said section.

Mr. R. N. MANDLIK : What is the date of the decision of the Interim Ministry ?

The Honourable Mr. K. M. MUNSHI : I will require a little time to find that out. But I will tell you. (*After looking up the file*) It is 7th of May 1937.

Mr. R. N. MANDLIK : When was the six-monthly review to come out ?

The Honourable Mr. K. M. MUNSHI : It did come and the orders were cancelled by the Congress Ministry. The six-monthly review came at the proper time and orders were made, as you know very well.

Mr. R. N. MANDLIK : Was it done in the six-monthly review by the Congress Ministry ?

The Honourable Mr. K. M. MUNSHI : Long before that. It did not become necessary for the six-monthly review because before that time the Congress Government vacated most of the orders.

Mr. R. N. MANDLIK : Before the review was made ?

The Honourable Mr. K. M. MUNSHI : Oh yes.

Mr. R. N. MANDLIK : Do not Government know that an allegation to the effect that the Interim Ministry passed orders that the communist leaders should not be released at all was made by a responsible Congress leader at a public meeting ?

The Honourable the SPEAKER : The question is not in order.

ESTABLISHMENT OF URDU PRIMARY SCHOOLS.

* Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dock-workers) : Will the Honourable the Prime Minister be pleased to state—

(a) how many Urdu primary schools were established in the province of Bombay during the last 5 years ;

(b) what encouragement has been given by Government to such schools ?

The Honourable Mr. B. G. KHER : (a) 237 Urdu Primary Schools and 35 classes were opened during the last 5 years (i.e. from 1932-33 to 1936-37) in District Local Board and Municipal areas as detailed below :—

District Local Board Area.

		Schools.	Classes.
District Local Board schools	..	70	15
Approved aided schools	.. ..	16	7
Approved unaided schools	.. ..	13	..
		—	—
Total	..	99	22

Local Authority Municipal Area.

		Schools.	Classes.
Municipal Schools	.. ..	102	13
Approved aided schools	.. ..	28	..
Approved unaided schools	.. ..	8	..
		—	—
Total	..	138	13
		—	—
Grand Total	..	237	35

(b) By "encouragement to such schools" the honourable member presumably refers to the special facilities given by Government for the encouragement of Muslim education. These facilities are mentioned in the various Chapters (and especially the Chapter on Education of Muhammadans) of the Reports on Public Instruction in Bombay.

Several special facilities are provided by Government and Local Bodies for the advancement of Primary education of Muhammadans. Some of these are :—

(1) For the training of Muhammadan men and women teachers Government maintain Urdu Training Institutions. All candidates and teachers admitted to these institutions from the District Local Boards are awarded Government stipends.

(2) With a view to providing additional facilities for Muhammadans three Central Urdu Schools are maintained by Government in the Thana, Kolaba and Ratnagiri Districts. All pupils in standards V to VII in these schools receive Government stipends at the rate of Rs. 7 per mensem.

(3) Special stipends at the rate of Rs. 12 per mensem are also given by Government to Muhammadan girls in the Central Urdu Girls' School (now Practising School) attached to the Urdu Training College for Women, Poona.

(4) Scholarships for Muhammadans are also given by District Local Boards ranging from Re. 1 to Rs. 3 each per mensem in primary schools within their area and prizes, books, slates are also distributed free amongst poor Muhammadan pupils. The expenditure incurred by the Boards on this account is admissible for Government grant.

REMOVAL OF RESTRICTIONS IMPOSED ON PERSONAL LIBERTY OF CERTAIN PERSONS

*Mr. S. V. PARULEKAR (Ratnagiri South) : Will the Honourable the Prime Minister be pleased to state—

(a) the number and names of persons whose personal liberty has been restricted without any trial since the year 1930 ;

(b) what is the nature of restrictions on each one of them ;

(c) whether Government intend to remove the restrictions on all persons without discrimination ;

(d) if not, what are the reasons for not removing the same in each case ?

The Honourable Mr. B. G. KHER : (a) There are no such persons at present.

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

Mr. S. V. PARULEKAR : Supplementary to (a). May I know to what time the Honourable the Prime Minister refers by the words "at present" ?

The Honourable Mr. B. G. KHER : It means "to-day", or some time after his question, if that is what he wants. But I have not got the dates.

ALLEGED GRIEVANCES OF AGRICULTURISTS IN BASSEIN TALUKA
REGARDING THE REMOVAL OF CERTAIN MINOR FOREST PRODUCTS.

*Mr. G. K. PHADAKE (Thana South): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that the chief bagayat crops of Pan (betel vine) and Kela (Plantains) in Bassein and Palghar talukas of the Thana District are mainly dependent upon minor forest products, such as, Manvel Bamboos, Tokar Padai, Bundhis, and Karvis ;

(b) whether Government are aware that on account of the disease on betel-vine and heavy slump in prices of agricultural products during the economic depression and owing to the heavy cost of production and uncertainty of the yields and profits, the cultivation of betel-vine in Bassein taluka is in danger and likely to be wiped out from this taluka ;

(c) whether Government are aware that the agriculturists have to pay four annas per cart load of Karvis at Bhatane in Bassein taluka, in North Thana Division, while at a distance of one mile or so from that place they are required to pay one rupee per cart load of Karvis, at Shiravli in the West Thana Division in the same taluka ;

(d) whether Government are aware that the agriculturists in Bassein taluka are required to consume large quantity of minor forest products ;

(e) if the answer to (d) is in the affirmative, whether Government intend to remove the anomaly referred to in clause (c) above and thus help the agriculturists in their present distressing condition.

(f) whether Government are aware of the representation made by the Bassein Taluka Agricultural Association on the 12th March 1936 to the Conservator of Forests regarding Forest grievances.

(g) whether Government intend to give relief to the agriculturists in Bassein taluka in their present plight by permitting them to remove minor forest products from all the ranges of the West Thana Division and the North Thana Division at the rates mentioned in their representation ?

The Honourable Mr. MORARJI R. DESAI : (a) Yes.

(b) The disease on betel vines used to take a heavy toll in the Bassein taluka for some years and, at one time (1928 to 1932), it was feared that the crop would be wiped out. However, suitable cheap and efficient remedial measures for controlling the disease have been devised and introduced by the Agricultural Department and have been demonstrated widely to the cultivators in Bassein and Mahim. With the adoption of these preventive measures, there is no danger of the crop being wiped out. The areas under betel vine are given in annexure. It will be seen

that the area in Mahim is steadily increasing, while that in Bassein is more or less constant and not declining. This results from the demonstration of suitable remedial measures against disease.

The heavy slump in the prices of agricultural products is general and has an adverse effect on all agricultural producers, including the betelvine or plantain growers. There are no grounds for stating that the cost of the production of these crops is heavy with reference to returns.

(c) With effect from 1st September 1937 the rate for karvi removed for domestic and agricultural purposes at Shiravli has been reduced to 4 annas per cart load which is equal to that fixed for the North Thana division.

(d) Yes.

(e) Please see reply to clause (c) of the question.

(f) Yes.

(g) The following statement shows the rates suggested in the representation made by the Bassein Taluka Agricultural Association in March 1936 and those now charged by the Forest Department for the products removed for domestic and agricultural purposes :—

Serial No.	Kind of produce.	Rate suggested in the representation.	Rate now charged by the Forest Department.
1	Bundhis ..	2 annas per 100 ..	4 annas per 100.
2	Manvel bamboos ..	Re. 1 per 100 ..	Rs. 3 per 100.
3	Tokar Padai ..	Rs. 2 per 100 ..	Rs. 5 per 100.
4	Karvi ..	4 annas per small cart and 8 annas per large cart.	4 annas per cart (without distinction between a large and small cart).
5	Zita (side branches) ..	8 annas per cart ..	4 annas per cart.

The rate for serial No. 1 was raised from 2 annas to 4 annas with effect from 1st May 1935 as the former rate was very low. The rates charged for serial Nos. 2 and 3 were fixed as long ago as 1891, while those charged for serial Nos. 4 and 5 are less than those suggested in the representation. All these rates have been fixed after a careful consideration of all factors and Government is unable to reduce further the rate for any of these products. Under the sanctioned privilege code the inhabitants of forest villages and wild tribes are permitted to remove bamboos and karvi free of charge within the limits of the forest block in which their villages are situated for *bona fide* local consumption.

Annexure showing the areas under betelvine in Bassein and Palghar talukas during the last six years.

Year.	Area in acres in	
	Bassein.	Palghar.
1931-32	434	60
1932-33	451	49
1933-34	495	7
1934-35	519	11
1935-36	520	15
1936-37	516	31

Mr. G. K. PHADAKE: Supplementary with reference to reply to (g). Are not the rates of serial Nos. 2 and 3 too high in the present economic conditions?

The Honourable Mr. MORARJI R. DESAI: I cannot give any opinion on that point without further examination.

Mr. G. K. PHADAKE: Will the Honourable Minister consider the advisability of revising these rates on account of the abnormal fall in prices of paddy etc.?

The Honourable Mr. MORARJI R. DESAI: This is a suggestion for action. I can say that the whole question is going to be examined as per proposals that will be sanctioned by this Assembly.

ELECTION RULES OF BASSEIN MUNICIPALITY.

*Mr. G. K. PHADAKE (Thana South): Will the Honourable Minister for Local Self-Government be pleased to state—

(a) whether Government are aware that the seats for election purposes have not been properly distributed by the Bassein Municipality;

(b) whether Government are aware that consequently the people of Paddy Ward No. 2 are continuously applying to the authorities concerned in the matter;

(c) whether Government intend to take any steps to redress this grievance of the people of Paddy Ward No. 2;

(d) whether Government are aware that the existing election rules allow the District Municipalities to include in the electoral roll Assembly Voters residing outside the Municipal limits but living within a range of 2 miles;

(e) whether Government are aware that these rules are detrimental to the interest of the Municipal rate-payers particularly of Wards Nos. 1 and 2 of the Bassein Municipality ;

(f) whether Government are aware that as the neighbouring villages coming within the range of 2 miles are thickly populated and as the franchise has now been extended, outsiders are likely to outnumber the regular rate-payers ;

(g) whether the attention of Government has been drawn to the criticism on this subject published in the "Bombay Chronicle" dated 17th June 1937 ;

(h) whether Government have considered the advisability of amending the election rules of the Bassein Municipality so as to safeguard the interest of the actual rate-payers ?

The Honourable Mr. L. M. PATIL : The attention of the honourable member is invited to the reply given to question† put by Mr. G. D. Vartak on the same subject.

Mr. G. K. PHADAKE : Supplementary to (e) and (f). Is the Honourable the Minister for Local Self-Government aware that such anomalies exist in some other municipal areas also ?

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

Mr. G. K. PHADAKE : Will he be pleased to consider their cases also ?

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

UNSTARRED QUESTIONS AND ANSWERS

CASES DISPOSED OF BY VILLAGE POLICE PATELS IN 1936-37.

Mr. S. R. BHARTIYA (West Khandesh East) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) the total number of village police patels in the Province of Bombay who were empowered in the year 1936-37 by the Magistrates of the Districts concerned, under section 15 of the Bombay Village Police Act, 1867, to try cases of the nature referred to in the said section ;

(b) the total number of cases filed with the village police patels in the year 1936-37 under the powers vested in them under sections 13 and 14 of the Bombay Village Police Act of 1867 ;

(c) in how many of these cases were the accused acquitted ;

(d) how many of these cases were compromised ;

(e) in how many of these cases were the accused convicted ;

(f) in how many of these cases were revision applications filed in the High Court ;

(g) what are the results of the revision applications filed in the High Court ;

(h) the total number of cases filed with the police patels of taluka towns ?

The Honourable Mr. K. M. MUNSHI : (a) The total number was 16.

(b) to (g) The information required is not readily available and the time and labour which would be involved in collecting it from the whole Province would be incommensurate with the utility of the information.

(h) The total number was 867.

SUITABILITY OF VISAPUR JAIL AS A JAIL.

Mr. K. S. FIRODEA (Ahmednagar South) : Will the Honourable Minister for Home Department (and Legal) be pleased to state--

(a) whether Government are aware that the present accommodation in the Jails of the Province of Bombay is more than what is required for the ordinary Jail population ;

(b) whether Government are aware that the Visapur Jail has been condemned as unfit for being maintained as a Jail ;

(c) if so, for what purpose it is still maintained ;

(d) whether Government have considered the advisability of appointing a Committee to inquire into its suitability or otherwise as a Jail ?

The Honourable Mr. K. M. MUNSHI : (a) Government have recently considered the question of jail accommodation of this Province and the possibility of reducing the number of Jails has been found to be impracticable and uneconomical at present. Certain retrenchments are, however, under consideration.

(b) No. On the contrary the jail at present is in a very good condition.

(c) Does not arise.

(d) No. The question of converting the Visapur Prison into a Farm Colony is at present under the consideration of Government.

ALLEGED PREFERENCE GIVEN TO NON-GRADUATES IN THE ADMISSION TO POLICE TRAINING SCHOOL AT NASIK.

Mr. ISMAIL HASAN BAPU SIDDIQUI (Kanara District): Will the Honourable Minister for Home Department (and Legal) be pleased to state—

- (a) whether Government are aware that in the selection of probationers for the posts of Police Sub-Inspectors for training in the Police Training School at Nasik non-graduates are preferred to graduates;
- (b) if so, what are the reasons for the same;
- (c) how many graduates had applied for admission to the said school during the last three years;
- (d) how many of them were admitted to the school;
- (e) how many non-graduates were admitted to the school during that period;
- (f) what were their special qualifications for being selected;
- (g) whether Government have considered the advisability of issuing instructions to heads of departments to prefer graduates to non-graduates, when they satisfy all other requirements?

The Honourable Mr. K. M. MUNSHI: (a) In the selection of candidates for admission to the Police Training School, Nasik, for training as Sub-Inspectors of Police the standard of education possessed by candidates is only one of a number of factors which are taken into consideration. Non-graduates are not given preference over graduates; in fact, other factors being equal, graduates stand a better chance of selection than non-graduates. Candidates found most suitable for police work are selected.

- (b) Does not arise.
- (c) 219.
- (d) 14, thus giving a ratio of one selected out of every 16 graduate applicants.
- (e) 78 out of 3,181 who had applied for admission, giving a ratio of one selected out of every 41 non-graduates.
- (f) Education, general intelligence, physique, previous record and antecedents and general aptitude for police work.
- (g) Government consider that there is no need to issue any such instructions.

ELECTION RULES OF BASSEIN MUNICIPALITY.

Mr. G. D. VARTAK (Thana North): Will the Honourable Minister for Local Self-Government be pleased to state—

- (a) whether Government are aware that the seats for election purposes have not been properly distributed by the Bassein Municipality;

(b) whether Government are aware that consequently the people of Papy Ward No. 2 are continuously applying to the authorities concerned in the matter ;

(c) whether Government intend to take any steps to redress this grievance of the people of Papy Ward No. 2 ;

(d) whether Government are aware that the existing election rules allow the District Municipalities to include in the electoral roll Assembly Voters residing outside the Municipal limits but living within a range of 2 miles ;

(e) whether Government are aware that these rules are detrimental to the interest of the Municipal rate-payers particularly of Wards Nos. 1 and 2 of the Bassein Municipality ;

(f) whether Government are aware that as the neighbouring villages coming within the range of 2 miles are thickly populated and as the franchise has now been extended, outsiders are likely to outnumber the regular rate-payers ;

(g) whether the attention of Government has been drawn to the criticism on this subject published in the *Bombay Chronicle* dated 17th June 1937 ;

(h) whether Government have considered the advisability of amending the election rules of the Bassein Municipality so as to safeguard the interest of the actual rate-payers ?

The Honourable Mr. L. M. PATIL : (a) Government find after inquiry that the seats are properly distributed except in the case of Wards III and IV where a slight readjustment would be justifiable.

(b) The people of Papy Ward No. II had applied to the Collector of Thana for the transfer of a certain area from Ward No. I to Ward No. II and for the allotment of one more seat to Ward No. II from Ward No. IV. As the proposal was considered inequitable in view of the basis on which the present distribution of seats has been made the request was not granted.

(c) Ward No. II has no real grievance in regard to the allotment of seats—*vide* reply to clause (a) above.

(d) Yes.

(e) and (f) Yes. Proposals for the amendment of the election rule in question so as to remove this grievance have been called for from the Commissioner.

(g) Yes.

(h) *Vide* reply to clauses (e) and (f) above.

**BILL No. V OF 1938 (A BILL TO REMOVE DISABILITIES
OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).**

The Honourable Mr. K. M. MUNSHI : Sir, I beg to present the report* of the Select Committee on Bill No. V of 1938.

The Honourable the SPEAKER : The report of the Select Committee on Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples) is presented.

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE
TEMPORARY RELIEF OF SMALL HOLDERS IN THE
PROVINCE OF BOMBAY).**

The Honourable Mr. K. M. MUNSHI : Sir, may I ask for an extension of time till tomorrow morning to present the report of the Select Committee on Bill No. VI of 1938 ?

The Honourable the SPEAKER : The motion is that time to submit the report of the Select Committee on Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay) be extended till tomorrow.

Question put, and agreed to.

NOTICE OF AMENDMENTS TO BILLS.

The Honourable the SPEAKER : Before we proceed with the business of the House, I would like to invite the attention of the honourable members to one point with reference to the amendments that may be taken up relating to the Bills that will be coming for discussion from Monday onwards. As the Bills have come through the Select Committees and changes in some clauses are made, it will be necessary for the honourable members to give fresh notices even in the case of amendments which are identical with the amendments already tabled. Some amendments may require some verbal change, and in some other amendments, substantial changes may be necessary in view of the amendments that might have been made by the Select Committees. Therefore, honourable members who wish to table amendments, even if they want to have the same amendments as already tabled, should give fresh notices.

Then, I would like to make one further point clear and it is with reference to those amendments which require the previous sanction of the Governor. Sanction already obtained will be taken as proper sanction in the case of amendments which are the same as those previously tabled. Fresh notice of the amendments will not necessarily involve a fresh obtaining of the sanction of the Governor, provided, of course, the amendment is substantially the same.

Sir ALI MAHOMED KHAN DEHLAVI : One thing is not quite clear to me yet. Probably you have not thought over the point. An honourable member tables an amendment to a Bill, and before it is taken up the Bill is referred to a select committee. When that Bill comes back from the select committee he finds that his amendment, as tabled, may yet be pressed. In such a case, why should he table a new amendment ?

The Honourable the SPEAKER : No new amendment is required. That is not what I said.

Sir ALI MAHOMED KHAN DEHLAVI : Why is a fresh notice required ?

The Honourable the SPEAKER : Because the Bill that emerges from the Select Committee is an altered Bill. Therefore, to err on the safe side, it will be better to have a fresh notice of the amendment.

Sir ALI MAHOMED KHAN DEHLAVI : A fresh notice is not called for by the Standing Orders.

The Honourable the SPEAKER : I have not closely studied the Standing Orders from that point of view, but I felt some difficulty in the matter and that is why, in order to avoid any such difficulty, I have made this suggestion.

Sir ALI MAHOMED KHAN DEHLAVI : A practical difficulty may arise. Suppose, for instance, one of my party members had tabled an amendment before the Bill went to the Select Committee. After the Bill has emerged from the Select Committee, he finds that his amendment can be moved even at this stage, but he is not here when you give this direction ; and when he comes back and probably finds that the Bill is in hand, if he gets up to move his amendment it will be rather hard lines on him.

The Honourable the SPEAKER : In the particular cases the Select Committee have made considerable changes ; some of the clauses are also changed. So, it will be necessary to make changes in the amendments also. In a case like the one given by the honourable member Sir Ali Mahomed Khan, I do not see how the absence of the mover of the amendment will affect the merits of the case. Assuming no further notice was necessary, the very fact that the mover of the amendment was absent when the amendment was called, debars his right to move the amendment.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, I have not been properly understood. I say suppose an honourable member is absent when you give this direction today and he returns to the House probably at the psychological moment when the Bill is in hand ; he then gets up and begins to move his amendment. In view of this direction, you will rule it out, and if you do that, it will be hard lines for the member.

The Honourable the SPEAKER : The Chair can be trusted to use its discretion rightly.

Sir ALI MAHOMED KHAN DEHLAVI : This direction, I understand, is in the case of this particular Bill only and not a sort of standing instruction to the honourable members for all future occasions also.

The Honourable the SPEAKER : Not for all future occasions, but in the particular cases where Bills come from the Select Committee with changes made by them.

We shall now proceed with the resolution before the House—the resolution moved by the honourable member Mrs. Munshi.

RESOLUTION RE : COMMITTEE ON UNEMPLOYMENT.

Question again proposed—

“ This Assembly recommends to Government that in view of widespread prevalence of unemployment in the Presidency a Committee should be appointed to inquire into its causes and to recommend measures for its relief.”

Mr. W. W. RUSSELL (Bombay City *cum* Bombay Suburban District) : Sir, I rise to support the resolution moved by the honourable member Mrs. Munshi, but in doing so I would like to make it quite clear that while we, the Progress Party, are more than anxious to do all that is humanly possible to reduce unemployment, we feel that a few counter arguments should be offered to those put before the House last night by the honourable member Mrs. Munshi. The arguments used both during the discussion on this resolution and on the apprentices resolution yesterday seemed to lack that air of reality which should be the hallmark of debate in such a House as the present one. While at least a portion of the lack of logic which characterised the speech of the honourable mover of this resolution (Mrs. Munshi) may be attributed to her sex, I feel this excuse cannot be brought forward to justify a lot of the maiden speeches which fell from the lips of masculine speakers yesterday.

To judge from the two speeches—that of the honourable member Mr. Gokhale and the speech of the honourable member Mrs. Munshi—one would imagine that they had neither of them heard of the balance of trade. The balance of trade for the last year, 1936-37, for the first time for a great many years, was definitely in favour of India, which means that during that particular period under review India sold and exported to the world 92 crores worth more of merchandise than she bought from the world, and this applies particularly to the United Kingdom to which she sold 18 crores worth more of merchandise than she bought from the United Kingdom. In fact Britain was a better customer last year of India than India was of Britain. I think the implications of this fact must be obvious to every member of this House.

I would now like to refer to one or two main arguments which were advanced by the honourable the mover of this resolution and refute or attempt to refute them.

To start with the question of the railways, Mrs. Munshi inferred that because the Railways were, as she suggested, in the hands of foreigners,

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the result was that there was unemployment so far as Indians were concerned. This argument, in view of the many thousands of Indians employed—I do not think I am exaggerating—in the Railways, seems hardly worth dealing with in detail.

The second point concerns shipping. Here I would like to say that Mrs. Munshi is quite right when she says that shipping is largely in the hands of foreign interests; but I would like to make one point clear that a large number of United Kingdom companies, who are engaged in shipping, employ a large number of Indian sailors. And that too in trades which are plied all over the world between countries not necessarily connected with India, which means

2-30 p.m. that the wages and salaries paid to Indian sailors all over the world, perhaps in America and Africa, are remitted to their relations and friends in India and thus returned to the Indian village. Here perhaps you will forgive me if I mention a few figures in this connection. I am told on very reliable authority that there are 44,000 Indian sailors employed in foreign companies and of that number 80 per cent. are employed by British companies, that the monthly wage-bill of these sailors amounts to 13½ lakhs of rupees or in a year 1½ crores—a considerable sum which accrues to India from non-Indian companies.

The other point which is of tremendous importance is the question of Indian companies proper, of which there are not many at present, but of which in all probability there will be more in future. Here, I think it is true to say that no man in his senses would object to any Indian company which trades legitimately and in a spirit of healthy competition and co-operation with other companies. Here I would like to repeat a little story which was recounted the other day in the Council of State by the Honourable Mr. Parker, when the same question was being discussed in that body. Mr. Parker said that he was in London thirty years ago and at the same time there was in London another young man named Gordon Selfridge. The latter gentleman prospered during the course of thirty years by founding and developing a large shop. Mr. Parker went elsewhere, did not do so well, did not become so rich; but merely because he had not thought of the idea of a multiple store that Mr. Selfridge had, he did not feel that there was any reason why he should demand any share in the capital of Gordon Selfridge and Company.

And now, Sir, I would proceed from the negative arguments, which were intended to refute those of Mrs. Munshi, to a more positive argument and that is the question of population. In my opinion, one of the reasons for unemployment in this country must, indeed cannot but be due to the large increase in population, the rural population of India, which has taken place during the last century and a half, due to the settled conditions which have resulted from an India-wide administration. A cursory glance at Moghul history or Maratha history will, I think, prove that the condition of the peasantry in the days of the seventeenth or eighteenth centuries and much earlier was no bed of roses, and that warring armies

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princelings with no interest in the peasants as such but who were engaged in purely internecine warfare among themselves. It is very interesting to see that Government have published recently or completed the publication rather of the supplement to the Peshwa's Daftar. This extremely interesting period of Maratha history will now be available in detail to all of us, but I am quite sure that any member reading these papers will be absolutely convinced of the point I am putting before you. The peasants in those days did not have anything like the settled existence which they enjoy today and during this period of settled conditions their means of productivity have not increased commensurately with the increase in population, with the result that unemployment, poverty and disease have increased. Here I would suggest that the honourable the mover of the resolution should impress on her friend, the Honourable Minister for Agriculture, that one of the best ways of helping to solve this admittedly terrible problem would be for the Minister to insist on a very much larger grant than the 14 lakhs or 1 per cent. of the total revenues of the Province, which is now accorded to his department, in order that the propaganda of the Agricultural Department should be considerably improved and developed. The results of the admittedly excellent research work which is now being carried on at the Agricultural College at Poona and elsewhere should be made available to the agriculturists in their fields, so that they can increase their productivity and enhance their purchasing power. The result of such a policy must be to reduce unemployment among the rural masses. Here, if you will bear with me for a minute, I would like to read out some figures from a reliable source which prove to my mind that industry in this country is on the up-grade and that employment in industry is increasing every year. I quote from an article in the *Times of India* reading as follows :

"During the year 1936-37, sugar output was more than trebled between 1928-29 and 1936-37; cotton piece-goods yardage was nearly doubled; cement rose by 80 per cent., steel by 70 per cent. and paper by 25 per cent. These figures also provide an explanation of the drop in prices of industrial products within India, which may be put down to intensified internal competition and increased efficiency in methods of production."

In conclusion, Sir, I would again emphasise very strongly that we in the Progress Party wish that all methods may be tried which may help to do away with, to solve, this enormous problem of unemployment. We do however feel that industrial conditions are improving and that the real difficulty is the problem of unemployment and poverty in the rural areas which we believe can only be solved by undertaking intensive agricultural propaganda through the agency and under the aegis of the Agricultural Department.

With these words, I support the motion of the honourable member, Mrs. Munshi.

Mr. K. G. GOKHALE (Belgaum, South): Mr. Speaker, Sir, I had no intention to take part in the debate today, but as the honourable speaker has referred to a matter about my resolution, I want to speak about that question.

The Honourable the SPEAKER : What the honourable member means is the last gentleman who spoke and not the Speaker.

Mr. K. G. GOKHALE : I mean the honourable member Mr. Russell. The honourable member Mr. Russell has attributed a lack of knowledge to us and he said that we did not understand the principle of balance of trade. The very point which he has made out today supports my proposition and not his. My proposition was that when India is sending out her raw material to such a great extent and though in return we are getting the finished products, still some balance remains always in our favour either with England or Germany or any other nation. The purchasing power of India is so great that India can command and demand from those people from whom we get goods to train our Indian youth. That was the idea entertained by me when I said that in spite of the Adverse Ratio the balance of trade being in our favour, still India is not able to secure facilities for her youth to get that training from foreign firms. Nations like Afghanistan or China or Persia are getting all these facilities from Japan or England or Germany though they are not in such a favourable position as India is in the matter of balance of trade. So, that is one point.

Coming to the second argument which he has put forward now, about the healthy competition being allowed to foreign firms in India, in starting insurance companies or others—

The Honourable the SPEAKER: What is it that the honourable member is referring to ? Is he referring to the—

Mr. K. G. GOKHALE : Unemployment problem is the proposition before the House and the honourable member stated that the unemployment problem is not there because of the healthy competition of the foreign companies, and that we should allow them such healthy competition. That was the point put forward by the honourable member Mr. Russell. My point is that even if he goes back to the history of England, as he has asked us to refer to the history of Peshwas, is it not that when in England the trade was in the stage of infancy, England first took to protection and then to free trade ?

The Honourable the SPEAKER : I am afraid the discussion is proceeding a bit tangentially. The resolution, as I see, is that a committee should be appointed to inquire into the causes. It is possible to include within the region of relevancy the possible causes, but if inclusion of every cause is made a subject matter of debate, I do not know how far the relevancy will extend. The only question before the House is whether there is wide-spread prevalence of unemployment and if that is so, whether a committee should be appointed to inquire into the causes, and the various causes and the various measures are subject matters to be entered into by the committee to be appointed if the House agrees to one. So far, it is permissible to go into a detailed discussion of the causes and reliefs as may be referred to by individual members here and there just to illustrate as to what they mean. With these limitations, the honourable member might carry on his speech.

Mr. K. G. GOKHALE : Very well, Sir, but I was only trying to impress upon the House the causes of unemployment and the necessity or otherwise of adopting a certain measure of protection by stopping unhealthy competition between certain insurance companies, and I was emphasizing that the Indian nation, if it wants to remove the causes of unemployment, shall have to adopt measures of protection as other countries do when they want to give help to their industries which are in an infant stage. That was my argument.

The third point was that over-population was one of the important causes of unemployment as stated by the honourable member Mr. Russell.

Mr. W. W. RUSSELL : What I stressed was the increase in population. There is no question of over-population which I believe is only a tenet of the Malthusian theory.

Mr. K. G. GOKHALE : Increase in population is not the only cause for the present unemployment. Nobody denies that there is an increase in population. It is so not only in India but it is admittedly so in other countries of the world and the last census did show that in Russia also within the last fifteen or twenty years, the population has not decreased but increased. But the Government in Russia try their level best to actually create such industrial situation in the country that they are able to treble the income of agricultural produce and they are resorting to several improvements in their industries by which the solving of the unemployment problem goes on side by side with the increase in population. That is not done in India and therefore we are suffering from the increase in population as there is proportionate increase in agricultural produce and other industries also.

Mr. S. V. PARULEKAR : Do you want to do that in India ?

Mr. K. G. GOKHALE : Of course.

The Honourable the SPEAKER : Order, order.

Mr. K. G. GOKHALE : Therefore, in this particular case of the unemployment problem, as in so many other cases, it is the duty of all of us to see that this problem is properly tackled and handled and if the resolution moved by my honourable friend Mrs. Munshi is supported by all of us unanimously, without pointing out to certain reasons or the causes which were absolutely at a tangent, we shall be able to find out how best to approach this difficult question. I therefore appeal to this honourable House to give their unanimous support to this resolution.

The Honourable the SPEAKER : The honourable member Mr. Jadhav has tabled an amendment. Will he kindly move it for the information of the other speakers also if he is anxious to do so ? Otherwise, he need not move it.

Mr. D. G. JADHAV : I do not insist so much. I wanted to make it clear by moving this amendment.

The Honourable the SPEAKER : Then the honourable member does not wish to move it, that is how I understand his position to be.

Mr. MIRZA AKHTAR HASAN : (Trade Unions of Seamen and Dock Workers) : Sir, I rise to support the motion before the House and want to just make a few remarks. The honourable member Mr. Russell has pointed out a certain thing about the seamen. He said at present there are 44,000 Indian seamen employed in foreign shipping companies. I think he read from the report of 1935. The latest number is 41,000. Formerly, there were 81,000 Indian seamen employed on British ships, but there was a regular attempt—I should call it a deliberate attempt—on the part of foreigners to reduce the number and now it has come to 41,000, and I will quote an instance. In the year 1935 a certain member from England, whose name I do not know and it was not mentioned also there, gave it out that he was prepared to give 8 million pounds sterling as a subsidy to the Trump Committee if they were to disengage all the Indian seamen from the British-owned ships. Luckily, the honourable member Mr. Jamnadas Mehta was at Geneva at that time and we wired to him there and he recorded our protest and it was found out that it was nothing but a bogey because the Indian seamen were only paid from 20 to 40 rupees whereas English seamen were paid six times what was paid to Indian seamen and it was going to come to about three crores of rupees loss to the British Companies. So, that scheme was not given effect to as it was not a practical idea. Otherwise, all the Indian seamen would have been disengaged to-day and the Indian seamen would have been nowhere. I should also most respectfully submit to this House that this should serve as an eye-opener as showing the extent to which the British people are prepared to go, namely, they are not prepared to have an ordinary Khalasi or a Laskar on a British-owned ship and all the while they are keeping Indians out of all the highways of trade and commerce.

Secondly, I should like to show how dangerous to our interests the capitalist and imperial interests are. For example, every ship, which sails from the Indian coast, has to deposit as subscription with the Shipping Board a certain amount for the Hospital Fund and that practice has been in vogue for the last forty years, and I understand as the reports have been non-official reports, one of the members, who is a very eminent business man, Mr. Master of the Scindia Steam Navigation Company, carried out some researches and found that out of the Hospital Fund a club for the British seamen has been established in Rangoon and the office of the secretary, as the report reads, of that club would have been an envy of the Prime Minister of the Indian Empire. So, all these things which are charged to the Indian seamen and Indian capital are being used by the foreigners and we have been ignored for reasons unknown to us. I hope that now at least that we have this provincial autonomy, some good will result and that we should show some interest in this question and safeguard the rights and privileges of our Indian seamen.

[Mr. Mirza Akhtar Hasan]

I therefore strongly appeal to the honourable member Mr. Nanda that he will investigate the case of the Hospital Fund and that he will see the necessity of other recreations for Indian seamen and make sure that the money charged to Indian seamen and Indian capital is utilised at least for the benefit of Indian seamen.

Mr. P. J. ROHAM (Ahmednagar South) (*Addressed the House in Marathi*): Sir, I rise to lend my support to the resolution moved by the honourable member Mrs. Munshi and in doing so, I will only say one or two things without taking up much time of the House. I would like in this connection to quote one or two paragraphs from the Press Note which the Government issued on the 17th August 1937:

"For the protection of the industrial population, Government visualise the development of a comprehensive system of social insurance. The requisite statistical and actuarial basis for the various forms of social insurance are totally lacking at present. Government have already set in motion the machinery of the Labour Department for the collection of material which within a reasonable distance of time should enable the Government to decide what can be done to frame sound and workable schemes conforming to Indian conditions....."

From this it was thought that at least in these six months there would be some direct and practical effort made by the present Government to do away with unemployment, by creating a Fund or any other thing. The honourable member Mrs. Munshi's resolution asks for the appointment of a committee to go into the causes of unemployment and to indicate the measures to be taken to relieve unemployment. This question of unemployment is a very serious one indeed. We all know that unemployment in the country is increasing. It is not confined to any particular caste or section of society. We can see unemployment in every class and community. I think it would have been much better if a committee had been appointed to go into the question of providing unemployment benefit. Merely a committee to go into the question as to how unemployment is created will not serve the purpose. Six months ago Government have enunciated their policy, and I think efforts should now be directed to providing means for unemployment benefit.

Mrs. ANNAPURNA GOPAL DESHMUKH (Bombay City) (*Addressed the House in Marathi*): Sir, I rise to support the resolution. The question of unemployment is an important one. Unemployment is not confined to any particular class; it is prevalent among the educated as well as among the uneducated. Many people think that unemployment prevails on account of education. That is an absolutely wrong idea, and therefore the imparting of education should not be stopped on account of this wrong notion. We should have primary education as in other countries, not only for all men but for all women also. Illiteracy combined with unemployment is much worse than want of employment after education. The percentage of educated people in this country is 10 per cent. for men-folk and 1 per cent. for women-folk. Therefore, education is necessary. After primary education, the education imparted in schools and colleges should be of a kind which would encourage the opening of factories and workshops. I do not think that because there is

[Mrs. Annapurna Gopal Deshmukh]

unemployment education should be stopped. To say that would be like saying that because there is indigestion all food should be stopped. In my opinion the chief reason for unemployment in this country is that the wealth in the country was going out of the country. India used to be called "Suvarnabhumi" or the land of gold. All the gold has gone out of the country and even the sand is being taken out of the country. It is, in my opinion, only when we stop the drain on the country that unemployment is likely to be reduced. With these words, I support the resolution.

Mr. S. H. JHABVALA (Railway Unions): Sir, I extend my support to the resolution moved, however lukewarm that support may be, for the reason that I believe that the approach to the problem made and that is suggested is not the correct one. The whole point underlying the question of unemployment has unfortunately not been tackled in the right spirit nor with a correct understanding of the course of discussion. At present the whole system of production is capitalist production and capitalist production is an instrument for the extraction of surplus value. Under the circumstances, we find that the capitalist State has so firmly planted itself that unemployment has inevitably become absolutely a by-product of the present system, and you cannot get out of it.

I applaud the various arguments advanced and the various methods in which our various friends have brought forth various proposals, but sitting in a corner and viewing the whole economic situation of the country from the correct angle of vision we would find that all these methods are futile. In England the same crisis had arisen, and no less an expert than the late Mr. Ramsay Macdonald made an approach to this problem and tried to solve it, and the only conclusion that he came to was to give unemployment doles, or start some unemployment benefit fund, or ask trade unions or philanthropic institutions to contribute to the general funds for the relief of unemployed or to give something by way of unemployment benefit of a temporary nature. That is all that they could do. But down to the present day unemployment rages in a civilised and far advanced country like England even. The same thing happens in Germany, the same thing happens in Italy, for the reason that there is a continuous unabated system of capitalist production prevalent there. I know, Sir, in our own country, why, in our own town, there are a good many philanthropic gentlemen who own factories and who are prepared to give employment to a number of men in their factories and workshops. But there is a limit to their philanthropy and sympathy as well. They may be able to give employment to 500 or 1,000 unemployed people. On account of the system under which production is made and the factories are conducted, these capitalists however nationally minded they may be and however charitably inclined also, however sympathetic they may be even in their industrial outlook will have to say "Please, for God's sake, now our philanthropy is exhausted; we cannot entertain any more unemployed than we have done". Unless the whole basis of the existing exploitational society is radically altered, it is impossible to solve the question of unemployment.

[Mr. S. H. Jhabvala]

Take for example the Sapru Committee. I think Sir Tej Bahadur Sapru is a very learned man. He has advanced much in the study of economic philosophy and he has tried to understand the whole problem fully well and he has submitted reports to the Central Government and to the United Provinces Government giving out his whole idea and solution of the problem as he imagines. Still, the whole position of unemployment is first where it was. The Sapru Committee began its task, some three years ago. Sir Tej Bahadur Sapru along with his other friends have been unable to proceed further than they have done, and while Saprus are framing their reports only to-day, the unemployed people have been simply swelling in numbers increasingly. Only the other day my honourable friend Comrade Nariman said here that near the Congress House a couple of young people had attempted to commit suicide because they could not find employment. That will show that even after a man of Sir Tej Bahadur's eminence tackling the question in the way in which he has done three years ago, we find only day before yesterday two persons attempting to commit suicide at the very door of the House of the Congress whose members are now coming here asking the House to pass a resolution for the appointment of a committee to investigate into the whole problem. The more you investigate, the worse the condition will be for your land in the region of no-where. The only way is that Government must gird up its loins in the right direction and must be prepared to undertake an agrarian and industrial programme by which the whole structure of society is overhauled, capitalist production is stopped and power is vested in the hands of those persons who work and who produce the wealth of the country but who to-day are kept out of their jobs. With these remarks, with the country placed as it is in a helpless position, with the economic problems unsolved as they are and faced as I am helpless with this whole army of opposition, I can only say that I also am prepared to support the resolution of Mrs. Munshi, for I am still prepared to give her and her friends a still further chance to investigate into the problem and to find out ways and means for removing unemployment, but I can tell you that all these committees and all this investigation will lead you nowhere until some radical steps are taken for the overhauling of the whole economic system by enlarging your industrial vision on correct lines as required by the force of Socialist conditions.

Mr. K. F. NARIMAN (Bombay City): Sir, my honourable friend to
 3 p.m. my right (Mr. Jhabvala) has imposed a task upon
 the present Government which it is absolutely
 impossible for them to fulfil. Knowing the disabilities of Government
 to ask them to destroy the capitalist system—I do not know whether in
 the country or in the world—it is too tall an order for this Government.
 But I would make certain suggestions which would go to show that
 Government can undertake them without any of the restrictions they
 might have been faced with in undertaking to change the capitalist
 system, though I admit that the present move is in the right direction.
 I was surprised that the honourable member of the Progressive Party—

An Honourable MEMBER : Progress Party.

Mr. K. F. NARIMAN : "Progressive Party" would have been more complimentary. I was surprised at the remarks of the honourable member that he attributed the defective arguments of the honourable mover of this resolution to her sex. I should have expected more gallantry and chivalry from a member of that community. I was not here to hear the defective arguments of the honourable mover, but I can assure the honourable member that, whenever these problems have been undertaken by the members of the fair sex, they have solved them with greater success than the male sex. The members of the fair sex when they undertake such problems, try to get what little help they can to achieve their object and solve the problems. Therefore, the defective arguments cannot be due to the sex of the mover. Ultimately, members of the fair sex solve the problems, and they are going to lead us in future.

The other argument he emphasised was about the Indian sea-men. I can point out several other instances where Indians have been employed by large European employers. Large European employers employ Indians not because they want to solve the unemployment problem in India but because, according to my honourable friend Mr. Jhabvala's capitalist system, they want to increase their profits. It is to their advantage, if they can get Indian labour as efficient as European labour, at the same time much cheaper than European labour. An Indian sailor getting one-fifth the wages of a European sailor can do work as efficiently as a European sailor. It is a business proposition that in European firms they employ Indians. It is not out of sentiment for Indian unemployment which we want to solve. In the higher spheres, where it is a question of higher commerce, higher trade and higher adventures, we, Indians, are thrown to the wall. But I would not go into the larger question but I will appeal to Government to consider a smaller issue which can provide employment and which can give practical material for solving this problem.

If you really want to solve the problem of unemployment, even to a small extent, you will have to develop industries in our own presidency. During the last session in Poona, I made a reference to this. About 15 years ago, at the instance of the then legislature, a report was prepared by an Indian Director of Industries, who made a thorough industrial survey of the whole presidency. In that report, several industries were mentioned which would come into conflict with the interests of European imports. Because the suggestions in that report would have come into conflict with foreign importers if they were given effect to, the report was not allowed to see the light of day. The then Honourable Home Member found that giving effect to the suggestions in that report would clash with

[Mr. K. F. Nariman]

the interest of the foreign importers and destroy it. The report contained many new industries which would have destroyed foreign industry. I will ask honourable members of Government to see if they can lay their hands on that report. If that report is found and if the industries mentioned there are started in this country, it will give employment to a number of young men who are unemployed, though it may cause some loss to the European importing firms. Even then, I hope our European friends, from their new angle of vision, will selflessly support the development of those industries, in the larger interests of this country. I ask Government to look for the report. Otherwise, I ask them to start an industrial survey of the country, and find out those industries which can be developed in this country. The capital needed for their development is either lying idle or being wasted. If these industries are started, they will give employment to at least 50 per cent. of the unemployed.

Hundred and one instances can be cited where Indian enterprise has not succeeded without any facilities from the State and without any co-operation from the State. In addition, the powerful foreign competition killed these enterprises even before they were born. There are many industries which I can mention—match-making, soap-making, bulb making, chemicals and a hundred and one other industries.

What is wanted is an industrial museum. There are so many young men having novel ideas and capacity for invention. They have got this patent and that patent. Where are they to go to? When they knock at the doors of the Congress House, and ask for some guidance, for some advice, we cannot give it. An industrial museum, as they have got in other countries, is an absolute necessity in a city like Bombay. These young men must be provided with laboratory, for carrying on experiments, with a good curator to guide them. They can carry on experiments there. Even if 100 experiments fail, there will be one discovery which will be successful and which will be very helpful for the solution of the unemployment problem. Something will come out of this, if not to-day, some years hence. This collection of statistics of the miseries of so many unemployed, their starvation and their suicide will not help towards the solution of the problem. What is the use of knowing these tragedies without going to the root cause of these tragedies? Unless you take steps to develop new industries, new discoveries and give encouragement to young men, the problem cannot be solved in this way. Still as a step at the beginning, this resolution deserves to be supported.

Mrs. LAXMIBAI GANESH THUSE (Poona City) (*Addressed the House in Marathi*): बेकारीवर कमिटी न नेमणें म्हणजे डॉक्टरशिवाय औषध घेणें यासारखें हास्यास्पद होय. सांप्रत सरकारवर बेकारीचा दोष नसून शिकलेल्या लोकांचा

[Mrs. Laxmibai Ganesh Thuse]

दुय्यम धंदाकडे ओढा नसल्यामुळे व न शिकलेल्यांच्या ठिकाणी आत्मविश्वासाचा अभाव असल्यामुळे बेकारी वाढत आहे. सर्व ठिकाणी अपवाद असतात त्याप्रमाणे याहि ठिकाणी अपवाद असू शकतील. बेकारीचे दुःख पुरुषांपेक्षां स्त्रियांना शारीरिक व मानसिक फार सोसावे लागते. इतर देशांत ज्याप्रमाणे स्त्रियांच्याकरितां कांहीं स्वतंत्र उद्योगधंदे आहेत त्याप्रमाणे आपल्याकडे नसल्यामुळे स्त्रियांमध्ये बेकारी फारच वाढली आहे. खरे पाहू गेले असतां बेकारीला पारतंत्र्य हें प्रमुख कारण झालेले आहे. कमिटीद्वारा ती सरकार दूर करण्याचा विचार करित आहे हा उत्तम मार्ग आहे. बेकारीशीं स्त्रियांचा निकट संबंध असल्यामुळे सदर कमिटीवर स्त्रियांना वेतले जावे.

Mr. H. P. MEHTA (Ahmedabad North) : Sir, I was greatly amused to hear what fell from the honourable member Mr. Russell of the Progress Party. Had it not been for the fact that he went at a tangent from the subject of the resolution, I should not have risen. He gave us a lecture on the Sin of increasing our numbers. It may be true that we have increased in numbers. But the point is, have we risen to the same extent in industrial progress? We have already been taught by our great masters, Dadabhai Naoroji and Romesh Chandra Dutt, and others that followed them, how our poverty and unemployment have arisen. We understand what our shortcomings are. The honourable member referred to what has been done to India by foreigners. He mentioned the shipping industry. The honourable member Mr. Mirza Akhtar Hasan has already pointed out what the British have done for us and are doing for us in the Shipping trade. So about the other trades. I feel that the resolution moved by the honourable member Mrs. Munshi is a simple one. It only recommends that a committee should be appointed to enquire into the causes of unemployment and to suggest measures for its relief. Does he mean to say that there is no unemployment in India? Does he mean that there is no unemployment in the Bombay Presidency?

The Honourable the SPEAKER : Order, order. The honourable member (Mr. Russell) never said that.

Mr. H. P. MEHTA : Then, Sir, the position is clear. The resolution is a simple one. Let him support it, and then the whole matter ends.

Mr. W. W. RUSSELL : Sir, on a matter of personal explanation. I did support the resolution. I never said that it was a sin that there was an increase in population in India. I merely pointed out that unfortunately the productivity of the peasants had not increased in proportion to the increase in population. I hope I have made the point clear.

Mr. H. P. MEHTA : I am very glad to know it.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I move a closure. Out of the two days allotted for non-official resolutions, one and a half days have been devoted to semi-official resolutions.

The Honourable the SPEAKER : I am inclined to agree with the honourable member Mr. Ali Bahadur Khan that the subject has been sufficiently debated upon. There seems to be also unanimity about the desirability of the appointment of a committee. So, I accept the closure.

Mrs. LILAVATI K. MUNSHI (Bombay City) : Sir, I am very glad to find that there is unanimity in the whole House about my resolution. But during the debate, a few points were mentioned by the members. So, by way of clearing any misunderstanding, I should like to offer few remarks.

The honourable member Mr. Russell first of all pointed out that there was a lack of logic in my arguments ; and very graciously he wanted to make allowance, so he said that it was because I belong to the inferior sex.

Mr. W. W. RUSSELL : Sir, on a point of personal explanation. I did not say "inferior".

Mrs. LILAVATI K. MUNSHI : Anyway, he said that it was the privilege of my sex to be not logical. Sir, I do not think that it is the sole privilege of ladies not to be logical. In this case, I do not admit that I was not logical. I think, mostly—in almost all cases—wherever there is any bungling done, it is done by men. I will point out a few instances. What about the League of Nations, which is the greatest bungling done by all the great men politicians of Europe ?

The Honourable the SPEAKER : Order, order. We are now going out of the scope of the resolution.

Mrs. LILAVATI K. MUNSHI : Well, Sir, the House is in a very happy mood and I wanted to give a few illustrations to show how illogical men are. Anyway, I would not prolong my remarks on the point.

Then, Sir, his first point was that Britain was a better customer of India than any other country. Well, I can only say that it pays Britain to be our best customer. He said then that the railways were giving employment to so many people. My objection was on the other ground. What about the money that they are sending out as the earnings of that body ? Who is managing it, and where does the profit go ? I can say the same thing about shipping too. On that point the honourable member Mr. Mirza Akhtar Hasan has already replied very ably to the honourable member Mr. Russell. He said that the actual number of Indian sailors employed is decreasing and not increasing. Besides, Sir, as has been pointed out by one honourable member, it really pays the companies

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to employ cheaper labour. It is not a matter of philanthropy or giving anything through generosity. We have been crying ourselves hoarse for the development of our Indian shipping. If we have not succeeded, the reason is not very far to seek. Whose interests require to be safeguarded? And why are we not given scope for the development of Indian shipping? I will just ask these questions without answering them.

The honourable member Mr. Russell referred to the warring armies of the 17th and 18th centuries. He said that we had now peace and tranquillity in our land and we were becoming prosperous. You will find, Sir, that in the 17th and 18th centuries, not only in India but all over the world wars were going on. [Interruption.] The honourable member was referring to the Peshwas' time and the unrest prevailing then and was comparing it with the peace and tranquillity that prevailed after the advent of the British regime. I am replying to that very argument. Sir, there may be different kinds of peace. There may be peace and quiet in death; and there may be peace in life. So, if there is peace in India, I do not know what kind of peace prevails here today.

But I quite agree with the honourable member when he says that the propaganda for agriculture should be improved. That was really a very good point that he made. I am sure the Minister in charge will keep it in mind. He further referred to the increase in trade. He said it had trebled during the last few years. Well, Sir, I wonder how much of it is due to gold exports. Any honourable member representing commerce will be able to answer that question. But I think that the favourable results that are apparent from the statistics are due more to gold exports than to real prosperity. Really speaking, we are a country producing raw materials. We cannot only treble, but we can produce everything that we want in this country if we are allowed to do it. And that is what I want. It is not a question of only increasing the output; it is a question of making our country self-supporting and self-sufficient. That is what I am aiming at. That is the only way in which we can solve our unemployment problem. We are not allowed to do that because of various reasons. You will see how unfavourably freights and other barriers affect Indian industries as against industries from other countries. Foreigners can bring their goods from a distance of 6,000 miles or more and sell them much cheaper than we can sell our own goods here. That shows that if we have our own Government and have got the power to develop, then such anomalies will never occur.

I will pass over the point about the increase of population. But I must refer to the remark made by an honourable member on the other side that this resolution merely seeks for the appointment of a committee and that it will serve no useful purpose. I agree that mere appointment of a committee cannot do much; but the question is so large that it is necessary for us to know the extent of this problem of unemployment. As I said yesterday, there is no census of the unemployed, and there is no data to go upon. Unless we know exactly what is the extent of unemployment we are not in a position to decide how to proceed. It is for this reason that I have suggested a committee.

[Mrs. Lilavati K. Munshi]

The honourable member Mr. Jhabvala, as usual, in a very superior way complained that the whole fault lay in the system of production—capitalist production, he said. I will answer him in this way. First, try to keep your money in your own country. Produce more wealth and keep it in your own country. The question of division will come later. So long as the wealth of this country does not go out, it does not matter whether this class has it or that class has it or the masses have it. That question will come later; we need not go into that now. He further referred to private philanthropy. I quite agree that such philanthropy cannot go far; no private person can tackle this question individually. It is the business of Government to take up this question and tackle it properly. He said that this problem had been in existence for the last many years and that it was going to continue. What does he want us to do? Does he want us to sit quiet, with folded hands, and do nothing? [Interruption]. Do it if you can. But, Sir, I must say that the mentality which he showed while speaking on the subject does not befit him.

There is only one more point which I want to answer, and that was mentioned to me privately yesterday by the honourable member Mr. Saklatvala. He said, "Do you not want that foreign countries should invest capital here....."—

Mr. S. D. SAKLATVALA: On a point of order. Can the honourable member refer to a private conversation? [Laughter.]

The Honourable the SPEAKER: That is a point of propriety; it is left to the honourable member to decide. The Chair cannot give a ruling on that.

Mrs. LILAVATI K. MUNSHI: There was nothing sinister in my mentioning it. I was going to say: we do want foreign countries to invest capital here, provided we have the management and provided we keep the profits in this country. In that case, it is really a very good thing to have. Otherwise, it is a doubtful privilege.

Anyway, Sir, I am very thankful to the House for giving me its whole-hearted support, and I hope Government will accept my suggestion.

Mr. GULZARI LAL NANDA (Ahmedabad Textile Unions): Sir, I rise to welcome the resolution which the honourable member Mrs. Munshi has moved. It is, to my mind, inconceivable that this House can be called upon to discuss a more important matter than that of unemployment:

Mr. C. P. BRAMBLE: On a point of order, Sir. I understood that when the honourable member Mrs. Munshi was asked to speak, it meant that the discussion on the subject was closed. I thought that that was the intention you had in mind.

The Honourable the SPEAKER: Government have a right of reply, even after the mover has spoken.

Mr. C. P. BRAMBLE : If that is your ruling, I accept it ; but the honourable member who has risen to speak (Mr. Nanda) in no way made it clear that he was speaking officially, on behalf of Government.

The Honourable the SPEAKER : It is not a question of my ruling. It is provided for in the Standing Orders. I may invite the honourable member's attention to Standing Order V, 9 (3) on page 24 of the Assembly Manual.

Mr. C. P. BRAMBLE : I am not disputing the point ; I only said by way of explanation that it was not clear that the honourable member Mr. Nanda was exercising that privilege in accordance with the rules.

The Honourable the SPEAKER : I think so.

Mr. GULZARI LAL NANDA : Sir, if any doubt has remained in the mind of the honourable member (Mr. Bramble) 3-30 p.m. on this point, I do not think it is too late to clear that up, and I am here on behalf of the Government to welcome this resolution. There are many problems confronting this Presidency and this country, but I cannot imagine that there is any other problem which has a better and a greater claim on the attention and the resources of this Government than the question of unemployment. Sir, in view of the importance of the question, and because there has been a good deal of analysis of the causation of unemployment and a bit of theorising about it, I too would crave your indulgence to permit me to make a few general observations on this question.

Sir, it is my own view that it is really absurd that there should be in existence anything like unemployment among human beings as long as humanity has not succeeded in getting rid of the need for food, clothing and many other commodities and services which are required for the satisfaction of the material and intellectual wants of human beings. As long as that need is there, there will be work to be done and labour to be put. I believe every human being has a right to have a share in the labour and to participate in the products of that labour. If a large number of people are kept out of that process of production, two things happen. One is that on those who remain employed falls the burden of maintaining themselves and those who are out of employment, and these latter are not able to procure all that is really due to them and which they require for the proper maintenance of life. Sir, as a matter of fact, as has been pointed out by the honourable member Mr. Jhabvala, the question of unemployment is of world-wide significance. Unemployment is not confined to one country or another. It exists in all the countries of the West. It exists where scientific knowledge and its application have gone farthest. In the year 1932 the International Labour Office made certain inquiries and they found that in the United States and certain other countries of Europe the unemployment figure had attained a total of about 3 crores. Of course they have taken only those statistics which were available and they did not cover all unemployment. Though this figure is of 1932, it cannot be said that

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unemployment does not exist now. I think in Great Britain today the number of unemployed recorded is about 13-14 lakhs. In the United States today it is about 10-12 per cent. of the total number of persons who have got employment. For our country unfortunately we have not got statistics. My honourable friend Mr. Nariman said that statistics are really a tragic thing which confronts us only with a tale of woe, without really having the power of removing that woe. I am afraid I would not agree with him. People do not believe that our problem is of such magnitude. People still belittle when we say that our country is suffering from a large volume of unemployment, chronic unemployment. They do not believe that. Therefore, I think statistics have certainly a value. But we have no statistics at all, and I think one of the first steps that will have to be taken in this direction is the collection of statistics of this kind.

Mr. S. V. PARULEKAR : Has it not yet been taken ?

Mr. GULZARI LAL NANDA : Some statistics have been collected already. Possibly you remember that there was an inquiry into the middle-class unemployment and a report also has been published. I think you may have seen it.

Sir, there is no gainsaying the fact that this country along with others, and I say more than others, is suffering from a heavy load of unemployment. It is groaning under that weight. The causes of that unemployment have been discussed in this House. It has been stated by the honourable member Mr. Jhabvala that it is due to the capitalist system and as long as that system is not destroyed or replaced by some better system, this problem of unemployment will remain unsolved. It has been pointed out, though it has been qualified and explained that it is because population has outstripped our productive capacity that we are suffering. I am inclined to agree with this latter position, and that analysis is also true of industrialised countries. It is true that during the course of a century science has progressed, and our productive potentialities have increased vastly. But one thing which did not happen was that we could not devise a system of directing production into such channels that it could attain its goal—that of serving humanity. That is true. But in this country this theory does not apply in its full sense. In this country even the existing productive possibilities have not been fully utilised. It is possible that the material and the human resources of this country could be developed to the fullest extent and still we may suffer from unemployment because those resources cannot be put to the best use. But in this case we have not reached that stage. We have done very little in the direction of expanding on industrial and other production. I do not deny that there is great force in what my honourable friend Mr. Jhabvala has stated regarding the root causes. After all, it is true that in this country we have today all that we need to improve production, and it will be absurd to suggest that our population has increased to such a large extent that we have already reached the stage when our

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country cannot sustain that population in a decent way. I do not know of any estimate that has been made of the full potentialities of this country, if all its resources are applied properly, as to what population can be supported, but it is certainly true that the population that exists today, and a considerably larger population can really be very well supported on the resources which we have at our command and which have not been properly developed and utilised.

So much about the cause. The question is whose is the responsibility? Why is it that the productive resources have not been utilised properly? Why is it that the process of distribution has not been properly adjusted? It is apparent that although the productive system of the world has become very complex, our system of distribution has not at all advanced beyond the medieval stage when it was designed to satisfy our elementary needs. But who is responsible for this defect or for this omission?

I think it is a very painful task for me to perform. But at this juncture it would really be very good for everybody concerned, if I were to draw attention to a very important aspect of this problem. In this country, and in every country where the capitalist system obtains, the responsibility for all these things lies on those who made themselves the managers of the material side of our life, who command those resources, who conduct business, who are owners of the instruments of production. On them the onus lies. It is certainly up to them so to arrange things that all the needs and requisites of humanity, of society, are supplied to it and that this problem is tackled successfully. I would just ask them one thing. What do they think of a businessman who fritters away his resources, who is not able to apply them to good purposes? I think it is very often stated that the difference between a good businessman and a bad businessman is this—that a good businessman is able to make the best use of his resources whereas a bad businessman does not utilise his resources properly and allows waste and leakage to occur. Concerning this question of unemployment, here are millions of people whose valuable hours are not being put to any good use, and if it is not a waste of resources and waste of assets, I do not know what can be the meaning of the word “waste”. As long as that waste is allowed to continue those who are in charge of the business life of the country are responsible for it. I do not think there is anything sacred about one system of production or another. The system will have to justify itself by its results and if its results, in course of time, fail to satisfy the expectations, then that system will have to be modified. If it is not modified in a normal, usual way, well, there will be other ways by which it will come down. Therefore, I make this appeal to those gentlemen. Whatever committee we may appoint, the Committee will be able to do nothing at all until realisation dawns upon the business community, upon the capitalists, that it is their duty to solve this problem of unemployment; of course, the State can only assist them, but it is they who will have to solve this problem and if they lack in their efforts the consequences will be disastrous—the so-called civilisation will be wrecked.

Mr. S. V. PARULEKAR : What is the State doing ?

Mr. GULZA I LAL NANDA : The State will do its own part quite well. The significance of this problem has not been lost on the people who have thought on this matter. In every country attempts have been made to solve this problem, but it must be confessed that so far it has baffled all attempts at solution. There have been many ways that have been devised. Committees have been appointed, statistics have been collected, causes have been explored and a certain amount of constructive work has been done in the direction of setting up employment exchanges. These employment exchanges do not create employment but they certainly regulate the flow of employment. A number of countries have even gone further than that ; they have tried to create employment also by expenditure of public funds on suitable occasions, but that has not been really of a sufficiently large size—and I believe it cannot be—to solve the problem of unemployment in those countries. Apart from this, there have been certain suggestions made so to adjust production that those crises and those cycles which are regarded as being an indication of economic mal-adjustment can be avoided. I find that the International Labour Office has been collecting a good deal of information. I find that about 30 countries are collecting statistics, and a number of countries have done a good deal in this direction. In our own country, I am very sorry to say, not much has been done. The Government of India recently circulated a letter in which information was invited as to the collection of statistics regarding middle-class unemployment. Something may result from that. I was reminded by the honourable member Mr. Jhabvala that the U. P. Government had appointed a committee and he stated that no action was taken on the report of the Committee. My information is that action is being taken—of course, that action cannot be a revolutionary type of action which the honourable member wants. Training of apprentices, overhauling of the educational system, making further openings in small industries—these things are being attempted there. In our own presidency also action has been started : this resolution regarding the appointment of a committee is there. I wish to say that I have no illusions about this committee. I do not believe this committee is going to solve the problem ; I do not believe that this Government can solve this problem within the space of 2 or 3 or 5 years. It is not possible to do so. But, as the honourable member Mr. Nariman pointed out, though we may not be able to destroy and reconstruct the whole thing in five years, we can do a good deal in alleviating the hardships arising out of unemployment and in reducing its volume ; and I believe that whatever activities are undertaken after industrial surveys and assessment of the possibilities in various directions are completed will lead to constructive steps which will go a long way, though they cannot completely solve the problem.

Sir, a similar motion was accepted by the Upper Chamber. That motion was introduced by the honourable member Mr. Joshi and I have to refer to that because it was very similar to this resolution. The only difference is that in Mr. Joshi's motion it is stated that " This Council

[Mr. Gulzari Lal Nanda]

recommends to Government to appoint a representative Committee to enquire into and report upon the extent of acute unemployment among the middle and the lower classes in this Province and to suggest remedies and methods for checking and improving the situation." In the case of this resolution, there is no mention of the middle and the lower classes. It appears to apply to all, and when we analyse the provision we will come to the conclusion that Mrs. Munshi is very charitable to include the capitalists within the orbit of her resolution. I think that is really an improvement because while capital may be functioning it is possible that the capitalists may not be working all that they can and I think the capitalists will be thankful to the honourable member Mrs. Munshi for including them in her resolution.

This resolution has had the unanimous support of the whole House, and on behalf of Government I welcome it gladly.

The Honourable the SPEAKER : I will now put the resolution to the House. The motion is :

"This Assembly recommends to Government that in view of widespread prevalence of unemployment in the Presidency a Committee should be appointed to inquire into its causes and to recommend measures for its relief."

Question put, and agreed to.

RIGHT OF PARLIAMENTARY SECRETARIES TO SPEAK ON BEHALF OF THE MINISTERS.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, before you proceed with the next business, I wish to raise a point on which I personally feel some doubt. I think the House should have a clear understanding as regards replies or speeches on behalf of Government by the Parliamentary Secretaries—whether that is the right or the proper procedure and whether it should be adopted as a matter of right and not as a matter of exception. I remember, and I dare say, you will also remember—you must have read it—I was then in office when the late Mr. Vithalbhai Patel took the Military Member—the Commander-in-Chief—to task for being absent from the House when a speech relating to his portfolio was being discussed, although the Secretary was present in the House. I remember from my own experience that the Secretary was also given a chance by the Minister to join the debate and at times when the Minister was absent the Secretary who was present spoke on his behalf or more properly the colleague on the front bench of that absentee Minister, that is to say, another Minister, replied to any questions or any matter which cropped up. Today, as I learn the Upper House is not sitting, the Minister in charge, who is the Prime Minister, I understand, is absent and the Secretary as a matter of right gets up to reply to the debate providing very useful information. And this is no attack on his speech, it is only a matter of procedure that I am going to ask. He gets up as a matter of right and proceeds with a reply. There was an enquiry made from one honourable member on the same point. I looked into the Standing Orders and

[Sir Ali Mahomed Khan Dehlavi]

I find that when that power is delegated in any special case, it is not eternally and permanently delegated to a Secretary to look after the business of the Minister, if the Minister absents himself without any particular cause that we know of. I think we ought to be clear about it. Is it going to be the rule or is it going to be an exception in rare cases that the Secretary would speak on behalf of the Minister absent ?

The Honourable the SPEAKER: The objection raised by the honourable member Mr. Bramble was, I believe, to any right of reply at all. That is how I understood it.

Mr. C. P. BRAMBLE: Sir, when I rose the second time I think I explained that my interruption was made because the honourable member is not in fact a Minister and did not explain that he was—either with or without your consent—acting in that capacity.

The Honourable the SPEAKER: So then the question appears to be a bit different from what I understood it to be for the first time. First I understood the question to be that after the honourable mover had given reply, no other person would have a right of reply. That is how I understood it and therefore I invited the honourable member's attention to the Standing Orders.

Mr. C. P. BRAMBLE: I put it that way because until the explanation was made by the honourable member, he was, to my mind at least, a private member of the House.

The Honourable the SPEAKER: The question now raised is somewhat different from the question first raised. To my mind, the question now raised is one essentially of relations between the Honourable Minister and his Parliamentary Secretary. A similar question had arisen in this House over replies to questions and a point was specifically put to me by the Honourable the Prime Minister as to whether his Parliamentary Secretary could reply on his behalf. I remember the honourable member Mr. Jamnadas Mehta then said that it was the practice in the Central Assembly at Delhi for the Secretary to give any explanations and replies on matters with which the Ministers were concerned. I had, at that time, ruled that it was perfectly competent for Parliamentary Secretaries to give replies on behalf of Ministers whose Parliamentary Secretaries they are, whether they do so in their absence or presence; and I had also stated then that the authority of the Minister to give replies will be presumed. I had also further stated that in case the authority was questioned as to whether that particular Minister had or had not authorised, it was enough for the Parliamentary Secretary to make a declaration that he had that power. So the procedure that I have laid down as regards questions applies to motions also, the principle being the same, whether the occasion be for answering the question or answering the debate. The principle is whether he has got the right to represent the Minister and if that authority is questioned,

[The Speaker]

as I have already replied previously, the declaration of the Parliamentary Secretary on that occasion would be sufficient. If there is a desire on the part of anyone that this question should be further examined and reconsidered, I shall certainly be prepared to reconsider if I am given sufficient grounds to do so. To my mind, it is essentially a question not of rights, but of convenience and it is enough for this House that it gets the authoritative views of the Government irrespective of the fact as to who the spokesman is. In this view, the other question raised by the honourable the Leader of the Opposition about the delegation being permanent or otherwise, to my mind, does not arise. If the Parliamentary Secretary gets up and if his declaration is enough, you can assume that every time he is delegated for the occasion only or you can work also on the assumption that it may be a permanent delegation, but I would not like to assume a permanent delegation because of my view that it is a matter between the Minister and his Parliamentary Secretary and not the right of any person outside. That is how I am inclined to think.

(After a pause). It is very nearly time for us to adjourn. The honourable member Mr. Jhabvala would move his resolution. I will put it to the House and then we may adjourn.

ESTABLISHMENT OF EMPLOYMENT BUREAUS.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move the following resolution reserving my comments to be made afterwards :

" This Assembly recommends to Government that they should establish employment bureaus whose functions should be to keep registers of unemployed persons and to find out suitable employment for them."

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I want to raise a point of order that the motion just moved by the honourable member Mr. Jhabvala is out of order under rule 12, because it substantially raises the same issue as the House has decided in connection with the honourable member Mrs. Munshi's resolution.

The Honourable the SPEAKER : The resolution which was discussed
4 p.m. was only for the appointment of a committee to enquire into the causes and to recommend measures. This resolution is different. Though it is correlated to the subject, in substance it is different because it definitely recommends the establishment of employment bureaus whose functions should be to keep registers of unemployed persons and to find out suitable employment for them. The first resolution was only for a committee for investigations into certain matters and this resolution is for a definite action. So, on that ground I do not think the resolution is debarred.

Sir ALI MAHOMED KHAN DEHLAVI : Where is that resolution ?

The Honourable the SPEAKER : It is the same as No. 2 of Mr. Gokhale. Does the honourable member Mr. Jhabvala move it now or after the recess ?

Mr. S. H. JHABVALA : I have already moved the resolution but my comments will be delivered after the tea-time, if you permit.

Question proposed.

(The House re-assembled after tea at 4-30 p.m.)

The DEPUTY SPEAKER : Order, order. The honourable member Mr. Jhabvala.

Mr. S. H. JHABVALA : Sir, before the tea interval I had moved the resolution in support of which I do not wish to say much and take up the time of the House, now that a resolution of a similar nature has been so discussed that some of the vital problems pertaining to unemployment have been brought out very clearly before the House. But, Sir, the main purpose of my resolution is different from the one that has been already moved and that purpose is embodied in two particular expressions which are of a very valuable character, namely, that Government should establish employment bureaus and that they should keep registers of unemployed persons so that on suitable and required occasions jobs can be found for these people. Sir, my resolution carries the House with unemployment and the whole problem of curing the disease of unemployment a step further than what the last resolution did. I do not wish to dilate on the issue of unemployment and the causes thereof, which of course I am very glad my inseparable comrade the honourable member Mr. Nanda has already accepted, viz. that unless the existing order or system is radically altered nothing effective could be done but that Government are attempting to do something and that we should rest assured that the Government and the Congress Party are keen on doing something. That something may not help them in solving the problem but I am sure will help them for the purpose of getting illumination for themselves. Well, Sir, what do we find now as regards this unemployment question? At present, we find a large number of unemployed people, not knowing what to do and having got the responsibility of supporting themselves and their families, move about from place to place, from office to office, from firm to firm, from bank to bank in search of jobs. Unfortunately, the present system of education has so constructed the mentality of our youths that they cannot do anything better than that. They cannot do manual labour and for mental work there is dearth of jobs. A large number of people gather somewhere say near the gates of the "Times of India" office early in the morning as that paper has been kind enough to keep exposed its advertisement columns and a large number of unemployed people go there and see those advertisement columns free of charge, take out blank application forms which they bring with them and fill them in and drop them into the box kept for the purpose. Sir, this is a typical instance. This will indicate to you that the unemployed people do not know what to do under the circumstances but pursue this method. They feel that they are a burden to their own people in the family, they are a kind of a burden sometimes to their own friends and they go about asking for notes of recommendation from place to place just for the purpose of getting some kind of a job. Now,

[Mr. S. H. Jhabvala]

all these loose forces are scattered and it is up to a paternal body like the Government to take charge of the whole system, the whole position and to face it and take it in their own hands for solving at least one phase of the unemployment problem, and that is in the matter of securing jobs. What do most or at least some of the more advanced countries in the West do? They keep a register in which they note down names of workers from various classes of the population. When the Government receives applications from various factories or workshops or offices or industrial concerns for the purpose of distributing jobs, the Government look up the list of the people and their records as to qualifications etc. and send men from there to fill those vacancies and in that way they establish a kind of a happy connection between the person who needs a job and the person who wants to give the job. Thus, a kind of healthy harmony is established by a refined system laid down by Government itself. I may tell you, Sir, that some time ago in the Labour Department of the Government of Bombay a system of that kind was adumbrated. I think it was during the time of Mr. Findlay Shirras when he was the Director of Labour, but then he could not proceed any further nor could he make any move forward. Those were the times when owing to the post-war crisis a large number of unemployed had to move about begging for jobs in the streets of Bombay. I can give you my personal example. I had started an unemployment bureau and I did get a large number of applications. I had to move about myself in connection with these applications and I tried to get them jobs and informed Government so that in that way at least Government could move in the right direction. Our friend the present Director of Labour, Mr. Gennings, was much interested in that and he looked into the problem but he found that on account of the absence of certain machinery under Government itself which was very necessary, he could not take any official steps in the matter. Now that we have got a kind and beneficent administration like that of the Congress Government, they can initiate a move forward in the right direction. What is the move forward? What they have got to do is this. They have got to maintain a register of unemployed people. Then they have got to keep themselves in direct contact with the owners of factories and workshops and various other industrial concerns and secure information about all their needs and demands in a central office. They have got to establish contact between the seeker of the job and the owner of the factory or employer who needs some people to fill up jobs vacant. That is a very easy contact to be maintained. In England only three or four years ago there arose an unemployment crisis and a similar register was maintained, and every week in the papers an announcement used to be made by Government that so many people were unemployed and that so many people who were unemployed could get jobs through Government. In this way at least the public could clarify the issue. My honourable friend Comrade Nanda was perfectly right in stating that some kind of statistics must be before our mind's eye, in view of the fact that it is necessary for us to realise as to what is actually the total amount of unemployment. At present we do not know.

[Mr. S. H. Jhabvala]

We do say that there is a very large number of unemployed, that there is very heavy unemployment, but we do not know as to what the actual number is, and we do not know how to establish contact between the employer and the employee who may be unemployed.

Sir, the question of unemployment also includes the question of under-employment. There are certain people who are under-employed, meaning to say that they are people who cannot get sufficient employment from which to earn as much as to keep body and soul together. Even such persons are required to be properly accommodated in our social system. Down till to day we have not established any measure for devising a machinery for establishing a minimum living wage in our country, nor do we know what is the total amount of work a man can actually put forth. These are all important economic questions which require to be studied, and from which proper conclusions required to be formulated. Under the present conditions nothing of the kind exists. No machinery exists by which to study the problem, by which to realise the importance and eminence of the problem and knowledge of means by which afterwards to face the problem. We can face the problem only after knowing the actual position by the existence of a central machinery so that Government would be empowered, if they have got registers of this character both for unemployed and jobs vacant to deal with what they are faced with.

But, Sir, the greatest problem of all so far as this resolution is concerned is in the last part of my resolution, and that is getting suitable employment for the unemployed. That is a very important problem indeed. Here nobody could be more influential, no institution could be more influential in the matter of securing employment for the unemployed people in our country than Government. Government is such a powerful body that it can introduce itself with a certain amount of influence and authority in private industrial concerns. Situated as we are at present, private bodies and private individuals are not able to do that. We have been rendered helpless in that direction. The only ultimate solution under the present conditions is that people have to advertise in newspapers for any servants they require, and the unemployed people also have got to advertise in the newspapers for what jobs they are in need of. If you open the columns of newspapers like the *Times of India* you can see how very ingeniously and very well that paper has devised a system by which the two parties are brought into direct contact. There are advertisements in which employers want all sorts of people, and there are other columns in which you will find advertisements from unemployed people seeking jobs. In this way some kind of a machinery of building up contacts has been created. But I do not think that private institutions of that character could effectively undertake this work. A public body, a body in which there may be universal confidence established, a body which carries with it reputation, must move in the matter. With these few remarks I propose the resolution for the acceptance of the House.

Mr. R. A. KHEDGIKAR (Sholapur City) : Sir, I move the following amendment to the resolution :

Add the following words between the words "bureaus" and "whose" : "consisting of the representatives of Government and trade unions".

Question proposed.

Mr. R. A. KHEDGIKAR : I have only a few words to say in support of my amendment. The resolution merely states that bureaus should be established, but the constitution of the bureaus is not mentioned. In order to define it, I would suggest that the bureaus should consist of the representatives of the Government and the trade unions. By trade unions I mean the organised workers, and if the employers want to send their representatives, I have no objection. But I wish that the representatives of the Government and the workers and of the employers as well should compose the proposed bureaus, and thus help in getting employment for the unemployed. With these words I move the amendment.

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*) : Sir, I move another amendment to the resolution, as follows :

After the word "should" add the word "immediately".

My object in moving the amendment is this. We have listened to the pitiable condition of the unemployed workers, which is enough to melt any heart. It is no good, therefore, to leave this question to be tackled by Government at their convenience. The position is so pressing that it should be tackled as early as possible. I do not think a committee to find out how many are unemployed and how they can be given employment will serve any useful purpose. I have some experience of these committees. The Backward Class Board is created by Government to look after the interests of the scheduled castes, and the Board is expected to secure employment for those among the scheduled classes who are without employment. My experience is that many young men have sent applications to the Board, but beyond registering the names of the applicants nothing has been done. And, what can the Board do ? If there is a vacancy they can send the name of an applicant with their recommendation. The object of this resolution appears to be to find out the number of unemployed. The Labour Commission has made its report, there have been various other committees appointed. By the appointment of this committee they may be able to find out that instead of 10 lakhs there are 15 lakhs unemployed, or 8 lakhs unemployed. I do not think there has been a fall in the numbers of unemployed ; if anything there is no doubt there has been an increase. The first step now is the adoption of measures for the relief of the unemployed, and the problem is so pressing that these measures should be adopted immediately. After the present Government came into power, they have declared it as their policy that they are going to do something for the workers. Now, what will happen is that a committee may be appointed after some months. Then the committee is going to find out how many are

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unemployed. After two years they are going to submit a report that so many are unemployed, and it is only after that that the necessary measures will be taken. So, I think it will all be a waste of time, which is not proper. Therefore I would appeal to my honourable friend Mr. Jhabvala to accept my innocent amendment.

The DEPUTY SPEAKER : With regard to this amendment, it should be made clear that the word 'immediately' should be inserted after the word 'should' occurring for the first time in the resolution.

Question proposed.

Mr. D. N. WANDREKAR (Bombay City North and Bombay Suburban District) : Sir, I really do not understand why this resolution has been moved by my honourable friend Mr. Jhabvala, when already a resolution on this subject has been moved and passed a few minutes back. The whole trend of the speech of the honourable member seems to me that he restricts himself to a particular aspect of the problem and that too not as it prevails in the whole presidency but only in some industrial towns. Nobody denies the prevalence of unemployment in the whole province. The problem is too big and too vast to be tackled in the haphazard way he has suggested. The establishment of employment bureaus and the keeping of registers of unemployed persons are likely to be the recommendations of the committee that is to be appointed; may I ask whether these alone will tackle the problem? Can the problem be tackled in the way which he desires the Government to follow? Further there is the amendment of my honourable friend Mr. Gaikwad, which says that the bureaus should be started immediately. My reply to him is that the problem cannot be tackled in the haste which he shows. I can understand the urgency of the call at the back of the amendment. Everybody is agreed that the problem should be tackled but it cannot be tackled immediately. It must, however, be tackled without delay. If the honourable member were to look at the programme of Government, as has been revealed by the different measures and the different communiques they have been issuing from time to time, he will get an idea as to how Government themselves are feeling the urgency of this problem. Government are committed to tackling this problem to the best of their ability and they have taken it up. Already, we have had a statement from the honourable member Mr. Nanda on the last resolution—

Mr. S. H. JHABVALA : On a point of order. Unfortunately there is no clearness of understanding on this side—

The DEPUTY SPEAKER : He may state the point of order.

Mr. S. H. JHABVALA : The honourable member is referring to the register, while I want by my resolution that employment bureaus should be established and that suitable employment should be found. The understanding on my left side is woefully defective.

The DEPUTY SPEAKER : There is no point of order.

Mr. D. N. WANDREKAR : Understanding is not defective. I am talking about the way in which he wants the problem to be tackled. He knows that the keeping of a register of unemployed persons is not going to help the solution of the problem. He therefore also wants Government to find out suitable employment for all unemployed, which is an impossible task. In the course of his argument, he has not suggested a single way by which the problem can be tackled by Government. *(Interruption.)* I am not opposing the resolution ; so far as the spirit underlying it is concerned, every one is agreed on that. There is no doubt that the problem must be tackled. There are no two opinions on that. The question is how best it can be tackled and how soon. To find this out, a committee is to be appointed and I do not think it will take a long time for it to report. The problem has got to be investigated in all its aspects, not only in cities, not only in towns but in the country side also. We have got unemployment in the rural areas and in the agricultural industry. We have got unemployment among the educated as well as the uneducated classes. Everywhere we are faced with it. It is a big problem and it has got to be thought out very comprehensively. That is why I am saying that the suggestion of merely establishing an employment bureau and there opening a register, is not going to help us much. Such bureaus may help us so far as the towns are concerned or so far as the educated unemployed are concerned. But I do not think they are going to help us in the mofussil. If the problem has to be tackled, it must be tackled as a whole and not in the piecemeal way suggested by my honourable friend Mr. Jhabvala.

There is then the amendment of my honourable friend Mr. Khedgikar. He wants that these bureaus should consist of the representatives of Government and trade unions. As I am of opinion that the mere establishment of an employment bureau and the opening of a register are not going to help us much, I will not take much time in discussing this amendment. The amendment as proposed does not carry us much further. When the employment bureau is decided to be opened, Government will certainly think out what its constitution should be. The constitution must be such as will help us to achieve the object we have got in view. I do not therefore understand why he wants only the representatives of Government and of the trade unions on this bureau. Which trade unions he has got in view and which representatives of Government he wants to be on the bureau has not been made clear by him. We have no idea about the personnel of the bureau just at this moment. It would therefore be redundant to say anything as to how the representation of a particular body should be provided for. To conclude, I may say that although I am in favour of the objective underlying the resolution, I do not agree with its mover, in view of the comprehensive resolution which has been just passed and accepted by Government.

Mr. GULZARI LAL NANDA : Sir, on a point of information. I wish to know from the honourable member Mr. Jhabvala whether it is his intention to throw the responsibility for finding out employment on Government ?

5 p.m.

Mr. S. H. JHABVALA : Sir, the resolution, as it is worded, is clearly this, that they should establish employment bureaus whose functions will be to keep a register and to find out suitable employment for unemployed persons. Now, Sir, under the circumstances, the existence of private employment bureaus will not go a satisfactory way in finding out suitable employment. I want that these bureaus should be established by Government. Thus, there is a contract, a requirement upon Government in the matter of finding out employment. This is what I have to point out.

Mr. K. F. NARIMAN : Sir, I think there is some misunderstanding. What my honourable friend the mover of the resolution wants is that the bureaus should keep a register, and whenever an unemployed person makes a reference to them they can tell him where to get employment. The bureaus are not to create employment but to direct the unemployed to the place where he can find employment. Otherwise, finding jobs is impossible. It is to direct the unemployed to the proper place where employment is to be found according to the register.

Mr. S. H. JHABVALA : Sir, I differ from my honourable friend. The point is—

The DEPUTY SPEAKER : Order, order : no further explanation.

Mr. BABUBHAI J. PATEL (Kaira District) : Sir, I am amazed at the mildness of the resolution of the honourable member the professed monopolist champion of the interests of the down-trodden masses. He has brought forward a very mild and half-hearted resolution after the very comprehensive resolution which was adopted by the House just a few minutes back. In his resolution he advocates that employment bureaus should be established by Government and that the employment bureaus should estimate the number of the unemployed persons in the Presidency and try to find out suitable employment for them. This House only a few minutes back passed a resolution in which it has recommended that the whole problem of unemployment should be investigated and suitable means of finding employment for the unemployed should be suggested by a committee appointed in that behalf. This resolution is a mere recommendation that a registering body should be established. The honourable member has himself failed to understand that this resolution is contained in the resolution passed by the House. In spite of the fact that he himself has no clearness of thinking even to understand that this resolution is already incorporated in the one passed a few minutes ago, he says that the Congress members have no clearness of thinking to understand what he means. Naturally a person who himself has no clearness of thinking cannot see the clearness of thinking in the rest. Just as I stated yesterday, he has a jaundiced eye.

I agree with the honourable member Mr. Gaikwad that the problem needs immediate tackling. But the resolution suggested by my honourable friend Mr. Jhabvala is not a solution. The resolution that has just been passed is a solution, and we need not try to reach the same goal

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by other half-hearted measures and overstress the thing which has been fully stressed by us. I agree with the mover of the resolution that the problem is urgent, but I disagree with the idea of pressing this resolution at this stage, when we have already accepted the principle thereof in greater detail.

The honourable member Mr. Khedgikar suggests that the representatives of trade unions and of the Government should be there in the unemployment bureaus. I do not understand the necessity of making special mention of trade union representatives and not of other representatives. I think all types of representatives should be there. It is not only the trade unionists that require employment but even others. Unemployment is a problem before the educated middle classes; it is a problem for the starving peasants; it is a problem even for the rich. So, it is not a question of finding employment for trade unionists alone. So, Government representatives and trade unionists alone cannot solve the problem. A fully representative committee should be appointed, and that committee should investigate into the matter and make recommendations, and those recommendations should be acted upon. And inasmuch as we have accepted a resolution to that effect, there is no sense in putting forward this resolution at this stage. I do not agree with this resolution in view of the fact that we have already passed the previous resolution, which is a more sensible and more comprehensive one. This resolution is, therefore, superfluous. My honourable friend the mover of this resolution has misunderstood the spirit of the previous resolution and that is why he has moved this resolution.

Mr. ALI BAHADUR BAHADUR KHAN: Sir, I move a closure. I beg to submit that the same arguments are being repeated over and over again.

The DEPUTY SPEAKER: I do not think that the subject has been sufficiently discussed.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I would not have risen to speak but for the fact that some members on the Congress benches have opposed this resolution. May I remind the House that it is the Congress members who first gave notice of this resolution?

Mr. BABUBHAI J. PATEL: Sir, on a point of explanation. This resolution was not moved by the Congress Party because they had put forward a more comprehensive resolution which was passed by the House just now.

Mr. D. W. RAUT: I fail to understand how they think this resolution is now unnecessary. There is one important proposal in this resolution which should appeal to every one, and that is the establishment of employment bureaus through which people can get employment. So, from that point of view this resolution is urgent. As on the bureau there will be representatives from every section of the people, it would prove a helpful one. I hope the Government benches will revise their views and support this resolution.

Mr. K. F. NARIMAN (Bombay City) : Sir, there seems to be a certain amount of misunderstanding and confusion with regard to this resolution, which I consider to be as important as any other resolution moved in this House. It has been stated by several members that because the House has accepted another resolution just now asking Government to inquire into the causes of unemployment and to recommend measures for its relief, therefore this particular resolution is superfluous and unnecessary. I think that this resolution, as a supplementary, as a beginning, of that resolution, is extremely important. The scope and function of this resolution is misconceived. I would appeal to the honourable members on the Government benches to be unmindful of the attitude taken up by the mover and to accept what is really good in it. If the honourable member wants Government to undertake the task of finding employment in the sense that they should create employment for all the unemployed in the Province, I can imagine what the attitude of Government would be. That is an impossible demand. I hope my honourable friend will understand that. But if what is wanted, as I understand by the word "bureau", is simply a registry office whereby Government, being the most powerful and centralised institution in the Province, can communicate with all the biggest employers, manufacturers and suppliers in the Province asking them to supply information about vacancies in their offices, factories, mills and so on,—if that is what is wanted, there should be no objection to accepting this resolution. There is the Mill-owners' Association; there are so many associations, factories, offices, and so on. They may write to the Government agency, "We want so many jobbers, weavers, weaving masters," and so on. I find, Sir, there are so many unemployed people, not only in the city, but in the Province, knocking about from door to door, not knowing whether a particular post is vacant or not. Instead of going from door to door and from town to town, they have simply to knock at the door of the Government registry office and say, "I am a weaver; I have these qualifications; I want a job." The registry office will find out which of the employers is in need of a man with those qualifications and communicate with him accordingly. From that point of view, it is a very useful and concrete suggestion, if it is intended in that spirit. I am glad to say, Sir, that sense has dawned on the mover; he says that is his meaning. It was not so when he said that he wanted Government to create employment: as soon as a weaver or a jobber came to the registry office, whether there was a vacancy or not, he should be provided for. That is impossible. But if the honourable member's intention is that a registry office such as I have described should be started, then such a bureau will be very useful. It is the beginning of the larger work dealt with in the first resolution. That resolution deals, for instance, with the starting of new industries. It has a much larger scope and will take a longer time. But the bureau suggested in this resolution can be started immediately. They have only to start a registry office. It may cost a little, but is well worth doing. The difficulties of the unemployed are very great. They go about in search of employment, they advertise, they do all sorts of things. This agency will bring the unemployed and the employers

[Mr. K. F. Nariman]

together. If the resolution is construed in that spirit, I hope the Government, instead of opposing it, will accept it in that spirit and start the agency as contemplated in it.

Mr. R. R. BHOLE (Poona West) : Sir, I rise to support the resolution. In fact, I never intended to speak on this particular resolution and would not have risen but for the fact that we see a hostile attitude on the part of the party in power. Sir, I consider this resolution as altogether different from the one which preceded it. In fact, this resolution is the step by which we can ultimately reach the vague principles involved in the resolution moved by the honourable member Mrs. Munshi. I consider that resolution as being nothing more than shedding crocodile tears. But this resolution I consider to be a practical and concrete one. I cannot understand the attitude of the party in power when they say—(An Honourable Member : No attitude.) Their attitude is clear from the various speeches that have been delivered. If their attitude is not hostile, then I commend this resolution to them for acceptance. I hope that they will do it if they really consider the problem of unemployment to be urgent. This resolution, after all, seeks to afford to unemployed persons some conveniences from the lack of which they now suffer. As the honourable member Mr. Nariman has said, a number of people knock at the doors of various institutions only because they do not know where to go and have no knowledge where to apply. If employment bureaus are established, their sufferings due to ignorance as to where to apply will be mitigated in a large measure. I do not see how this resolution is included in the first resolution, as some honourable members on the opposite side argued. The very fact that the resolution was allowed by the Honourable the Speaker clearly goes to show that the two resolutions are different. So I only appeal to Government to accept this concrete and useful resolution.

Mr. S. V. PARULEKAR : May I request the Government to make their position clear, so that we may have a fair discussion on the proposition? Several members have spoken, but Government have not yet made their position clear. Under such circumstances, it is not possible to have a fair discussion on the resolution.

The DEPUTY SPEAKER : I cannot compel the Government benches to speak.

Mr. SAKARLAL BALABHAI (Ahmedabad Millowners' Association) : Sir, I rise to support this resolution. This resolution is in a way more important than the one moved earlier in this House. It will serve two purposes. First of all, we will find out the number of unemployed persons; and secondly, the employers will get a better quality of employees. Government may impose certain conditions to be fulfilled by the persons who apply for employment and communicate the names of such persons to the employers who are in need of workmen, clerks and others. In fact, the bureau contemplated in this resolution will serve as a service securing agency. I do not see why Government should oppose such a simple resolution. With these words, I support it.

Mr. GULZARI LAL NANDA (Ahmedabad Textile Unions): Sir, after the honourable member Mrs. Munshi's resolution on the question of unemployment had been accepted by this House, I expected that this other resolution would not be moved.

Mr. S. V. PARULEKAR: Oh!

Mr. GULZARI LAL NANDA: I have no quarrel with the object underlying the resolution. It deals with the setting up of employment offices. The honourable member Mr. Nariman has pointed out cogently that there can really be no objection to a proposal for the setting up of employment offices. But, Sir, I want to point out to him and to my honourable friend Mr. Jhabvala that if this resolution is to be understood in one particular sense, it does not mean anything at all; it does not take us any further at all from the position which we occupy today. I would remind him that so far as the industrial workers are concerned, regarding whom the honourable member Mr. Nariman gave illustrations, that matter has already been taken up by Government. An announcement of policy in this respect was made in clear terms, that labour exchanges would be set up, that Government would try to see that they were set up—

Mr. S. V. PARULEKAR: When?

Mr. GULZARI LAL NANDA: I am pointing out that so far as industrial workers are concerned, that issue has already been taken up and Government's policy has been announced in clear terms. You may move one resolution on the subject. You may move fifty resolutions on the same subject. The policy is already there.

Mr. R. R. BHOLE: Practise the gospel!

Mr. GULZARI LAL NANDA: This resolution is not practice.

Mr. R. R. BHOLE: Setting up of a bureau is practice.

Mr. GULZARI LAL NANDA: The question then is regarding the educated unemployed. I believe the utility of the labour exchange is much less in their case than in the case of the ignorant, illiterate industrial workers. As has been pointed out, the Committee would have to inquire mainly into this question of educated unemployment, and I think that Government should not anticipate the conclusion of that committee as to the best way of dealing with this question of unemployment. If this resolution is understood in a different sense and my fear is that the insistence on this side of the House is due to that fact,—I will not say it has been done deliberately, but somehow or other the real purpose of this resolution has been kept vague, and when I rose to obtain information on this point that information was not given, or if it was given it only confirmed my doubts and my suspicions and strengthened my opposition to this resolution. When I asked whether it was the intention to create a responsibility for Government to

[Mr. Gulzari Lal Nanda]

find out employment by this resolution, he did not give me a categorical answer, "yes" or "no". He said that as the employment bureaus would be established by Government and as the bureaus have the duty of finding out employment there was a connection between Government and the finding out of employment. Then the honourable member Mr. Nariman rose and tried to clarify the position by saying that Government could not create employment. All that was intended was that exchanges had to be set up and the unemployed would register their names at these exchanges; the vacancies also would be registered there and there would be some way of finding out suitable candidates for various vacancies. To that the honourable member Mr. Jhabvala objected; he shook his head in a sense which is understood to be the negative sense. Thereafter, Sir, there was an amendment from this side—the Independent Labour Party.

The objection to the previous resolution was that it simply recommended the appointment of a committee. An example was given of the Backward Class Board and it was said that that Board was not successful in giving employment to so many. The honourable member made it clear in so many words that what he wanted was not merely the registration of the unemployed and the placing of the unemployed in suitable vacancies but that somebody should undertake to find out employment. Had this not been his object, I do not think that the honourable member Mr. Gaikwad would have asked for the inclusion of the word "immediately". He expected that very probably these labour exchanges were going to solve the question of unemployment. I want to make it clear in very positive terms that labour exchanges are not going to solve the problem of unemployment; they are going to intensify it in a way. As it is, a large number of people are employed and their employment is not continuous employment. They share the employment with other people. The labour exchanges will see that employment is regulated. A smaller number of men will be absorbed in the industries than at present; those who are superfluous will be deprived of their jobs, and therefore the labour exchanges are really going to add to the number of those who may be declared as unemployed. The setting up of labour exchanges does not really help at all in this direction. The resolution that was passed does not say that Government should try to find out employment, but here it is implied that Government should find out suitable employment. It is a positive obligation. It is not merely that registers have to be kept up. I agree with the honourable member Mr. Jhabvala that an indirect obligation does arise out of the wording of this resolution. Government have not only to establish labour exchanges but the labour exchanges have to be such that they can find out suitable employment. I think the honourable member does not want this Government to make promises to undertake something which at the moment they cannot fulfil. I think the committee when it comes into being and when it has made proper investigations, will certainly be able to point out ways and means of finding out employment, but today this Government is not in a position to find out

[Mr. Gulzari Lal Nanda]

employment. To raise hopes which are doomed to failure, to disappointment, is very cruel indeed. The honourable member will reconsider the whole position and not ask us to do things which are either meaningless or which mean too much. He should be content with the resolution already passed which means business.

I now refer to the honourable member Mr. Sakerlal Balabhai. I am very glad that he supports this resolution because I interpret that support as a support to the proposal which we have already made for setting up labour exchanges in industrial centres. I much regret to have to say that we have not had sufficient support and co-operation in our efforts to set up labour exchanges in the labour centres, with one of which he is connected in a prominent way. It was our idea that before any legislation was passed to set up labour exchanges, an opportunity should be given to the employers to co-operate with Government in devising a system of labour exchanges on a voluntary basis. The idea was that these exchanges would function for some time and thereby we would accumulate that knowledge and experience which would enable us to bring up legislation which would be free from any defects. I am sorry to state that, though they were approached, no response has been given to that approach yet. I hope, however, the representatives of the mill-owners have reconsidered the matter, and now that they have supported this resolution, I am prepared to promise to the honourable member Mr. Parulékár that in a very short period, say, within a month, we will be able to set up labour exchanges in industrial centres.

Mr. SAKERLAL BALABHAI (Ahmedabad Millowners' Association) : Sir, the honourable member Mr. Nanda is absolutely wrong when he says that the millowners of Ahmedabad did not give support to the labour exchange bureau scheme. I will now enlighten the House on this particular scheme. A scheme was framed and submitted to the Labour Union ; an office was actually opened, but the Labour Union did not support our scheme. They wanted a part in the management. We said, "let us try this scheme". But they did not give their support and, therefore, the scheme did not succeed.

Mr. S. H. JHABVALA (Railway Unions) : Sir, without any further
 5-30 p.m. comment I desire to press the resolution as it stands before the House with only one addendum that I desire to make and that from my honourable comrade B. K. Gaikwad and that is the addition of the word "immediately". It should be placed after the word "should." I accept that amendment. Sir, we are all moving in a vicious circle and I am surprised that some of my friends here on the left side have expatiated by putting forth some wrong arguments wrongly judged and wrongly conceived. Here, we are faced with a terrible crisis—the crisis of unemployment. The resolution that has been already passed merely indicates that we should appoint a committee to investigate into the problem. Now unemployment is a problem which is an eternal problem extending its life to economic eternity, and therefore

(Mr. S. H. Jhabvala)

this Committee will simply deliberate eternally without effecting any practical purpose. My resolution of this character makes the whole machinery of Government immediately work, put forth some practical work in the right direction. Then, I challenge the ignorance of many in the meaning of "finding out employment for them." (*Interruption.*) I am not a socialistically jaundiced-eye man. The point is I never see yellow, I always see red. If they want to know what is the meaning of "finding" out suitable employment for them, I would refer them and especially my honourable friend Mr. Nanda to a dictionary. The resolution as it stands explains everything and the meaning of the resolution is perfectly clear. With these words, I press the resolution before the House.

Mr. GULZARI LAL NANDA (Ahmedabad Textile Unions): Sir, in the first place I wish to dispose of a question which has arisen on account of the honourable member Mr. Sakarlal Balabhai's reference to the question of a proposal which the Millowners' Association according to him had made to a certain Labour Union and that Labour Union had rejected the proposal for creating a Labour Exchange in their centre. I think the reason which he gave himself, which he stated as being the reason of that Labour Union for not accepting that proposal, should convince the House that nothing more need be said. In that case, the idea was that the employers were to create a reservoir of blacklegs. It would never be acceptable to any labour organisation. The counter-proposal of that Labour Union was that they should be allowed to run the Labour Exchange, but in case that was found too difficult for employers to accept, let that exchange be run jointly. I do not think there could have been any reasonable objection to that proposal. The whole idea then was, and regarding which I need not take up time of the House, that it was not a genuine Labour Exchange at all. I do not think we should bring all that past history here. Here was a proposal to the employers, not that a Labour Union was to run that exchange, but that the Government was to run that exchange. Now I understand that though he is opposed to the Labour Exchange being administered by a Labour Union, he is not at all opposed to Government running that Labour Exchange and that there will be co-operation in that voluntary experiment.

Regarding the further remarks that the honourable member Mr. Jhabvala has made, I do not think anything need be added because he has not contributed any new argument or any new point on which I need make any statement. Therefore I, on behalf of Government, have to say that this resolution will be opposed.

The DEPUTY SPEAKER: There are two amendments to the resolution. I shall put the amendment of Mr. Gaikwad first:

"After the word 'should' where it appears for the first time, insert the word 'immediately'."

Amendment put, and negatived.

The DEPUTY SPEAKER : Then, the second amendment is :

"Add the following between the words 'bureaus' and 'whose' in line 2 : 'consisting of the representatives of the Government and Trade Unions'."

Amendment put, and negatived.

The DEPUTY SPEAKER : I now put the main resolution :

"This Assembly recommends to Government that they should establish employment bureaus whose functions should be to keep registers of unemployed persons and to find out suitable employment for them."

Question put. The House divided : Ayes, 20 ; Noes, 67.

Division No. 5.

Ayes.

CHUNDRIGAR, Mr. ISMAIL I.
DEHLAVI, Sir ALI MAHOMED KHAN
FAIZ MOHAMED KHAN, Khan Sahab
GAIKWAD, Mr. B. K.
GAVTI, Mr. D. P.
GHIA, Mr. M. C.
JHABVALA, Mr. S. H.
KARANDIKAR, Mr. S. L.
KHEDGIKAR, Mr. R. A.
MANDLIK, Mr. R. N.

PARULEKAR, Mr. S. V.
PATEL, Mr. MAHOMEDBAWA M.
PHADAKE, Mr. G. K.
RANE, Rao Sahab B. N.
RAUT, Mr. D. W.
SAKARLAL BALABHAI, Mr.
SHAIKH JAN MAHOMED, Khan Bahadur.
SIDDIQUI, Mr. ISMAIL HASAN BAPT
THORAT, Mr. R. B.
VARALE, Mr. B. H.

Tellers for the Ayes : KHAN BAHADUR SHAIKH JAN MAHOMED AND MR. B. K. GAIKWAD.

Noes.

ANTROLIKAR, Dr. K. B.
BHARTIYA, Mr. S. R.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHJI B.
DANDEKAR, Mr. V. V.
DESAI, Mr. DINKARRAO N.
DESAI, Mr. KHANDUBHAI K.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIR P.
DESHPANDE, Mr. G. H.
DODNETI, Mr. A. D.
GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUPTA, Mr. B. M.
HALIKERI, Mr. N. F.
HIRAY, Mr. B. S.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI
KARAVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KESHWAN, Mr. S. N.
KEER, the Honourable Mr. B. G.
KHEMJI, Mr. BHAWANJI A.
KUNTE, Mr. D. K.
LALA, Mr. BHOGILAL D.
LATTHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MENTA, Mr. H. P.

MORARBHAI KASANJI, Mr.
MUKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.
MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NANDA, Mr. GULZARI LAL
NARIMAN, Mr. K. F.
NESVI, Mr. T. R.
NIMANKE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PATASKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MUSAJI E.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGOUDA S.
PATIL, Mr. LAXMAN G.
PATH, the Honourable Mr. L. M.
PATIL, Mr. MALGOUDA P.
PATIL, Mr. S. K.
PITRANI, Mr. C. B.
RAJNAL LAKHICHAND, Mr.
RANE, Mr. B. R.
SHIRALKAR, Mr. P. K.
SHRIKANT, Mr. L. M.
NONGAVKAR, Mr. S. G.
TALKAR, Mr. K. R.
THAKOR, Mr. B. P.
THUSE, Mrs. LAXMIBAI GANESH
VAGHELA, Mr. B. U.
VYAS, Mr. SHIVARLAL K.
WADEKAR, Mr. R. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes : MR. K. G. GOKHALE AND MR. D. N. WANDREKAR.

Mr. S. H. JHABVALA : Have I a right, Sir, to know where the honourable members Mr. Bhogilal D. Lala and Mr. Maganlal Nagindas, and others who gave notice of the same resolution as per agenda before us, have voted ?

The DEPUTY SPEAKER : No.

Mr. S. H. JHABVALA : Only the day before yesterday there was an occasion of a similar character when this right was accorded by the Speaker to a member and therefore, Sir, I claim to know where these honourable friends have voted.

The DEPUTY SPEAKER : The honourable member may get the information from the office afterwards.

Mr. S. H. JHABVALA : I want them on the floor of the House.

QURAN AND SUNNAH FOR MUSLIM STUDENTS.

Mr. ISMAIL HASAN BAPU SIDDIQUI (Kanara District) : Sir, I beg to move the following resolution :

"This Assembly recommends to Government that the knowledge of Muslim culture being essential to the Muslims in their daily life, the teaching of the Quran and Sunnah should be made compulsory for Muslim boys in the primary and secondary schools and colleges in the Province of Bombay."

Question proposed.

The DEPUTY SPEAKER : I have received notice of an amendment to this resolution by the honourable member Khan Saheb Faiz Mohamed Khan. He may formally move it.

Khan Saheb FAIZ MOHAMED KHAN : The amendment which I move is as follows :

Add the words "and girls" after the word "boys".

Question proposed.

Mr. ISMAIL HASAN BAPU SIDDIQUI : Sir, the reason why I move this resolution is this. Many honourable members of this House may be knowing that Islam is a practical religion, and in accordance with its injunctions we have to practise in our daily life the injunctions that are given in the Quran and the Sunnah. Sir, now that the whole scheme of education is being overhauled, it is the most suitable occasion to make the necessary changes that are required by the Muslims, and for this, Sir, I have got three reasons.

In the first place, according to the religion of Islam, the acquisition of Muslim culture is obligatory on every Mussalman. In the Sunnah it is mentioned that the acquisition of the Quranic knowledge is incumbent on every Muslim boy and girl. Secondly, Sir, Islamic culture differs from the other religious cultures. Thirdly, it is diametrically opposed to the modern culture which we get in our schools. Sir, seldom was there an age intellectually as restless as ours is. We are not only faced with new problems requiring unprecedented solution, but the angle of vision with which they present themselves before us is also quite different from

[Mr. Ismail Hasan Babu Siddiqui]

the one to which we are accustomed. In all countries, societies pass through fundamental changes. Islam also cannot
 6-00 p.m. but be influenced by these changes. But, Sir, when a foreign culture sends its radiations amongst us and causes certain changes, we are required to see how far these changes agree with our own cultural aspects, and whether they serve as an invigorating serum in the body of Islam or act as a poison to it. Now, Sir, Islamic culture is essentially a religious one. It is not only a spiritual attitude of mind adjustable to different cultural settings, but in itself it is also a self-sufficing orbit of culture and a system of clearly defined social features. According to Islam, the conception of worship is quite different from what is mentioned in other religions. In Islam it is mentioned "I did not create men and genii but that they should worship Me". Worship here means not only the pure devotional forms such as prayer and fasting, but it extends to the whole of a man's life. If the object of our life is the worship of God, then our life in the totality of all its aspects is a complex moral responsibility. Therefore, Islam does not only define the metaphysical relation between man and the Creator but also defines the relation between the individual and his social surroundings. Now, I have already stated that the modern culture is diametrically opposed to the spirit of Islamic culture. Islamic culture is based on transcendental conceptions. Its first and foremost goal is the inner, the moral progress of man—moral considerations over-rule the purely utilitarian considerations. But in the modern culture, material prosperity governs every manifestation of human activity. How Islam looks towards this worldly life? It does not worship life. It says it is a passing stage but we are not entitled to despise it, because it is a necessary stage; and hence, this worldly life has got a tremendous value. Islam does not make differentiation between moral and practical requirements of human beings. Moral knowledge automatically forces a moral responsibility in Islam. A mere platonic discernment without the urge to promote the right and destroy the wrong is a gross immorality in Islam. In Islam, morality lives and dies with the endeavour to establish its truth upon this earth. Now, Sir, the knowledge of Islamic culture being essential, and the source from which you can get it in its pristine purity being the Quran and Sunnah—that is, the authenticated Traditions of the Prophet—a knowledge of it is quite essential. If it is not included, it will mean that you are going to thrust on the Muslims a civilization, a culture, which is quite against their religion. Ours being a democratic Government, and the Muslims being an important minority—a component part of it—it is the duty of the majority Government to pay respect to the views of the minority community. It will be a sheer injustice to thrust on them such culture which is quite against the spirit of their religion.

When I am speaking about the necessity of the introduction of Islamic culture, I should not be misunderstood as referring to the Islamic life at present. It is very far from the ideals given in the religious teachings of Islam. Whatever in Islam means progress is in the present day

[Mr. Ismail Hasan Bapu Siddiqui]

Muslims indolence and stagnation. Whatever in Islam there once had been of generosity and readiness for self-sacrifice is among the present day Muslims perverted into narrow-mindedness and love of an easy life. The one and the only reason for the social and cultural decay of the present day Muslims lies in the fact that they have ceased to follow the teachings of Islam in spirit. Islam is still there, but it is a body without a soul. The very element which stood once for the solidarity of Islam is now responsible for its weakness. The Islamic society was built from the beginning on religious fundamentals and the weakening of the fundamentals has necessarily weakened the cultural structure.

Therefore, I suggest that as this resolution relates only to the Muslim community, Government will find no objection to accept my resolution. Hence I hope that they will heartily support the same.

With these words, I commend my resolution to the House.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities) : Sir, there is something which I wish to bring to your notice. An important matter which affects the Muslims is being discussed and the Honourable the Prime Minister, who is in charge of the subject under discussion, is absent. This is highly unsatisfactory. I know there are present other Honourable Ministers who would take interest in the subject, but the main person who is concerned in the matter and on whose opinion we build our own arguments or may rely is absent. I think the Chair ought to see that the Honourable Minister, particularly when a subject which relates to his portfolio is being discussed, is in his seat.

The Honourable Mr. K. M. MUNSHI : Sir, I see no reason why the Honourable the Leader of the Opposition should have chosen to make these remarks. The Honourable the Prime Minister was here up to a few minutes ago. It would become impossible to carry on any work if the Minister cannot absent himself even for a minute during a long drawn out debate. I am sure the Honourable the Prime Minister will come shortly, and at any rate there are five Ministers whose responsibility is collective, and who are in a position to acquaint the Honourable the Prime Minister with what has happened adequately.

Sir ALI MAHOMED KHAN DEHLAVI : It is hardly a satisfactory answer.

The Honourable Mr. K. M. MUNSHI : But to lay down a principle that when a debate concerning his department is going on the Minister should necessarily be in his seat all the time, is rather a very, very difficult principle to follow. The Leader of the Opposition wishes to have a definite ruling from the Chair on the point, but I submit if any principle is laid down without due consideration of the work of the Ministers, work will become impossible.

The DEPUTY SPEAKER : However desirable it is that the Minister in charge should be present in the House when a debate concerning his

[The Deputy Speaker]

department is going on, the Chair cannot compel him to be present throughout. So far as this resolution is concerned, any of the Honourable Ministers present here may state the Government position.

Khan Saheb FAIZ MOHAMED KHAN : As this particular resolution is connected with the Muslim community, I request that the Honourable Minister who is a Muslim may express his view on the subject.

The DEPUTY SPEAKER : It is for the Honourable Minister to see whether he can express his view—

The Honourable Mr. K. M. MUNSHI : And at what stage to express it.

Khan Saheb FAIZ MOHAMED KHAN : I do not say that he should express his view immediately.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, it will facilitate the debate much better if the honourable the mover of the resolution were to explain the word "Sunnah" to the House. Let me say at the very outset that I am not opposed to the principle of the resolution, but I think that he should explain how the proposal would be fitted in the curriculum and the syllabus of the different schools. Whether the periods of other subjects will have to be curtailed, or will there be another scheme by which this resolution, if carried out, will be brought into practice ? That is all I want to know.

The DEPUTY SPEAKER : The honourable mover will take the suggestion when he will be replying. I have received a notice of an amendment—

Mr. ALI BAHADUR BAHADUR KHAN : The House should know, Sir, what the meaning of the word "Sunnah" is. It is not an English word.

Mr. ISMAIL HASAN BAPU SIDDIQUI : Every Mussalman is expected to know it, Sir.

The DEPUTY SPEAKER : I have received an amendment by the honourable member Mr. Babubhai J. Patel. He may formally move his amendment.

Mr. ALI BAHADUR BAHADUR KHAN : On a point of explanation, Sir. I beg to submit that it is impossible to discuss the resolution without the real import of the word "Sunnah" being explained. I want to know from the honourable the mover of this resolution whether he wants to enforce the teaching of Sunnah on all the pupils irrespective of their community, the Shias, the Sunnis and others or he wants to confine this teaching to any particular sect.

The DEPUTY SPEAKER : The honourable mover has said what he had to say. The honourable member Mr. Babubhai J. Patel.

Mr. BABUBHAI J. PATEL (Kaira District): Sir, I am formally moving the amendment and I will speak later on:

In line 2, delete the word 'Muslim' and substitute 'their religious'. In the same line, delete the word 'Muslims' and substitute the word 'people'. In line 3, delete the words 'the Quran and Sunnah' and substitute 'their respective religious scriptures' and in the same line delete the word 'Muslim'.

The resolution as amended would read as follows:—

"This Assembly recommends to Government that the knowledge of their religious culture being essential to the people in their daily life, the teaching of their respective religious scriptures should be made compulsory for boys in the Primary and Secondary Schools and Colleges in the Province of Bombay."

Question proposed.

Mr. ISMAIL I. CHUNDRIGAR: Sir, I rise to a point of order. The original resolution being about the teaching of the Quran and the Sunnah and that to Muslims only, is the amendment, which goes to alter it altogether by bringing in the teaching of other books and that to persons not mentioned in the motion, in order?

Dr. C. J. GHIA: Sir, on a point of information. We on this side of the House should like to be enlightened about the word "Sunnah". It is absolutely foreign to us. I want the members of the Muslim League Party to say what it is.

The DEPUTY SPEAKER: It does not relate to the point of order that has been raised.

As to the point of order raised, the principle of the resolution is imparting of religious education in schools and colleges. Now, the resolution relates to one community, and the amendment seeks to make it applicable to all communities. I think that it is in order.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, I was just going to point out that an amendment to be in order must be within the scope of the motion. If it extends the scope of the motion, then it is not in order. That is the only point I wanted to make.

The DEPUTY SPEAKER: The view I have taken is that the scope is imparting of religious education.

Sir ALI MAHOMED KHAN DEHLAVI: No. It is imparting of the knowledge of the Quran and Sunnah to Muslim boys and girls in the schools and colleges.

The DEPUTY SPEAKER: When the words "Muslim", "Quran" and "Sunnah" are deleted, the rest are applicable to all communities.

Khan Sahab FAIZ MAHOMED KHAN: Sir, what does "respective" mean?

The DEPUTY SPEAKER: The amendment makes the resolution applicable to all communities.

Khan Saheb FAIZ MAHOMED KHAN: In the amendment, the word "people" is substituted for "Muslims". "respective" has, therefore, no meaning.

The DEPUTY SPEAKER: I do not think a discussion is necessary at this stage.

Mr. P. C. JAKATY (Belgaum South) (*Addressed the House in Kanarese*): Sir, the resolution moved by the honourable member Mr. Siddiqui wants that a knowledge of the Quran and Sunnah should be imparted to Muslim boys and girls in schools and colleges. This is a matter which concerns the *Dharma* of a particular community. Before we can decide whether the teaching of the Quran is proper in schools and colleges, we should ourselves have a knowledge of the Quran.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, may I know what he says?

The DEPUTY SPEAKER: I do not know. It is one of the recognised rights of a member to address the House in the language in which he is proficient. It cannot be taken away.

Mr. ALI BAHADUR BAHADUR KHAN: Will some one translate the speech after the honourable member has delivered his speech?

The DEPUTY SPEAKER: The rules do not require that a translation should be made.

Mr. ALI BAHADUR BAHADUR KHAN: May we know whether he is supporting or opposing the resolution?

The DEPUTY SPEAKER: It will be known after his speech.

Mr. P. C. JAKATY: Sir, the crying need of our country is a system of national education. Instead of teaching the Quran to members—

Mr. ISMAIL HASAN BAPU SIDDIQUI: Sir, on a point of order. The speaker says that all the members of the House should learn the Quran before they give their consent to the resolution.

The DEPUTY SPEAKER: Order, order.

Mr. P. C. JAKATY: Sir, we can get a knowledge of the Quran, the Puranas, the Vedas and the Basavapuram from our religious institutions. It is not necessary that these religious books should be taught in the schools and colleges. As I said, our crying need is national education, to fit Indians to govern their country, to attain Swaraj. It is secular education that should be imparted in the schools and colleges, education that will fit the young men who go out of them to take their place in the fight for Swaraj. Let us therefore teach civics, political science and other secular subjects in our schools. The schools are not the places where religious education should be given. Schools and colleges are the training ground for the future citizens of India. Therefore, I oppose this resolution.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, from what I could gather from the able speech of the honourable member, I think what he means is that the consideration of this resolution should be postponed till all the honourable members have gone through the Quran.

An Honourable MEMBER : No, no.

The DEPUTY SPEAKER : For the information of the honourable members who have not understood the speech made in Kanarese, I may tell them that the honourable member has opposed the resolution.

An Honourable MEMBER : May I give the purport ?

The DEPUTY SPEAKER : I do not think any translation is necessary. He opposed on the ground that the imparting of religious education is not possible in schools and colleges, where secular education alone should be imparted.

Mr. ALI BAHADUR BAHADUR KHAN : Has he supported the amendment ?

Mr. K. G. GOKHALE (Belgaum South) : Sir, I stand to explain the resolution and the angle of vision with which I look at it.

The DEPUTY SPEAKER : The honourable member has got only two minutes more.

Mr. K. G. GOKHALE : Sir, I entirely agree that it is not only necessary for the Mussalmans to learn what is there in the Quran, but the time is come when all of us should also know of the Islamic Religion.

Mr. W. S. MUKADAM : Sir, may I know whether the honourable member is speaking on the resolution or on the amendment ?

The DEPUTY SPEAKER : Order, order. The discussion is general ; it relates both to the resolution and to the amendment. But as the time is now up, we may close the debate.

Tomorrow being Saturday, we shall meet at 10-30 a.m.

The House then adjourned till 10-30 a.m. on Saturday, the 29th January 1938.

Saturday, the 29th January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Saturday, the 29th January 1938, at 10-30 a.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINHI B.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAPURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FERREIRA, Mr. D. J.
 FRENCH, Mr. F. H.
 GADKARI, Mr. V. A.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GILDER, the Honourable Dr. M. D. D.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.

HALLIKERI, Mr. N. F.
HIRAY, Mr. B. S.
ILKAL, Mr. A. N.
JADHAV, Mr. D. G.
JAGTAP, Mr. D. K.
JAKATY, Mr. P. C.
JHABVALA, Mr. S. H.
JOSHI, Mr. JINABHAI P.
JOSHI, Mr. N. G.
JOG, Mr. V. N.
KALE, Mr. R. S.
KALYANI, Rao Saheb A. N.
KAMBLI, Sir SIDDAPPA T.
KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
KARANDIKAR, Mr. S. L.
KARAVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KATHALE, Mr. B. S.
KAZI, Mr. AZIZ GAFUR
KESHWAIN, Mr. S. N.
KHEDGIKAR, Mr. R. A.
KHER, the Honourable Mr. B. G.
KHEMJI, Mr. BHAWANJI A.
KILLEDAR, Mr. MAHOMED MUSA
KUNTE, Mr. D. K.
LALA, Mr. BHOGILAL D.
LATTHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MANDLIK, Mr. R. N.
MARATHE, Mr. NAMDEORAO BUDHAJIRAO
MASTER, Mr. NAGINDAS T.
MEHTA, Mr. H. P.
MEHTA, Mr. JAMNADAS M.
MIRZA AKHTAR HASAN, Mr.
MITHA, Mr. MAHOMED S. C.
MOHAMEDALLY ALLABUX, Mr.
MORARBHAI KASANJI, Mr.
MUKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.
MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NANDA, Mr. GULZARI LAL
NARIMAN, Mr. K. F.
NESVI, Mr. T. R.
NIMANEE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PARULEKAR, Mr. S. V.

PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKARLAL BALABHAI, Mr.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THORAT, Mr. R. B.
 THUBE, Rao Bahadur V. L.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

SHORT NOTICE QUESTIONS AND ANSWERS.

The Honourable the SPEAKER: The honourable member Mr. Phadake may ask his short notice questions.

LEVY OF NON-AGRICULTURAL ASSESSMENT AT NAUPADA OF SALSETTE MAHAL IN THANA DISTRICT.

Mr. G. K. PHADAKE (Thana South): Sir, question No. 1.

The Honourable Mr. MORARJI R. DESAI: Sir, Question No. 1 (a) is: "Will the Honourable Minister for Revenue be pleased to state—

(a) the order under which the revised non-agricultural assessment at a flat rate of Rs. 4 per hundred square yards has been levied since 1932 in Naupada village of Salsette Mahal of the Thana district?

The reply is:—"The full standard rate of Rs. 4 per 100 square yards was sanctioned in 1907 by Government Resolution No. 3411, dated 3rd April 1907 and was in force till 2nd September 1937.

"It was, however, permissible under old Rule 56-III or new rule 83 of the Land Revenue Rules to levy a concession rate of Rs. 2 per 100 square yards when an agreement under section 67 of the Land Revenue Code, complying with the building regulations prescribing the area of the open compound of the building plot and other similar conditions, was entered into by an occupant. This concession, which was given on the unbuilt area of a building plot, was withdrawn with effect from 29th August 1929 by Government Notification No. 1890/28, dated 29th August 1929. Accordingly, the levy of the full rate of Rs. 4 per 100 square yards in 1932 up till 2nd September 1937 was in order."

Parts (b) and (c) of the question are: "(b) whether notice of this revised non-agricultural assessment was published in the *Bombay Government Gazette* as required by Rule No. 82 (3) of the Bombay Land Revenue Rules;

"(c) if so, what is the date of the publication of this notice in the *Bombay Government Gazette* and the page of the *Bombay Government Gazette* where the notice is published."

The reply is: "(b) and (c) As the rate of Rs. 4 is not a revised rate, the question of issuing a public notice under section 82 (3) of the Land Revenue Rules does not arise."

Mr. G. K. PHADAKE: With reference to (a), why was this concession withdrawn?

The Honourable Mr. MORARJI R. DESAI: In order to have uniformity throughout, because there were no concessions given elsewhere.

**LEVY OF DOUBLE ASSESSMENT IN RESPECT OF NON-AGRICULTURAL
PLOTS IN NAUPADA VILLAGE OF SALSETTE MAHAL OF
THANA DISTRICT.**

Mr. G. K. PHADAKE : Question No. 2.

The Honourable Mr. MORARJI R. DESAI : Sir, the question is :
“ Will the Honourable Minister for Revenue be pleased to state—

‘ (a) whether Government are aware that double assessment, namely, agricultural, as well as non-agricultural, has been recovered in respect of the same area, for the last three years from certain holders of non-agricultural plots of the Naupada village of Salsette Mahal of the Thana district ;

‘ (b) if so, under what provision of law ;

‘ (c) whether Government are aware that double assessment was recovered from the owner of survey No. 151, Hissa No. 4 of Naupada village ;

‘ (d) whether Government are aware that the levy of double assessment is not in accordance with law ;

‘ (e) if so, whether Government have considered the advisability of refunding the extra amount recovered to the persons concerned ? ’ ”

The reply is : “ (a), (b), (c), (d), and (e).—Government have made enquiries and find that double recovery of agricultural and non-agricultural assessment has been made from certain building plots occupied by the Brahmin Housing Society, Naupada, and three other building plots in Naupada, Thana. One of these three other plots is in survey No. 151/4. The Brahmin Housing Society, Naupada, has a holding of 4 acres in which there are 43 non-agricultural plots. The non-agricultural plots are assessed to non-agricultural assessment as each is built over, but the correction of the records, which will result in the removal of the agricultural assessment, has been postponed so that the whole correction may be carried out at one time. This explains, though it does not excuse, the double levy in this case. The total excess levy has, however, only been Rs. 33-5-0 a year. The procedure is wrong, and the Collector is taking steps to give refund of the land revenue collected in excess of what was due.”

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE TEMPORARY
RELIEF OF SMALL HOLDERS IN THE PROVINCE OF BOMBAY.)**

The Honourable Mr. K. M. MUNSHI : Sir, I present the report of the Select Committee on Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay).*

The Honourable the SPEAKER : The report of the Select Committee on Bill No. VI of 1938 is presented.

BILL No. VII OF 1938 (A BILL TO REGULATE THE TRANSACTIONS OF MONEY-LENDING IN THE PROVINCE OF BOMBAY.)

Question again proposed, "That the Bill be read a first time."

The Honourable the SPEAKER : Mr. Mirza Akhtar Hasan.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dockworkers) : Mr. Speaker, Sir, now I come to the most important feature of the Bill, namely, that relating to administrative control over transactions of money-lending in this province—that is, Chapter IV. Clause 23 provides that the creditor shall furnish to the debtor a statement of the amounts of the principal and interest due to the creditor at the commencement of the year, the amount of any payment already received, the amount remaining unpaid, and the date upon which it became due, etc. I suggest for very practical reasons that not only a statement should be furnished to the debtor, but a copy of it should be furnished to the Registrar. If a debtor is in dire necessity for loans, the creditor can dominate over him and get back from him all the copies given and destroy them. To avoid such a case, a copy of the statement to be furnished to the debtor should be furnished also to the Registrar. This may be provided at least in the rules to be framed under the Act. If a copy is kept with the Registrar, then the creditor will not be in a position later on to take any advantage of the debtor's position. Such a provision will greatly assist in the practical realisation of the object of this Bill. It may also be provided in the rules that on payment of certain fees, any man or the debtor should get copies of the statements filed with the Registrar.

Clause 24 provides that a debtor to whom a statement of accounts has been furnished shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the account. This is a novel departure from the existing principle of the law of evidence. I can understand the facility given to the debtor, but there should be some limitation on his rights. There should be some time limit within which if he does not accept the correctness of the inventory he should send an intimation to the Registrar. Beyond that period, he should be estopped from challenging the correctness of the accounts. If a notice of a demand is sent to a person, and that person does not reply to that notice within a reasonable time, there is a presumption raised against him. Such presumption should apply against the debtor also, if he does not challenge the correctness of the statement given within a reasonable time.

Clause 28 is a very important clause. It is the thin end of the wedge. When all other safeguards have been provided, this clause will act as a great tyranny over the creditors,—I mean those money-lenders who are carrying on their business legitimately. Even at present, it will be seen from the records of the Small Cause Court that debts of Rs. 1,000 are made payable in instalments of Rs. 2 per month. You will, therefore, see how ridiculous such instalments have become. At least, there should be some safeguard for honest creditors.

[Mr. Mirza Akhtar Hasan]

Then, we come to clause 34. The Honourable Minister in his opening speech has admitted that there is a growing tendency in our courts to show reluctance to order the re-opening of adjustment of accounts. Of course, that has been the unfortunate position. But there must be some limit on the right to re-open transactions. Otherwise, there will be a large number of cases where applications will be made for the re-opening of past transactions. Even now, we have provision in the Evidence Act, section 91, to enable a man to re-open any issue when he wants to rebut any fact. Therefore, there need not be a hard and fast rule in this Bill enabling the court to reopen any transaction or any account already settled between the parties. If that is provided, frivolous requests will be made in courts. A man will come forward and say: "Some ten years ago, I had a transaction with the plaintiff, and I want that transaction to be examined". This will lead to multiplicity of work in the courts, and the courts will become congested. There should be at least some provision to limit the clause to transactions which occurred within the three years previous and to lay down that sufficient evidence should be produced by the debtor to convince the court as to the necessity of re-opening. Mere request should not be enough.

I have placed certain suggestions which may appear to go against the debtor, but we have to provide for the safety of everybody concerned. If re-opening of past adjustments is to be allowed on any frivolous requests, there will be great hardship caused to money-lenders, and the result will be that the institution of creditors is bound to suffer. The ultimate result will be the poor people will suffer, because they will not get any loan when they need it.

Then, I come to clause 38. I do not agree with it at all, because loitering within the vicinity of the house or residence would amount to molestation. Where is the safety for the man who lends? If you put in a provision like this, no man will have the courage to invest his money in loans, because it will be something like backing a dark horse. This has to be considered very seriously. Those individuals who, for some reason or other, are not willing to go to the court, will have to send a man to collect the money. The debtor can then say: "Look here, this man has been loitering near my house". Then, the messenger will be sent to jail for three months. All these things should be taken into consideration. Only those persons who want to take illegitimate advantage of the position of the debtor, those who want to belabour innocent people, should be dealt with. But people who want to carry on the legitimate business of money-lending should be safeguarded.

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

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I rise to support the Bill. While doing so, I frankly admit that Government have taken every possible care to see that the lot of the agriculturist is improved. But I do not know how far that care will help the agriculturist in the actual working of the Act. If we look to some of the old enactments which were specially enacted for the benefit

[Mr. D. W. Raut]

of the agriculturist, we find that all these Acts had really an adverse effect on the agriculturist.

In the Bombay Presidency two enactments were enacted to improve the lot of the agriculturist, and they are the Deccan Agriculturists' Relief Act and the Usurious Loans Act. I do not, however, think that the agriculturists are really benefited by these two enactments. This has also been the view expressed by the Banking Enquiry Committee, which was appointed some 8 years back, for, in their report, at page 180, it is observed as under :

"That the Act has produced evil effects almost everywhere is admitted by most, if not by all, but there is a great difference of opinion as to how it should be dealt with to counteract them. Some suggest the entire repeal of the Act without any fresh enactment to take its place; some its retention with modification, while others hold that the Act should be repealed, and a new law containing such of the provisions of the present Act as have been found useful, should be enacted, and that, at the same time, the Usurious Loans Act should be more widely used."

Now, I will proceed to the Committee's observations with regard to the working of the Deccan Agriculturists' Relief Act. On page 180, at the top, they say as follows :

"The evidence before us was almost unanimous in holding that the provisions of the Act were being evaded, that the agriculturist had lost his credit, and that the honest money-lenders were forced to withdraw from doing money-lending business in rural areas. When the Act was first passed, the money-lenders were taken unawares. In their transactions with the agriculturists they had not bargained for the extraordinary provisions of the Act, and for the time being, they suffered loss which fell more heavily on those whose dealings were generally equitable and fair. Seeing that the working of the Act put a premium on dishonesty, the less scrupulous amongst them found means to circumvent its provisions. As the Court went into the past history of each transaction and often reduced the amount and the interest mentioned in the bond and allowed instalments for repayment, they took from the debtors bonds for much higher amounts than were actually advanced. They refused to give loans merely on personal security, and as the usual practice of the Court was to grant instalments in suits and the money could not be realised by foreclosure, they began to insist on the debtor passing a sale deed the oral agreement being that the land was to be returned when the debt was repaid."

Therefore, the result was that the more the restrictions were imposed on the creditors, the more grew the difficulties in the way of these agriculturists getting loans. Sir, this fact has also been admitted by the Honourable the Home Minister when he introduced this Bill. In this Bill I do not find any provision which will put a stop to the creditors writing in the bond more amount than they actually advance. Honourable members know that generally creditors mention a larger amount in the bond than they actually advance. I admit that there is this provision of a little fine, but in my opinion, this is not adequate. Even the agriculturist who has given such a bond for a higher amount could not disclose that he has not actually received that much amount. So, in my opinion, it is necessary to provide a jail penalty for such transactions.

Then, I submit that the money-lenders should be compulsorily registered. In the Statutory Report of the Reserve Bank of India, 1937, it is stated as under :—

"We are therefore in favour of reasonable legislation regulating money-lending and making registration compulsory for all money-lenders."

[Mr. D. W. Raut]

Therefore, I request the Honourable the Home Minister to see that compulsory registration is introduced, and every money-lender, before he starts his business, is required to take a registration certificate. Sir, suppose a money-lender goes on doing money-lending business for 2-3 years, without taking a licence, and after that period he goes to court and is fined for not possessing a licence; he pays the fine and gets the licence and by having a licence he is able to obtain a decree of Rs. 1,000 or Rs. 2,000 executed. In the English Act, registration is made compulsory. So I submit that in our Act also there should be provision for compulsory registration. Sir, the Banking Enquiry Committee, to which I referred just now, say:

"The English Money-lenders' Act requires every money-lender to take out a licence every year. No money-lender is allowed to carry on business without such a licence, and if he does so, he is liable to a fine of £100, and a similar fine and imprisonment in addition for a second or a subsequent offence."

I submit that such a provision is necessary in our Act.

Then, Sir, provision should also be made for the inspection of accounts. There are auditors, inspectors and such other officers appointed to inspect the accounts of Co-operative Societies. In the same way, I submit that auditors and inspectors should be appointed for examining the accounts of money-lenders and for paying surprise visits. In every taluka there should be such an officer and he should examine the accounts of the money-lenders doing business in that taluka. No doubt, inspection will be expensive. But we are told that the licence fee will bring in a revenue of about Rs. 3 lakhs. A part of this amount may be spent for inspection.

Another important thing is that before giving the loan we should make it incumbent upon the money-lender to enquire why the loan is required. At present, the money-lender gives the amount asked for or even more without making any formal enquiries as to why the loan is required. The sole object of the money-lender in advancing any amount, on some security, is to get possession of the lands of the agriculturist. He knows too well that the agriculturist will not be able to pay back the amount and ultimately the lands would go into his hands. In this connection, I will quote what the report of the Reserve Bank says:

"He is prepared to lend at all times of the day and he asks no inconvenient questions about the object for which the loan is raised."

So, I suggest that this Bill should provide that the money-lenders must enquire into the cause for which the loan is required, and the Court also, in dealing with such cases, see whether an enquiry was made and money advanced accordingly or not. On many occasions, loans are taken for performing marriage ceremonies. Most of the lands that have been mortgaged or sold were sold or mortgaged for repayment of loans taken for marriages. Loans for marriages should be very small, i.e., not more than Rs. 50. The Co-operative Societies also make such enquiries.

[Mr. D. W. Raut]

Then with regard to the rate of interest, the Bill provides that for secured loans the rate of interest will be 9 per cent. and for unsecured loans it will be 12 per cent. I think this rate of interest is rather high. We find from the report of the Banking Enquiry Committee that in Gujarat the usual rate of interest is 12 per cent. and in Kolaba and other districts it is 18 per cent. The rate of interest provided for in the Madras Debt Relief Act is only 6 per cent. I, therefore, do not understand why we should not have the same. The conditions of this Presidency are quite similar to the conditions prevailing in Madras. The Co-operative Bank also charge only 6 or 6½ per cent. Other Banks give on deposits only 2 or 3 per cent. We know that the agriculturist is not able to save any produce for himself, and over and above that, if he has to pay a heavy rate of interest he will be ruined. I think the rate of interest for secured loans should be 6 per cent. and for unsecured loans it should be 8 per cent.

Further, I find that the Bill is not restricted only to agriculturist borrowers but it extends to all borrowers. I submit there should be some special provisions in the Bill for the agriculturists. The definition of "agriculturist" is not given in this Bill.

If all these suggestions are carried out, the agriculturists will get some relief.

Khan Bahadur SHAIKH JAN MAHOMED (Poona District) (*Addressed the House in Urdu*): Sir, I rise to congratulate the Honourable the Home Minister for bringing in this Money-lenders Bill. This Bill is as important as "Prohibition" itself. Just as a man who takes to drinking cannot get rid of that habit, so also once a man goes to "borrowing" he never gets out of that habit. I was Chairman of the Staff Enquiry Committee of the Cantonment Board in Poona. There I found that pro-notes for Rs. 500 were taken by the money-lenders and in return they used to pay only Rs. 100 or so.

The money-lender is like a moth slowly eating the clothes. Once he gets hold of a man, he will not let him go until he is ruined. This money-lending business is bad and it should be controlled by Government. I particularly want to draw the attention of the Honourable Minister to the provisions of section 29, Chapter V, where the rate of interest for secured loans has been given as 9 per cent. and for unsecured loans 12 per cent. I hope the Select Committee, which will be appointed, will consider this question. This rate of interest is very high. Government does not pay more than 3 or 3½ per cent. on its loans. Therefore this rate appears to be exorbitant. At the most it should be 6 per cent. and 9 per cent. respectively. This will be more beneficial to the poor people and they will thereby be able to pay back their money. I therefore propose that 6 and 9 per cent. should be substituted for 9 and 12 per cent.

With these words, I support the Bill.

Mr. R. B. THORAT (Nasik East) (*Addressed the House in Marathi*): Sir, I congratulate the Honourable Minister for bringing in this Bill. I only want to bring to his notice that the *wadhi-didhi* business has not been included. (*An Honourable Member*: It is). I only wish to bring some more facts to your notice. In my part, this business is done on a large scale and the interest charged is exorbitant. For one maund sometimes one and a half to two maunds are received back and you can imagine the rate of interest that it means.

Another fact I wish to bring to your notice is that the account books should be registered as the money-lenders many a time keep more than one set of accounts, as will be borne out by my honourable friend Mr. Pataskar.

My honourable friend Mr. Raut said that people take loans for marriages, etc. It is not a fact. The money-lender does not lend money unless the tenant is in trouble. Sometimes *dam-dupat* bonds are taken. Sometimes sale-deeds are taken, while there is an oral agreement to return. So I beg to point out that provisions should be made to meet all these contingencies.

Mr. S. V. PARULEKAR (Ratnagiri South): Mr. Speaker, Sir, the Home Minister, who is in charge of this Bill, with a view to impress upon this House the importance of this Bill, said the other day, that this Bill was going to affect the economic life of the Province. Sir, unless the Bill undergoes a radical change in the Select Committee, his claim that the Bill is important would not be justified. In support of my contention I will cite the statement made by the Prime Minister in connection with this Bill on another occasion when he spoke before the Bombay Shroff Association. He said in the course of his speech:

"I am sure that your Association will welcome this mild provision. It does not affect any of your vital interests."

Sir, I think the Honourable the Prime Minister has described the Bill in a more correct fashion than the Honourable the Home Minister did the other day.

Sir, the objects of the Bill have been described to be the control of the rapacity of the money-lenders and the protection of the illiterate and helpless borrowers from the clutches of dishonest money-lenders. Before we can come to a correct estimation of this Bill, it would be necessary to describe briefly how the ignorant and the illiterate debtors are being exploited by the dishonest money-lenders. Sir, the Honourable the Home Minister did not like when I quoted from the Encyclopædia of Social Sciences the other day; but, Sir, today, I think he will like if I quote some passages from another document which he would respect. This is a passage from the proceedings of the Governor General's Council dated 17th July 1879 when Sir T. Hope, the Member in charge of the Deccan Agriculturists' Relief Bill, spoke on the occasion:

"The passing of a bond by a native of India is often of no more value as proof of a debt he thereby acknowledges than the confession by a man under torture of a crime he is charged with. The commission urge two points that the money-lenders have learnt through our system to use and rely upon bonds almost exclusively and that their bonds

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are mostly no correct representation of actual transactions. In close connection with this difficulty about bonds is that of usurious and of compound interest, whether only levied in the account, or also provided for in the bond. That the money-lenders do obtain bonds on false pretences; enter in them sums larger than agreed upon; deduct extortionate premiums; give no receipts for payments and then deny them; credit produce at fraudulent prices; retain liquidated bonds and sue on them; use threats and warrants of imprisonment to extort fresh bonds for sums not advanced; charge interest unstipulated for, over-calculated, or in contravention of Hindu law, and commit a score of other rogueries—these are facts proved by evidence so overwhelming that I scarcely know whose to quote out of the five volumes composing the report of the Commission.”

In another place, he said :

“The Commission pointed out that the proportion of cases decided in Bombay *ex parte*, or in the absence of the defendant, vastly exceeded that in any other part of India. In the four districts the proportion ranged in 1876 from 60 to 74 per cent., and last year from 57 to 66 per cent. This has been ascribed to a variety of causes, of which the chief probably are ignorance of the ryot that he has a defence, want of means to pay a pleader, conviction that the Court, for want of time or other reasons, will not go into the merits of his case or look behind the bond, fear of irritating his creditor by a defence or fraudulent non-service of summons.”

He further said :

“The tendency of the change of relations thus gradually brought about by the law will be seen to have been all one way in favour of the party possessing the most intelligence and money. Even of old, the superiority of the money-lender over the ryot was considerable, though the former had little power of compulsion; but by the law this superiority has been infinitely increased. The likening of the contest between them to one ‘between a child and a giant’ is no figure of speech; yet the law presumes them both to be equal! That the superiority is fully and often fraudulently availed of is proved by the vast increase of litigation just mentioned; by the evidence of judicial and revenue officers and of numberless debtors; by the scrutiny of accounts by the Commission, and by the use in 1874 of some 150,000 warrants as threats only.”

Sir, the Deccan Riots Commission, which thoroughly investigated into this evil of indebtedness of the peasantry, came to the conclusion that of the many causes of heavy indebtedness of the peasant, one was the fraud committed by the creditor and the other was the ignorance of the debtor. Sir, we shall have to judge this Bill by applying the test whether this Bill removes all the evils which have been described by the Deccan Riots Commission and which I have just now read. Sir, the Deccan Agriculturists’ Relief Act was enacted in order to remove the evils which were then found by Government to be rampant in the money-lending business. That Act has been now universally admitted to have failed miserably. I may give one or two instances to show how the object of that Act is defeated. Money-lenders cannot, under the provisions of that Act, charge interest which in the opinion of the court is exorbitant. In order to circumvent this provision in the Act, if the loan is for Rs. 100, the money-lender compels the debtor to pass a promissory note for Rs. 200 or Rs. 300. That is how he successfully evades this provision of the Deccan Agriculturists’ Relief Act.

Sir, another most serious defect in the Deccan Agriculturists’ Relief Act is the definition of an agriculturist. Sir, this Bill wants to achieve what the Deccan Agriculturists’ Relief Act has failed to achieve. If therefore this object is to be achieved, it must contain more stringent measures and provisions than those which are provided for in the Deccan

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Agriculturists' Relief Act. When I examine this Bill from that point of view, I come to the conclusion and the only conclusion that this Bill will not achieve the object which it has in view.

Sir, when I read Chapter III of this Act, I am tempted to think that the Bill has been framed with the object of finding out a source of revenue to the Government. I do not quarrel with that object if that is the motive of the Bill, because I do want money-lenders to be taxed and heavily taxed, but, Sir, in the explanation given in the Statement of Objects and Reasons about this third chapter, it has been stated :—

" Moneylenders not holding a licence under the Act are precluded from getting a decree from any court in a suit to which the Act applies. The failure to obtain a licence would not necessarily non-suit the plaintiff moneylender ; the Court may require him to produce a licence within three months and may give him more time for such production."

Section 13 nullifies the whole effect of Chapter three in the Act.

11-30 a.m. I would have understood if Government had put in a provision to the effect that no suit would lie in any court unless a money-lender had a licence with him. All suits of money-lenders, who have no licence, should be dismissed. Then, I could have understood the seriousness of purpose of Government to punish money-lenders who were not honest. By incorporating this section in the Bill, Government give a chance to dishonest money-lenders to carry on their business without licence and to plead before the court : " I have no licence. I will produce it, if the court gives me three months' time." The court is free to allow him time. The object of the Chapter III is, we are told, to penalise dishonest money-lenders, but it fails to achieve the object which it has in view.

I now come to Chapter IV. This chapter seems to be intended to protect the helpless and illiterate borrower from the clutches of dishonest money-lenders. But, Sir, it does not achieve the purpose for which it is intended. Clause 22 (2) (a) provides :

" Every money-lender shall—

(a) deliver to the debtor within a reasonable time after a loan is made, a statement in the language in which he keeps his accounts showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged ; "

It is provided that the statement of account is to be in the language in which the money-lender keeps his account and not in the language which is understood by the debtor. Suppose I take a loan from a Pathan money-lender, who has to deliver to me a statement of account under this clause. He will give it in Pushtu, which I do not know. I will be required to approach some one who knows Pushtu to get it read. If I go to a money-lender and ask him to deliver a statement of account of the loan, he is to give it in the language in which he maintains his account which I may not know. I have had very bitter experience of how illiterate people are misled in the villages. Whenever handbills are distributed to them in their interest and they approach the literate

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persons in the village to get them explained, they are told that the hand-bills are about a cinema show. The statement of account should be delivered to the debtor in a language which the debtor knows and not in the language in which the money-lender keeps his account. Suppose I go to a Marwari and ask him to give a statement of account. He will give it in one of the languages of Kathiawar or Marwar which will give me no satisfaction. Sub-section (b) of that clause lays down :

"... give to the debtor a plain and complete receipt for all payments made on account of any such loan within a reasonable time after such payments are made ;"

The clause here does not insist that the receipt should be given immediately but it only says that it should be given within a reasonable time. In this connection, I would like to draw the attention of the Honourable the Home Minister to section 64 of the Deccan Agriculturists' Relief Act, which runs thus :

"The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment."

It is provided here that the receipt should be given immediately on payment of amount. It seems that the Honourable Minister either forgets or does not know that there are such provisions in the old Act. In spite of such clauses the money-lenders seldom tender receipts. It has been stated that the object of this Bill is to control the class of dishonest money-lenders. But we find not only nothing new in this Bill but that this Bill does not even come up to the level of the Deccan Agriculturists' Relief Act.

Now, I will refer to Chapter V of the Bill. It has been made out that one of the most relieving features of this Bill is that it does not allow interest to exceed the principal. We are told that the principle of Dam Duppat is to be enforced. Sir, this provision can be easily evaded by dishonest money-lenders. By getting a bond renewed often, they can very easily secure more than Dam Duppat, which is allowed under this clause. Let me read another important passage from this weighty document :

"(But) under the law since 1859, the creditor is forced within every three years either to sue the debtor, or to obtain from him a fresh bond for principal and any accumulated interest. In practice, he does so nearly every two years, in order to make sure of not missing the period through any accident or default. To show the difference between the two laws : Rupees 100 at 9 per cent. becomes Rs. 208 in 12 years ; but if the bond be renewed triennially, the amount is raised to Rs. 260."

It will thus be seen that, though this clause does not allow interest that will exceed the principal, the money-lenders, most of whom are unfortunately dishonest, can easily evade this clause and get what they want. This clause does not achieve the object which it really wants to achieve.

Now, I will come to that clause which deals with the limitation of interest. In order to come to a proper judgment about this clause, it would be necessary to bring before the House what a heavy burden it imposes on the weakest section of the population. Sir, the Banking

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Inquiry Committee in 1931 gave us the figures of debt on peasants. That report fixes the debt on agriculturists at 95 crores of rupees. If we are to be satisfied with a rough estimate of the debt on peasants, the figure might be in the neighbourhood of 115 crores today. If you calculate the interest that they will have to pay on their debt under this Bill every year, taking the average rate of interest, it will come to 11 crores. This Bill is going to lay on the peasants this burden which is unbearable. The debt of the working classes which comes to 5 crores of rupees is not included in the debt of the peasants. The working classes, according to this Bill, will have to pay annually 50 lakhs of rupees as interest. It means this. The peasants have to raise crops worth eleven crores of rupees every year in order that the money-lenders may have their interest. This is the greatest drain which my honourable friend Mr. Raut forgot when he accounted for the indebtedness of the peasants. If the peasant has to raise corn and crops worth 11 crores of rupees for paying the interest of the money-lender, can he ever hope to keep enough to have for himself and his family two meals a day, so long as this drain continues? The rate of interest has been fixed at a very high level. My own view on this point is that the rate of interest may be three per cent. on secured debt or $1\frac{1}{2}$ times the rate of interest charged by the Reserve Bank and $4\frac{1}{2}$ per cent. on unsecured loans.

We were told the other day by the Honourable the Prime Minister that he was a socialist. He also said that he differed from some of us in the ways and means of achieving that ideal. I wish it were so. But I should like to ask the Cabinet, who sometimes say that they also believe in the ideal of socialism, whether they have considered the question of interest from that point of view. I will state the problem in the simplest possible terms. Suppose I lend a loan of Rs. 100 to the Honourable the Home Minister. [Interruption.] I say, suppose. According to this Bill, at the end of the year, I will not be satisfied if he pays me only Rs. 100 back; I will expect from him, and demand from him, Rs. 109. I get Rs. 9 more than what I had paid him. What did I do in the whole year to earn this amount of Rs. 9? Even if I had slept during the whole year and done nothing useful to society, I would get this amount of Rs. 9. I have not to labour to earn this amount. I need not prove myself useful to society in any way in order to get the amount of interest. Then how does it happen that I can demand this amount of Rs. 9 for earning which I was not required to work? Only because the amount of Rs. 100 belongs to me. That is all. It is the toll of private property, collected with aid of State machinery from those who have not enough property. Sir, in this connection, I will read a passage from an authoritative book on this subject, "Economics as the Basis of Living Ethics", by John G. Murdoch, in order that in the select committee the whole problem may be considered from another point of view and from a different angle. The author says:—

"Now the question is:—Whence this interest on capital as such? Whence the possibility of a man living, and that too very handsomely, without ever doing a single stroke of work? That he lives from the interest of his capital investments is plain

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enough. But what is the explanation of the origin of this interest? This interest is net interest. The profit of the enterprizers, of the Carnegies, of the Harrimans, in the days of their active service, might readily enough be granted to arise from the exercise of remarkable powers or from the using up of remarkable chances. Their rewards might be regarded at least as a just return for their extraordinary abilities. But how comes it that after they have ceased from their active labors, their capital can go on bringing in to them a yearly return, so many per cent. of their total investment? The laborer you plainly see at work upon a serviceable article, a pair of gloves, a plough, a wagon or upon something that you positively know to be useful. The Superintendent, the manager, and the boss you can plainly see to be doing necessary work in directing, managing, conjoining the separate individual efforts of the hand-workers. You can easily see a Harriman evolving, as does an inventor, a new combination more effective than any former one for doing a certain work profitably. All these receive an economic reward, much of which you may be quite ready to pass by at first as more or less faultlessly earned and paid for. But these interest-getters, whose pleasant privilege it is to clip coupons, what do they do in the acts of economic production?"

And, Sir, he has given a reply to the question.

"Some labor and reap; some labor and do not reap; some do not labour and yet reap. These latter are exploitation. A part of this exploitation is interest. To be able to reap socially where one has not sown is the result of social conventions."

Sir, I should like this Bill to be considered from that point of view, especially the provision which allows the creditor interest at 9 per cent. on secured loans and 12 per cent. on unsecured loans.

Sir, the only clause which I welcome in this Bill is the one which deals with penalty for molestation. But even that clause does not go as far as I want it go. The proviso which has been added takes away the effect of the clause. The proviso reads:

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest."

If any one visits the mill gates on a pay day, he will find there hundreds of money-lenders waiting to snatch away the amount that the workers have earned by hard labour during the month. Before the labourer reaches home, the money-lender has his share with the result that he, again returns to the money-lender to borrow something more. That ought to be made a cognizable offence. That is what has been recommended by the Royal Commission on Labour. The Government of India had circulated this question for the opinion of the labour unions, and, if I mistake not, all unions did recommend to the Government of India to make it a cognizable offence. But with this proviso, it will never become in effect a cognizable offence. The money-lender will say that he had been to see his debtor in order to demand his money back, and this proviso will protect him. The proviso is in a very crude form, and I hope it will be improved when the Bill goes to a select committee.

In conclusion, I will say only this—and I said it in the beginning—that unless radical changes are made in the Bill in the select committee, it will not achieve its object either of controlling the rapacity of dishonest money-lenders or of protecting the interests of the helpless and illiterate debtors. If, therefore, radical changes are not effected in the Bill, the Government may have only the satisfaction of getting a Bill passed which

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attempts to control money-lenders. In reality, however, it will mean that the Home Minister is being controlled by money-lenders instead of the money-lenders being controlled by him.

Mr. S. H. JHABVALA (Railway Unions): Sir, it was the illustrious poet Shakespeare, more than four hundred years ago, who said, in his well-known drama *Hamlet*, "Neither a borrower nor a lender be; For borrowing dulls the edge of husbandry". I am sorry the poet forgot to say that lending cuts the very nose of human society. But he flourished in times when Britain was laying out her tentacles all over the different parts of the world in the form of colonies and was laying the early foundations of imperialism. However, the present Bill has got two important factors which should be considered. The Government, as it at present stands, is certainly a union of master classes. By the introduction of a Bill like this, Government is not helping in the direction of rooting out exploitation totally and eradicating the system of indebtedness. The Government has always accepted a particular medium policy, and that policy is of the halting stage. In view of this the utmost members like me can do is to put up with a Bill like this which certainly deserves all support. On behalf of the working classes—I have lived among them and worked for them—I should say that this measure is a distinct step forward. It should not be delayed a day longer and should be put on the statute book with the least possible delay. I heard the other day the Honourable the Home Minister saying that he was desirous of sending it to a select committee, and the select committee would elicit public opinion, especially the opinion of those persons who go in for money-lending business, and on the basis of those opinions the select committee might formulate its final conclusions before coming back to the House. I heard him say so. My objection to that is that it is a wrong step which is suggested by the Honourable the Home Minister. The Bill may be sent to a select committee I agree, but the select committee must submit its report before the present session closes and the Bill must go through in the present session. The debtor can no longer tolerate the present ignominious state of tyranny at the hand of the creditor. There is no need to elicit opinion on the subject. If it is going to elicit the opinion of big banking concerns and similar other money-lending concerns, the result will be that it will be put on the wrong track, and perhaps the opposition to the Bill as it stands at present might be stiffened when it might not be satisfactorily met in a House like this. Therefore, my submission is that if the Bill is sent to a select committee, it should submit its report as early as possible, and it should be gone through at an early stage.

Sir, money was avowedly started as a medium of exchange, but at present it has become a regular source of exploitation. In the capitalist organisation that we have all started in this world, without money one cannot do. But lending as a business is wicked. Lending money suggests

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the idea of fellow-feeling and human sympathy, and that was the reason why Prophet Mahomed objected to *sood*, meaning interest charged whenever help in the form of money was given to any person. It is a matter of surprise to me to see certain of my Mahomedan friends standing up and saying that the rate of interest should be altered this way and that way instead of asking for the doing away of the whole principle of interest altogether. However, the Congress Government has adopted a particular line of policy, namely, to do as much good as possible under the present economic conditions, and with that view, certainly this Bill deserves all support at its first reading.

Sir, when the Bill goes to the select committee, certain of the clauses will have to be overhauled. This is not the time to discuss the details, but certainly some of the clauses require amendment to a very great extent, and that is with regard to Chapter V. Chapter V is rather a very mild one. It requires to be further stiffly strengthened. In paragraph 8 of the Statement of Objects and Reasons it is stated that the rate of interest will be 9 per cent. on secured loans and 12 per cent. on unsecured loans. This is ominously over-stepping the limit. This will have to be threshed out thoroughly well before Government arrives at a final conclusion. The very idea that there should be a heavy rate of interest has prompted Government to resort to a measure like this, and yet Government are still insistent on the fact that there should be a heavy rate of interest like the one that is provided for in the Bill.

Then, Sir, with regard to the same chapter, there are certain other objectionable features, and they have been shown in paragraphs 9, 11, 12 and 13. Coming to the last paragraph, No. 13, as regards molestation I have a good deal of experience among the working classes, and so even this clause requires to be thoroughly well elucidated. The whole principle of molestation should be thoroughly understood, and measures require to be taken by which the hands of the poor unfortunate debtor, who gets himself entangled due to the forces of economic circumstances are strengthened. He should be freed from molestation altogether. It is not right that any allowance should be accorded to any creditor, whether he be a bourgeois creditor or he be a proletarian creditor, meaning to say a creditor who advances money to the bourgeois people or one who advances to the proletariat. It is not desirable that anybody, who in time of need stands as a helper to anybody else, should try to dominate even the social and domestic life of the poor unfortunate indebted man, and the clause dealing with molestation requires to be very well strengthened in favour of the debtor. What do you find is the condition of the working classes? In the mill area you will find a large army of these creditors, especially of the Pathan tribe, standing there and snatching away the wages that may be in the hands of the labourers after a month's wearisome toil. We have protested consistently against this, and some employers have found it desirable to keep these money-lenders out of their precincts. But then they could not be prevented from exercising elsewhere the kind of molestation which under

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the present conditions they can so exercise. These Pathans are a tribe of people who group themselves together to carry on this particular kind of business. My protest is that lending money should not be a business as such. A man comes from the north having got barely Rs. 30 or Rs. 40 in his pocket and becomes a very prosperous man in a short time by wandering about the places inhabited by the working classes and agricultural people and lending money to them at exorbitant rates of interest. What is that due to? That is due to the fact that there is a heavy amount of indebtedness; people require to subsist themselves and when they do not find money they avail themselves of these resources. But those persons who lend money should not be privileged as a business class in themselves, and allowed to exercise any kind of molestation whatsoever on whomsoever they would lay their hands on. Therefore, this clause also requires a great deal of emendation.

Sir, my stand as regards this Bill is perfectly clear and it is this, that the money-lender is nothing but a product of the modern capitalist system and therefore he requires to be totally uprooted. But before the system of lending is totally uprooted, the old question will come, namely, the reorganisation of the whole social order itself, for which the Congress Government are unfortunately not prepared at present. However, the Bill is a step in that pointed direction. It tries to modify the prevailing evil underlying the social order to a certain extent and it tries to give some relief to the poor indebted man. Therefore, I heartily welcome this Bill and request the Government Benches to speed up the whole business and put it on the statute book as early as possible.

Mr. H. V. PATASKAR (East Khandesh West): Sir, I rise to offer a few remarks with respect to the measure which has been brought forward by the Honourable the Home Minister. In spite of the fact that the Deccan Agriculturists' Relief Act has been in operation for over 60 or 70 years in this Presidency, it has failed to achieve the purpose for which it was enacted. Without going into the details, I might say, as every man with experience of litigation and particularly civil litigation knows, that the Act has only been able to produce a dishonest class of creditors and an equally dishonest class of debtors. Beyond bringing these two classes into existence, it has absolutely failed to be of any use. Probably when the Act was introduced [*Interruption*] debtors were not so dishonest. But as a result of the working of this Act, the debtor also is made dishonest. Impoverishment has also contributed to the same factor. When poor people now require money, they have no alternative but to go to a dishonest creditor, because the honest creditor has hardly any place in the present system by which money is lent by one man to another. The present Bill is an improvement on the Deccan Agriculturists' Relief Act, because under the Deccan Agriculturists' Relief Act the State steps in only when the parties go to Court. But if they did not go to Court, there was no State interference by which the taking of excessive interest or carrying out other fraudulent acts was prevented. The present Bill seeks to control money-lending even prior to its reaching the stage of the

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Court. For instance, though under the Deccan Agriculturists' Relief Act Courts are empowered to reduce the rate of interest whenever they find it excessive and they have done so, still a dishonest creditor was in a position to exact any rate

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of interest from a needy creditor without going to

Court. He used all means at his disposal to see that instead of reaching the Court his purpose of exacting this high rate of interest, or even at times exacting the double amount half of which had been really borrowed, could be achieved. Therefore, this Bill is an improvement in this respect, that it controls the rate of interest at a prior stage. Now, when this Bill is passed, the creditor cannot charge more interest than that provided for in the Act. There may be differences of opinion as to whether the rate of interest thus provided should be 1 per cent. or 2 per cent. or 9 per cent. or even 12 per cent. These are matters of detail. Rates of interest will have to depend, as they always depend, on several factors and unless all those things are considered, we cannot say whether the particular rates provided for are really excessive or are reasonable.

Similarly, with respect to the keeping of accounts the present Bill provides that every money-lender to whom a licence is issued must keep accounts in a particular manner. Under the Deccan Agriculturists' Relief Act even though there was provision for taking accounts, etc., there were several creditors who did not keep any accounts and were the better for not keeping them, when they had to go to a Court of law. And that is why, I think, there is a tendency on the part of creditors not to keep accounts, or if at all they keep, not to produce them in a Court of law and say that they do not keep accounts. Such a thing will be prevented after this Bill is passed into law, because it is provided that a licensed money-lender must keep accounts in a particular form.

Then there is provision against molestation. This is also a commendable improvement.

Then another direction in which this Bill is an improvement is that its provisions will cover all transactions between any class of people. The Deccan Agriculturists' Relief Act was confined to a particular section of the people, namely, the agriculturists.

Then a point was made as to why the statement of accounts that is to be given by the creditor should be in the language of the creditor. It is true that in many cases the debtor may not be in a position to understand the language in which the accounts are kept by the creditor, but the fact is that from another point of view it is desirable that these extracts should be given in the language in which the accounts are kept by the creditor. Supposing there is a dishonest creditor who gives a translation and not an exact extract of what is written in the account books to the debtor and subsequently it is found that the translated extract is not correct and some entries are not found in the original account-books, then he can turn out and say that the translation was merely incorrect. So, in order that the creditor may be pinned down

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to the fact that what is given to a debtor is an exact copy of what has been written in his account books it is desirable that it should be in the language in which the accounts are kept. Of course, the debtor will have a little trouble in getting its translation from somebody else, if he does not know that particular language, but he can be sure that the extract which has been supplied to him is a replica of the original accounts. It was said that if a money-lender who is a Pathan—generally Pathans are money-lenders—was required to write his accounts in the *Kabuli* language, wherefrom was the debtor to get a translation of that extract of the accounts in the *Kabuli* language? I agree that there is some force in this argument, but it is certainly safer that a debtor must get an exact copy of what is written in the accounts of the creditor in his own language, may it be the *Pustu* of a Pathan money-lender. So that, if it is subsequently found that there is any change in the copy, he can be prosecuted and proceeded against, under the provisions of this Act. Therefore, I submit that it is desirable that an exact replica of what has been written in the accounts by the creditor should be produced to the debtor, and so the provision is correct.

Sir, I know of dishonest creditors who, whenever they have to advance money, take the document of a much earlier date and go to Courts and secure award decrees for a larger amount than they intend actually to advance to the debtor and it is only after getting such decrees that they advance the agreed amount. The debtor is compelled to give the document of a prior date because he finds that he is not in a position to get money anywhere else, and that is why he submits to all these harassments at the hands of the creditor. So, our attempt should be to bring together a class of honest debtors and a class of honest creditors. If we merely start with the idea of crushing the creditor without regard to the fact that we want to bring into existence a class of honest debtors our attempts are likely to fail. There are some people who say that merely because certain restrictions of a very harsh character are imposed on the creditor, that by itself is not going to achieve the object. I have every sympathy with the poor people who are the victims of dishonest creditors, but restrictions of a harsh character on the creditors alone are not likely to help us. Our attempt should be to create honesty both among the debtors and the creditors. I know there are debtors as well, who, because they find that the creditors as a class are generally ill-reputed, go to a man, who is not a real creditor because he does not do money-lending business, but who happens to be their relation or neighbour, or with whom they are in some way connected, borrow money from him and then raise false contentions as if the man was a bad type of money-lender and belonged to that rapacious class of creditors, and try to cheat him of his dues. The result has been that we find both creditors as well as debtors who are dishonest. I believe, therefore, that the idea behind the present Bill which gives so much protection to the debtor, is that we want by this means to produce also a class of creditors who will think that if they comply with all the conditions laid down and enter

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into honest transactions, they will be able to recover the amounts without any trouble or harassment. I think, Sir, from this point of view, the present Bill is certainly a great progress.

Then, this is not a very new experiment which this Congress Government intends to make. It is a tried measure. The present Bill very closely follows the lines of an English enactment passed there so lately as the year 1927 and after taking into consideration the experience of other countries and the conditions which prevail here, this is an honest effort on the part of Government to have an improved state of affairs so far as the dealings between these two classes are concerned.

In spite of all sayings to the contrary, I submit the creditor and the debtor as such are bound to be there for all time. They are there from times immemorial and they will continue to be there in spite of all the provisions that have been laid down here. For instance, reference was made to Shakespeare, saying "neither a borrower nor a lender be", but his advice still remains practically without being followed for all these 400 years, and so long as society remains what it is today, we need both a creditor and a debtor. All that we want is that we must have an honest creditor and an honest debtor.

It is with these objects that the present Bill is brought forward and I hope it will receive the unanimous support of the whole House.

Mr. G. K. PHADAKE (Thana South): Sir, I rise to support the first reading of this Bill. It is meant to control and regulate the transactions of money-lending business, and not to introduce socialism here. There are many bad practices in this profession, and as the Honourable the Mover of this Bill pointed out to us the other day, there are many dishonest dealings also. But dishonesty is not peculiar to this profession only. There are dishonest people in every walk of life. Nevertheless, it is necessary and wholesome to free this profession of the abuses that have crept into it. But, Sir, it is not necessary to introduce in such a measure such objectionable and novel features as would harm the interests of honest money-lenders. Much of the discussion has been on theoretical grounds. I am sorry that I am not so learned as my other honourable friends here. I am speaking from a practical point of view (*Interruption*). Yes, also from experience. I am a money-lender and I am not ashamed of it so long as I carry on my business as honestly as my friends can carry on their own profession. Sir, this is a very important Bill; it is more important than the Deccan Agriculturists' Relief Act. Many honest money-lenders were completely ruined after the introduction of the Deccan Agriculturists' Relief Act, because it contains clauses which are harmful to the conduct of honest dealings. It is, therefore, gratifying to note that this Bill has been framed with great caution, consideration and care. It gives the money-lender time to pause and to think; it gives him time even to wind up his business, if he thinks it advisable to do so. Nevertheless, it will revolutionise the whole money-lending business; it will revolutionise the whole

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economic life of the country. It will have far-reaching effects in the countryside. In those parts, there are money-lenders, who are ignorant of the modern ways and methods. The enforcement of modern laws have made them so timid that the very words "Registrar of Money-lenders" would terrify them. There are money-lenders, who would rather forego their dues than go to a court of law. They want to avoid the insolence of the office, the law's delay and all the hardships that they are subjected to when they enter a court of law. These people will close their business. There are others who are forced to do this business because they have to live amidst impoverished villagers; then there are others who are averse to such restrictions being put on them. Just imagine the effect that will take place on all these people. There is no provision for credit to the agriculturists in any other way. When this supply is closed suddenly, it will be very difficult for them to get any money. It is these people who have helped them up to now, and if this source is not available to them, I cannot imagine how they will tide over this difficulty for the time being. It is, therefore, gratifying to note also that Government do not wish to carry this Bill quickly. My honourable friend (Mr. Jhabvala) wants this enactment even today. I am opposed to it. It requires still more consideration, and I hope after it is sent for eliciting public opinion and after it is referred to a Select Committee, many of the objectionable features in it will be modified.

Then, Sir, the first objectionable feature in it—I am speaking generally—is the liability of a co-parcener in a joint Hindu family. This is altogether a very novel idea. It goes one step further or it surpasses the Criminal Law Amendment Act. That Act provides punishment for a man who has acted, who is acting or who is likely to act; but this Act provides punishment for a man who has not acted at all. A is a money-lender and B is his brother studying in a college. B is absolutely ignorant of the ways and methods of A's dealings, but B will have to suffer all the punishment for a certain misdeed by A. That is very objectionable and I think it should be modified in the Select Committee.

Then, Sir, the second novel feature in it is that there is a very, very heavy penalty provided in it. When a license is cancelled, the money-lender is completely ruined. If the money-lender acts in any contravention of the provisions of this Bill regarding the license, his license will be cancelled, and in that case, it will not be possible for him to recover his outstanding. That will completely ruin him. No doubt, there must be some punishment, but it is not proper to completely ruin him for a single misdeed of his.

Then, Sir, much is said about the rate of interest. I am sorry honourable members, who have spoken up to now, have never done this business. It is the misfortune of the money-lenders that they cannot create or coin money. They have to borrow it from others. I might tell it from my experience and I tell it to you from my own experience that it is very difficult to borrow money even at the rate of 7½ per cent.

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interest on a secured loan. Under these circumstances, how is it possible for a money-lender to do his business with such a low margin as $1\frac{1}{2}$ per cent.? That is as regards secured loans. As regards the unsecured loans also, there is no consideration about the bad debts. Debtors generally borrow beyond their capacity and they have the liberty to borrow from as many sources as possible. It is very difficult for the money-lender, in such circumstances, to recover the whole advance that has been given to the debtors. That consideration must be met whilst stipulating the rate of interest on unsecured loans and, if this consideration is made, I think the rate of interest is not so high. My honourable friend, Mr. Parulekar said that the rate of interest should be $1\frac{1}{2}$ per cent., or $3\frac{1}{2}$ per cent. and $4\frac{1}{2}$ per cent. Then it is better to wipe out the whole class. (*Hear, hear.*) I shall not be sorry if you abolish this class, because it is much abused and if it is not necessary in the society it should better be abolished, but if it is certainly very useful it should be there and it should be there with some checks in order that there should be no abuse.

Then, Sir, it will be very difficult for the petty money-lenders to do their business. There are money-lenders in the villages whose advances do not amount to more than a hundred rupees in a year. It is not that they wish to do this money-lending business, but they are forced to do it because they are to live in a society, they are forced to advance money to their co-workers, their associates, their relations, in emergencies like death, loss of cattle or certain other calamities. To enforce these restrictions on these people and to ask them to go through all the formalities of the law is not proper. There ought to be some exclusion made regarding the amount of capital. Those persons whose business cannot amount to more than a hundred or two hundred rupees should be excluded from these restrictions.

Then concession must also be provided for temporary and casual loans when submitting the statement of accounts. There are so many occasions when we have to make casual and temporary advances to our friends, relations and so many other people. It will be very difficult for a money-lender, if every time he has to give the statement of account to these people.

These are some objectionable parts in this Bill. There are others, but I am only dealing with these and I hope that they will be modified in the Select Committee. I agree with the honourable member Mr. Pataskar that there is no restriction on the debtor. Such laws have the tendency to put restriction on the money-lenders only. There is no restriction on the borrower. He can act as he likes. The law teaches him to defer the payment of his borrowing. It even helps him in having a loan which has been strictly given in accordance with the provisions of the law. That has been the effect of the Deccan Agriculturists' Relief Act and the atmosphere is such that when a money-lender goes to a court he is supposed to be the most dishonest person in the world, while

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a borrower is supposed to be the most honest and straightforward one, willing to pay every farthing that he has taken and the court thinks it its duty to extricate him from the clutches of this money-lender. Such considerations shown to a debtor compel the honest money-lender to be dishonest or to make room for others who will pay the debtors in their own coin. There must be some restrictions on the debtor and if this Act is meant for protecting the honest money-lender, this attitude towards debtors must be changed. Otherwise, the Bill will have the same effect as the Deccan Agriculturists' Relief Act has. Money-lenders will always obey all the restrictions of these laws, while there will be others who will not obey these laws and still flourish as we find them flourishing even now, though there is the Deccan Agriculturists' Relief Act and though their dealings are questionable. But as the honourable the mover of this Bill has said, it is a Bill to protect the honest money-lender. That is a good aim and I welcome this measure because it is meant in the right direction. Whether it will have the desired effect or not I cannot say for the present. But I wish that this measure may protect the honest money-lenders. Otherwise those who are still conducting that business on honest lines, even against odds, will have to clear the field for others whose ways we shall have to deplore. I, therefore, support the first reading of this Bill with these qualifications that these objectionable features in this Bill would be modified. It should be sent to all the people concerned, their views should be considered properly and it should be introduced with a view that it shall not disturb the agricultural economy as far as possible. I do not say that it will not be disturbed at all, but it should be disturbed least so long as you do not make any other provision for the supply of their credit.

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

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*):

12-30 p.m. Sir, I rise to support the first reading of the Bill.

The honourable member Mr. Pataskar said that it was the dishonesty of the debtors that compelled the creditors to be dishonest and to have promissory notes for larger sums than what are in fact lent.

Mr. H. V. PATASKAR: I did not say that. The honourable member seems to have completely misunderstood my remarks.

Mr. B. K. GAIKWAD: Anyway, I have only one or two things to say. Sir, a fear has been expressed that this Bill will drive the money-lenders out of the money-lending business altogether and that, as a consequence, poor agriculturists and other needy people will not have the means of raising a little money when they need it for agriculture or for other urgent necessities. It is feared that capital will fight shy of agriculturists. The honourable member Mr. Phadake also said that some of the sahu-kars have lost all their money in this lending business, but I say that the proportion of the debtors who have lost their all that belonged to them to the creditors as compared with the proportion of the creditors who may

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have lost something in the transactions is certainly quite large. There is, Sir, another class of creditors, sub-creditors, people who have no money of their own to lend but who borrow money from bigger lenders, at say 4 per cent. and lend it to the poor needy persons at say 8 per cent. and thus make four per cent. profit for themselves. Such a class of parasites has arisen, no doubt. We see that no matter how much salaries or wages are reduced, the people, through sheer necessity, stick to their jobs and continue their occupation even in spite of the reduction. Similarly, the money-lenders are sure to pursue their occupation of lending money in spite of reduction in the rate of interest. Otherwise, how else can they live? They live on interest. They cannot have interest if they do not lend. They do not belong to the class of producers. They live on the produce of others which they secure in the form of interest.

I know well that this Bill is not perfect at all. Sir, no man is perfect, no Bill is perfect and nothing in this world is perfect. But as the Honourable Minister is going to send this Bill to a select committee, I hope that the committee will be able to remove the defects that certainly are in it at present and resubmit a more perfect measure than we now see before the House today. Whether the suggestion made by the honourable member Mr. Phadake to send this Bill for eliciting public opinion would be accepted or not, I do not know. All that I express is a hope that the select committee will take every care to check and remove much of the oppression and injustice which are at present the lot of the poor, illiterate, ignorant masses of our peasantry and working classes.

Sir, I support.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, while listening to the debate on the Money-lenders Registration Bill and while passing, of course cursorily, through the various provisions of the Bill, I was reminded of an occasion in this very House nearly six months back. When the Honourable the Finance Minister introduced the budget in the last session, in his opening speech he was at some difficulty as to the definition of a money-lender, and there was, if I remember aright, a good deal of heated discussion in this House as to whether a poor old widow, who did lending business out of the savings of her life-time, could be properly called a money-lender or not. I have to congratulate the Government that during the last six months there has been an advancement of knowledge in their case and they have, after these six months, arrived at some kind of an idea as to the meaning of the word "money-lender". After these congratulations, which I believe they will accept from me, I have to turn to the discussion that has been going on here. If I have understood the discussion aright, money-lenders have come to be a class that is absolutely hated by all sections of society. My little acquaintance with literature tells me that former kingdoms, former rulers, did not look upon creditors and money-lenders in that way. There is one small book called अमात्यनीति which describes the principles of Shivaji's administration. In that book, a whole chapter is devoted to

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money-lenders and creditors for a king; and the chapter begins: साहुकार ता राज्याची व राज्यश्रीची शोभा. That was the importance that was attached to creditors of ancient kingdoms. As I look to the changed outlook that has come over this affair, I am inclined to give credit to the subtle methods which our foreign Government has introduced in this country: in order that there may be some buffer against which popular hatred might be directed and in order that the Government itself may escape from that popular hatred, it has created a certain class which suffers the most from the storm of public indignation. Several enactments were passed against these money-lenders, sowcars or creditors, by various provincial legislatures. All these enactments in several provinces have tended towards this one culmination, namely, the money-lending class, the creditor class, has come to be a class which is hated by society, as a whole. (*Interruption.*) I am coming to that. I have also had some occasion of knowing society. I am not absolutely ignorant of society, though I have not the audacity of pretending that I am omniscient. From my knowledge of society, I can say that there are sowcars or creditors who are creditable to society just as there are creditors or money-lenders who are a disgrace to society. In this respect, as in other respects, the general rule holds good. If there is one man who eats his own shoes or who marries his grandmother, there will be one such man in every one thousand; if there is one pleader among one hundred who is dishonest, you cannot condemn the whole profession; if there is one trader who is dishonest, you cannot condemn the whole trading community; so also, if there are a few money-lenders or sowcars who are dishonest, you need not condemn the whole class. Therefore, I have not been able to follow, after a good deal of effort, all these vituperations which were freely indulged in by some members against the money-lending class. After all, all our efforts and the efforts of Government are directed towards helping the agriculturists in the country side. The money-lenders, as a class are bound to survive, whatever may be your efforts to wipe them out of existence. The poor villager knows his value, because every now and then, he has to fall upon his next door neighbour for his needs and the creditor also knows what the requirements of the poor agriculturists are. They adjust their relations. Though they borrow and lend money, they do not call one another as money-lender or borrower. If you are to adjust society, this kind of vituperation will not do. The idea must be the adjustment of relations in society.

I now turn to certain discrepancies in the Bill. Perhaps, these discrepancies are due to the fact that Government were faced with the problem of finding one common solution for varying sets of circumstances. In clause 9, they have defined "loan". Under the definition, "loan" means an advance, whether of money or in kind, and includes any transaction which is in substance a loan, etc. Even if advances in kind are to be included in the class of transactions—if it is so contemplated by Government—I think a very great hardship will be caused in the country-side. Those persons who advance seeds or grain in the

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month of June to the agriculturists at times charge high rate of interest. That is no doubt true, but if it is tried to include these advances in kind under money-lending transactions, the poor agriculturist will be the greatest sufferer. Also, the man who makes advances in kind is not likely to go to the registrar's office to get a licence for the purpose of lending grain or seeds to the agriculturists. I hope this is not contemplated by this section. If this is contemplated, the measure is likely to do more mischief than good to the agriculturists. Another objection is this. Even shop-keepers and grocers advance goods to agriculturists today. Because agriculturists do not pay hard cash, and because they purchase things on credit, the grocer or shop-keeper charges more than he would have done if the money had been paid then and there. Are these transactions to be included under this clause? If that is the intention of Government in bringing this Bill, it will cover a wider sphere than what this Bill seems to suggest. Therefore, I would request Government to make it clear what they contemplate by this clause, whether it is intended to be wider than what it purports or whether they want to restrict the Bill only to money-lending.

In the molestation clause, the penalty provided may be all right. I go a step further and say it is necessary so far as certain classes of money-lenders are concerned in cities. If the same clause is to be applied to the rural areas in all its rigidity, it will be a great hardship to the money-lenders. Some mischief-monger in the village will go and inform his next door neighbour, the police patel, that a certain money-lender is molesting a debtor. Because the police patel is the dignified officer of the village, he will take into his head to trouble the money-lender and the money-lender cannot even go to the debtor's house to demand his money. I think the molestation clause, as it stands, may apply to cities; but so far as the village side is concerned, it may be a source of hardship. Therefore, I hope the framers of this Bill will explain what exactly they have in mind.

Now, in this machinery for licensing as provided in the Bill, I think Government will be faced with one more responsibility. I want to know from Government whether they want to accept that responsibility. When once it is accepted as a fact that creditors are necessary, in spite of this machinery that you are going to set up, in the country side, if agriculturists are to have a time of prosperity and if the creditors are to do honest business in the country side with all these restrictions, then Government should provide greater help for recoveries than they are doing now. Unless Government say something in the matter, I believe they will be simply penalising a class and they are simply following the example of the Government that was in existence up till now. If there is hardship, you have now set up a machinery by which that hardship can be relieved, because unless there is a licence, the money-lender has no status as such in a court of law for recovering his money. That is all right. But experience has shown that on account of the small instalments which creditors have been forced to take from debtor agriculturists,

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the creditors also have been put to a lot of inconvenience. Now that you want to regulate the creditor's conduct according to your own laws, what protection are you going to give the money-lender who has been carrying on business honestly? What protection are you going to afford that class of money-lenders who will carry on their business according to your own regulations, in order that they may survive in the countryside and be of some use to the agriculturists, who stand badly in need of help? You must create some machinery yourself for relieving the agriculturist. For instance, Government may open grain depôts in every village so that corn is made available to the villagers at the time of sowing. If that is done, it will relieve to some extent the hardships of the villagers, who have now to be at the tender mercy of the *sahukar*. But so long as Government do not take any steps in that direction, the agriculturist will necessarily have to depend upon the *sahukar* money-lender, or the grain-lender, or whatever you call him. If these grain-lenders or money-lenders are not going to get any facilities for the recovery of their advances, you are simply penalising them both ways. Up to now they have been penalised: when they go to a court of law for the recovery of their debt of, say, Rs. 500, the court in its generosity offers yearly instalments of Rs. 10, so that the *sahukar* cannot hope to get the money during his own lifetime. That is a hardship with which we are all familiar. Now you are forcing the money-lenders and the creditors to subject themselves to this new piece of legislation. Therefore, it is the bounden duty of Government to change the practice that has been in vogue until now. When the money-lender restricts himself in this way and subjects himself to all these regulations, it is the duty of Government to protect honest money-lenders and honest creditors so that they may get back in proper course of time what they have honestly advanced. Unless Government in this way try to adjust both sides of the problem—of course, it is a very difficult problem, I admit—if they want to do right to one party only, they will be doing a very serious wrong to the other. As I understand, this Government is bent upon keeping the equilibrium. If that profession of keeping the equilibrium in society is to be taken at its face value, the other side of the picture will have to be seriously taken into account when the Bill is taken to a select committee. If in the meantime any suggestions are made to Government when the Bill is published for eliciting public opinion, I trust that they will pay serious attention to the factor that I have pointed out and adjust the Bill so that no hardship is caused to either side.

It is very easy nowadays to speak on behalf of the poor. I belong to the poor classes myself. As I belong to the poor classes, I know what their hardships are, though I do not always like to speak about them, in season and out of season. I venture to say that the poor classes, from whatever strata they come, are likely to be benefited more by an adjustment of relations between the different components of society than by creating any kind of bad blood between them. Therefore, I have always failed to understand the volleys of abuse that have every now and then been showered on the landlord, the creditor, the money-lender,

[Mr. S. L. Karandikar]

and other classes. They have their purpose to serve in society, and so long as they continue to serve it, they should be welcomed in society. If they have any defects, they may be remedied.

Sir, if the Bill is modified when it is taken to the select committee, I believe the objects with which the Bill is introduced will be served. From that point of view, I lend my support to the first reading.

The Honourable the SPEAKER : It seems there is no one who wishes to speak. So, I call upon the Honourable Minister for a reply.

The Honourable Mr. K. M. MUNSHI : Sir, in view of the generally favourable reception of this Bill, at this stage I do not want to add anything to what I have already said.

Question, "That the Bill be read a first time," put, and agreed to.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move :

That Bill No. VII of 1938 (A Bill to regulate the transactions of money-lending in the Province of Bombay) be referred to a select committee consisting of the following honourable members :—

Sir Dhanjishah B. Cooper
 Mr. R. A. Khedgikar
 Mr. M. C. Ghia
 Mr. Sakarlal Balabhai
 Mr. G. O. Pike
 Rao Bahadur G. K. Chitale
 Mr. M. M. A. Bhajji
 Mr. G. K. Phadake
 Mr. V. A. Gadkari
 Mr. R. R. Bhole
 Mr. Ali Bahadur Bahadur Khan
 Mr. J. G. More
 Mr. Mirza Akhtar Hasan
 Mr. Mohamedally Allabux
 Mr. D. W. Raut.
 Mr. Bhawanji A. Khimji
 Mr. K. S. Firodea
 Mr. D. T. Aradhye
 Mr. S. R. Bhartiya
 Mr. H. V. Pataskar
 Mr. Rajmal Lakhichand
 Mr. Dinkerrao N. Desai
 Mr. H. P. Mehta
 Mr. M. M. Gandhi
 Mr. Kallangouda S. Patil
 Mr. Gambhirrao A. Patil (Chavan)
 Mr. B. B. Walvekar
 Mr. Malgouda P. Patil
 Mr. B. S. Hiray
 Mr. S. H. Sathe and
 myself ;

the quorum to be ten, and the Committee to report within two months.

Question proposed.

Mr. G. K. PHADAKE : On a point of information. While speaking on the motion for the first reading of the Bill, the Honourable Minister

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stated that the Bill would be sent for eliciting public opinion. Now he says that it should be sent to a select committee. Has he changed his mind ?

The Honourable Mr. K. M. MUNSHI : The honourable member did not follow what I said then. I stated in the beginning that the Bill would be referred to a select committee and also sent out to commercial associations and to courts of law and other authorities for their opinion.

Mr. S. L. KARANDIKAR : May I make a suggestion to the Honourable Minister ? When once the select committee has finished its labours and then the Bill is published for eliciting public opinion, it becomes more or less a matter of prestige—

1 p.m.

The Honourable Mr. K. M. MUNSHI : Not for eliciting public opinion ; I said the opinion of certain authorities—courts of law and commercial associations.

Mr. S. L. KARANDIKAR : Even then if the Bill is to be sent to these bodies for their opinion, once the select committee has arrived at a certain decision, it will be, I believe, very difficult for members to change their mind when once they have put their seal by signing the report.

The Honourable Mr. K. M. MUNSHI : The honourable member evidently has not a correct idea of what we propose to do. The Bill will be sent out now and the opinions will be placed before the select committee, and the select committee will come to a decision on the strength of the opinions received.

Mr. S. L. KARANDIKAR : Then it comes to what Mr. Phadake was saying.

Mr. S. V. PARULEKAR : May I know whether the Honourable Minister is thinking of sending the Bill to the working class organisations and peasants' organisations, who are vitally concerned, for eliciting their opinion ?

The Honourable Mr. K. M. MUNSHI : If my honourable friend has got any suggestions to make as to the persons to whom the Bill should be sent for opinion—

Mr. S. V. PARULEKAR : I desire that the Bill should be sent to the working class organisations and peasants' organisations for their opinions.

The Honourable Mr. K. M. MUNSHI : If the honourable member supplies me with a list of them, I shall certainly do so.

Question, "That the Bill be referred to the select committee named," put, and agreed to.

The House then adjourned till 2 p.m., on Monday, the 31st January 1938.

Monday, the 31st January 1938.

The House re-assembled at the Assembly Hall, Bombay, on Monday, the 31st January 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 CURRION, Mr. FRED J.
 DABHI, Mr. FULSINHJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, MRS. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.

HALLIKERI, Mr. N. F.
 HASAN, Mr. SHAIKH MOHAMAD
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATHALE, Mr. B. S.
 KAZI, Mr. AZIZ GAFUR
 KERSON, Mr. KANJI GOVIND
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.

PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAIS, Khan Bahadur Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RANE, Mr. B. R.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAWANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SIDDIQUT, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THORAT, Mr. R. B.
 THUBE, Rao Bahadur V. L.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

ADJOURNMENT MOTION.*Order of Administrative Officer of Ahmedabad District School Board
re: singing of "Vande Mataram" in schools.*

The Honourable the SPEAKER: Order, order. The honourable members Messrs. I. I. Chundrigar and Khan Saheb Faiz Mohamed Khan handed over to me a written statement of a motion for the adjournment of the business of the Assembly which they proposed to move for discussing the alleged issue of Circular No. 2331, dated 4th January 1938, by the Administrative Officer of the District School Board, Ahmedabad, ordering the daily singing of the first stanza of the National Song "Vande Mataram" before beginning the school work. The honourable member Khan Saheb Faiz Mohamed Khan approached me to obtain my consent to the proposed motion as required by paragraph 2 of Standing Order VII.

I considered the matter very anxiously and carefully and found myself unable to give my consent. As the matter is an important one and involves a principle, guiding the moving of adjournment motions in this House in relation to subjects which are the primary concern of and within the cognizance of Local Bodies, I deemed it proper to accede to the request of the honourable member to state my grounds for which I felt unable to consent to the proposed motion.

Under Rule 11, a motion for an adjournment of the business of the Assembly can be made for the purpose of discussing a definite matter of urgent public importance, provided the Speaker consents thereto. As the motion related to a matter within the authority of a Local Body, I felt doubtful, in view of the provision of Rule 22, clause (2), as to whether it would be correct for me to give my consent to the motion, even if the subject thereof be assumed to be a definite matter of urgent public importance. While all Local Bodies are within the jurisdiction of the Provincial Legislature, it was, to my mind, yet a question as to how far Government could be held responsible for the circular and how far, therefore, it would be proper or competent for this House to interfere within the sphere of the internal autonomy of a Local Body to influence, in any way, its decision by a discussion in this House.

I, therefore, looked up Parliamentary Procedure and precedents, as also precedents in the Central Assembly. These have cleared my doubts and confirmed me in my conclusion.

In order that a motion for an adjournment of the business of the Assembly to discuss a matter may be permitted it is not enough that the matter sought to be discussed should be definite, urgent and of public importance. Even if all these three elements are present, the Speaker may—nay, must—disallow the motion in certain cases, and the present is one such case.

[The Speaker]

The principle governing the admissibility of such a motion dealing with the subject matter of some action taken by another administration is laid down in the following terms by the late Mr. V. J. Patel, after a careful study of the Parliamentary procedure and precedents :—

“ Generally speaking, motions for adjournment under Standing Order 11 (which is substantially the same as the Standing Order in our case) must have relation directly or indirectly to the conduct or default on the part of Government and must be in the nature of criticism of the action of Government.”

In stating that he was supported by the Parliamentary precedents in this respect, he quoted the following passage from a ruling of the Speaker of the House of Commons :—

“ Motions for adjournment must have some relation to the conduct or default of Government and must be in the nature of criticism of the Government either for having done some action or for having failed to do some action which was urgently necessary at the moment.”

This is further supported by a very recent precedent in the House of Commons. On 17th June 1937, Mr. Churchill requested the Honourable Prime Minister of Britain to define more exactly the limits within which he was prepared to answer questions relating to events in India. So far as the principle goes, it makes no difference whether the criticism of Government takes place in the form of Questions and Answers or in the form of a discussion on an adjournment motion. The governing principle for both the forms of procedure is the same, and what one has to look to is the existence or otherwise of the responsibility of a particular Minister or the Ministry in relation to the matter which is sought to be made the subject matter of a question or an adjournment motion or a resolution. The Prime Minister of Britain stated as follows :—

“ In so far as Ministers are responsible to the Provincial Legislature for the Government of the Province, it would be entirely inappropriate if this House (the House of Commons) were to call in question or to criticise by Question and Answer their policies and activities. As the House is well aware, the broad general principle underlying the process of Question and Answer in this House is that a question should not be put to a Minister unless he is responsible for the subject matter and is in a position to intervene and to secure that a particular line of action is either taken or abandoned. In so far as the matter is within the control of Ministers in a Province, the Secretary of State, in fact, no longer has any such responsibility.”

In respect of matters for which the Secretary of State is responsible, e.g., action by the Governor without consulting his Ministers or against their advice, etc., the Prime Minister suggested to the House that, even in such cases, the right “ ought to be used with discretion and restraint ”. (*Vide* Parliamentary Debates, House of Commons, Official Report, 5th Series, Vol. 325, col. 555.) The same principle is laid down in May's Parliamentary Practice in the following words :—

“ Motions have also been ruled out of order when it appeared that the administrative responsibility of the Government was not involved.” (*Vide* May's Parliamentary Practice, 13th Edition, page 248.)

[The Speaker]

The principal question for consideration with regard to the admissibility of the proposed motion is, therefore, whether it has a relation, directly or indirectly, to the conduct or default on the part of Government and is in the nature of criticism of the action of Government. It is clear, as I shall presently illustrate by reference to the relevant provisions of the law and the rules under which the District School Board is created and functioning, that the issue of the circular has no such relation and the motion is, therefore, not admissible.

The District School Board is a creation of the Bombay Primary Education Act (Bom. Act No. IV of 1923). It has been held judicially in the case of the District School Board, Bijapur, *versus* Bhagvan Vasudev Marathe, reported at 34 Bombay Law Reporter, page 1500, that the District School Board constituted under section 3, sub-section (1), of the Bombay Primary Education Act, is a corporation. It has a statutory existence of its own separate from and independent of the District Local Board. It is governed by the Primary Education Act and the rules made by Government under section 27 (1) (a) of that Act. Under rule 32 of the rules made, the School Board is responsible, subject to the provisions of the Primary Education Act and of the rules, for the management and control of all primary schools maintained by the Local Authority. None of the provisions of the Bombay Primary Education Act or the Bombay Primary Education Rules made under the Act appear to give power to Government to interfere in this particular matter.

The proposed motion has no relation directly or indirectly to the conduct or default on the part of Government and cannot be in the nature of criticism of the action of Government.

It may be argued that Government have got the authority or jurisdiction to assume the necessary powers either by fresh legislation or by rules. While this is so, it does not follow therefrom that Government have or can assume powers so long as that legislation and/or the rules are not made. Under the law, as it stands today, Government *prima facie* have not got the power. The legislature has chosen to transfer the responsibility to the Local Bodies and has thus deliberately, by its own act, placed the subject matter beyond the jurisdiction of the Provincial Government. So long, therefore, as jurisdiction on the subject matter is not assumed by proper procedure, the matter is not within the administrative responsibility of the Provincial Government.

For the above reasons, I am of the view that the proposed motion is not admissible, and I must not, therefore, give my consent to it.

Mr. ISMAIL I. CHUNDRIGAR : I wish to make a statement to show how I am within the four corners of the law.

The Honourable the SPEAKER : I will not permit a discussion on my ruling.

SHORT NOTICE QUESTIONS AND ANSWERS**RECENT CRISIS IN BOMBAY STOCK EXCHANGE.**

Mr. B. R. RANE (Ratnagiri South): Will the Honourable Minister for Finance Department be pleased to state—

(a) what the attitude of Government is as regards the recent crisis in the Bombay Stock Exchange;

(b) what action do they propose to take regarding the same ?

The Honourable Mr. A. B. LATTHE: I am very glad of the opportunity given by the question to clear up what appears to be a widespread misunderstanding in the House as well as outside regarding the causes of the present crisis on the Stock Exchange and in particular of the position of Government in relation to the crisis.

2. The idea seems prevalent that the crisis is due solely to manipulations on the Stock Exchange and that if only Government took vigorous action of some sort normal conditions would be restored without delay. I do not deny that the conditions of stock trading in Bombay are such as to aggravate a crisis and sometimes to lead to it. The present crisis however is due to more fundamental economic causes operating all over the world.

3. As honourable members are well aware, throughout the last year or two, commodity and security prices all over the world were hardening to such an extent that economists were talking of a boom and an impending slump. Specially was this so in connection with the iron and steel industries which received a tremendous fillip partly as a result of a general price boom but more particularly because of the rumours and talks of war and the heavy armament programmes of almost all European countries and of America. The supplies of steel and iron fell greatly short of the demand and it was widely anticipated that the profit of the industry would be extremely high. Consequently iron and steel shares began to soar in every country.

4. But this state of affairs was of very short duration. The first signs of trouble were evident when the United Steel Corporation in America curtailed its steel production, and prices in Wall Street weakened as a result. This weakening soon turned into a rout. Even the London market felt the impact and during the last month of 1937 values on the London Stock Exchange also began to shrink rapidly. The United Steel Corporation shares fell from 120 dollars to 49 dollars, a fall of 59 per cent., and the Indian Iron and Steel Shares fell on the London Market from 120 shillings to 45 shillings, a drop of 62½ per cent.

Mr. S. V. PARULEKAR: Is the Honourable Minister making a statement or replying to the question ?

The Honourable the SPEAKER: It is a reply. Looking to the nature of the question, the reply may be long or short.

5. The Honourable Mr. A. B. LATTHE: It is not surprising that a similar reaction has set in in India. The sequence of events has been the same as in America and London. Consequent on the rapid raising of prices by the Indian Steel Companies prices soared to enormous lengths and Tata Steel deferred went up to Rs. 2,290. The rumours of a reduction in prices led to a wholesale rout. Prices dropped to 1,000—a fall of 56 per cent. But it is well to remember that the fall in the London Market was even higher. In Calcutta where there are no forward dealings, but only cash dealings, Indian Iron and Steel shares slumped from Rs. 80 to Rs. 30—a drop of 62½ per cent.

6. I would not like Honourable Members to get the impression that Government consider that no action is feasible at all to mitigate the crisis. Government have kept themselves in touch with the President of the Stock Exchange and have impressed on him that the Stock Exchange authorities should exercise fully and rapidly the disciplinary powers vested in them against brokers who are guilty of malpractices. Government will watch carefully the action that the authorities will take. As regards more permanent remedies, the House will remember that Government had appointed an Enquiry Committee some time back to investigate into the affairs of the Native Share and Stock Brokers' Association. The comments of the Association on the report of the Committee have just been received and Government propose shortly to issue orders on them.

RECENT CRISIS IN BOMBAY STOCK EXCHANGE.

Mr. K. F. NARIMAN (Bombay City): Will the Honourable Minister for Finance Department be pleased to state—

(a) whether the attention of Government has been drawn to the reports that have been appearing in the local papers about the present unsatisfactory state of affairs in the Bombay share market, resulting in heavy losses to the public;

(b) if so, who is responsible for this state of affairs;

(c) what steps Government propose to take to prevent a recurrence of similar state of affairs;

(d) whether Government are aware that the market was officially closed on Monday, the 10th January 1938;

(e) whether Government are aware that on that day many sales were effected by some of the Directors of the Exchange;

(f) whether Government are aware of the change that has suddenly taken place in the methods of effecting monthly settlements of the Stock Exchange;

(g) if so, what are the reasons for this sudden change of policy;

(h) whether Government are aware that the Directors of the Exchange knowing that Tata Deferred were being quoted at Rs. 1,050 fixed board rate at Rs. 1,200 on Monday, the 10th January 1938, without giving to the public the slightest chance of liquidating their holdings ;

(i) whether Government are aware that there is a dereliction of duty on the part of the Directors of the Exchange ;

(j) if so, what steps have they taken or intend to take in the matter ?

The Honourable Mr. A. B. LATTHE : (a), (b), (c), (i), and (j) These are covered by the answer given to the honourable member Mr. B. R. Rane.

(d) Yes. Government understand that this was done as a mark of respect to the memory of the mother of Pandit Jawaharlal Nehru.

(e) Government understand that several sales were effected outside the Exchange, some of them by directors of the Exchange.

(f) and (g) It is presumed that the honourable member is referring to the closing of the Exchange between making up price day and pay day. If so, there has been no sudden change in policy. The Stock Exchange authorities have in the past closed the market between these 2 days.

(h) The making up price was fixed at 1,200 as it was the market price at the closing of business on the previous working day, viz. the 8th. Government do not agree that the making up price adversely affected the public.

Mr. K. F. NARIMAN : Is it not a fact that under the rules of the Stock Exchange it is an offence for any member of the Stock Exchange to do business on a day which is declared a holiday ?

The Honourable Mr. A. B. LATTHE : I think the honourable member is referring to the holiday in memory of the death of Mrs. Motilal Nehru. If that is so, it is against the rules of the Stock Exchange for any member to transact business on that day and disciplinary action has to be taken against those members who transacted business on that day by the Board of Directors, as I said in answer to the question by the honourable member Mr. Rane. The Board of Directors of the Stock Exchange have been asked by Government to take disciplinary action against such members who transacted business on that day.

Mr. K. F. NARIMAN : If no disciplinary action is taken by the Board of Directors, will Government see that such disciplinary action is taken against those members ?

The Honourable Mr. A. B. LATTHE : Government will try and see that disciplinary action is taken.

Mr. S. L. KARANDIKAR : Is it not a fact that both the honourable members who put the question belong to the Ministerial Party ?

The Honourable the SPEAKER : A question had to be put to get information. The honourable member need not invite the attention of the House to the fact that two Congress members have asked the question, with a view to bring it to its notice indirectly what he cannot do directly.

Mr. S. L. KARANDIKAR : After getting the answer, I want to raise a question of procedure. When once it is ascertained that those two members are members of the Government Party, I want to know whether it is correct procedure that they should put questions to Government themselves.

The Honourable the SPEAKER : It will be conceded that all members of the Government Party are not Government themselves ; and there is no reason why the individual liberty of members should be restricted and they should not be permitted to put questions, if they think it necessary or proper to do so.

Mr. K. F. NARIMAN : This is a matter in which the general public is interested ; it is not a matter between a member and the Government alone.

Khan Sahab FAIZ MAHOMED KHAN : What is the criterion to find out whether a certain member belongs to the Government or Congress Party ?

The Honourable the SPEAKER : We are drifting into an irrelevant discussion over this. But the parties are clear-cut ; the lists have been submitted to me, and every member in the House knows who belongs to which party, except the 11 Independents who belong to no party. There is no question of criterion ; it is a question of record.

**BILL No. III OF 1938 (A BILL TO PROVIDE FOR THE
RELEASE ON PROBATION OF OFFENDERS).**

(As amended by the Select Committee.)

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. III of 1938 (A Bill to provide for the release on probation of offenders), as amended by the Select Committee, be read a second time.

Question put, and agreed to.

Bill read clause by clause.

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

Clause 2 (*Definitions*) ordered to stand part of the Bill.

Clause 3 (*Courts empowered to pass orders under the Act*) 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.

for reasons to be recorded in writing instead of sentencing him to any punishment, release him after due admonition.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I have tabled an amendment to clause 4. Shall I move it now?

The Honourable the SPEAKER: The honourable member has tabled an amendment to clause 4. He has also, I find, tabled another amendment which seeks to add a new section. The amendment reads:

"Add section 16: Nothing in this Act shall affect the provisions either of the I. P. C. or of any other law for the time being in force in the Presidency of Bombay relating to offences against religion and females."

Though from the minute of dissent that he has appended to the Select Committee report the honourable member's intention is clear, I am afraid that the amendment by itself, which seeks to add a new clause 16, does not make his meaning clear. However, that is a matter for the honourable member to consider. The point to which I should like to invite his attention is that it will be necessary for him to move suitable amendment in clause 4 and in clause 5. Unless this is done, a very difficult situation is likely to arise, and it is that if clauses 4 and 5, as they stand now, are ordered to stand part of the Bill, his motion, coming at the end, may perhaps be barred. The Assembly will have taken a decision in that case that the provisions of those clauses should apply to particular offences, and then the exception that he wants to make by the addition of clause 16 may not be permissible. That appears to me to be the difficulty in putting in his amendment as an additional clause 16. If, therefore, the honourable member is agreeable, and if he wishes that the subject matter dealt with in his last amendment should be considered by the House, I would suggest that he should move an amendment to clause 4 to insert some such words as these:

"After the words 'two years' imprisonment' in lines 4 and 5 and before the words 'and no previous conviction', insert the words 'and not being an offence against religion and females'."

The clause will then read:

"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 not being an offence against religion and females....."

I think that would be a better form of amendment, and the honourable member's object would be better served by his moving it at this stage instead of moving an additional clause at the end.

Mr. S. L. KARANDIKAR : I am willing to accept your suggestion, Sir. My only object in putting that clause in at the end of the Bill was this. There might be certain offences for which the punishment that is laid down is more than two years. Therefore, if I am to achieve my object, the amendment will have to be made in two different places. To avoid that and to bring out the purpose that I have in view, I have suggested one clause by way of amendment at the end of the Bill. But if you think that by putting in that clause at the end, the whole object is likely to be frustrated, I am quite ready to accept your suggestion and add the words in clause 4 as you have suggested.

The Honourable the SPEAKER : I have expressed my view that if clauses 4 and 5 are adopted as they are, without the addition that the honourable member wants, it may not be competent for him to move his amendment at the end ; it would then be contrary to the decision arrived at by the Assembly at this very meeting. Therefore, the honourable member has to move his amendment to clause 4 at this stage.

Mr. S. L. KARANDIKAR : Then, I beg to move these two amendments to clause 4 :

After the words "two years' imprisonment", add the words "except in cases relating to offences against religion or against females."

The second amendment is as I have already tabled.

The Honourable the SPEAKER : Would the honourable member accept a little change, from the linguistic point of view ? I had suggested the form of amendment after having carefully scrutinised as to where the words would fit in, and the form, to my mind, would be this : After the words "not more than two years' imprisonment", the following words be added, namely, "and not being an offence against religion and females". That would perhaps bring out the meaning of the honourable member better.

Mr. S. L. KARANDIKAR : I am ready to accept your suggestion. Is it necessary that I should move it again ?

The Honourable the SPEAKER : Has the honourable member moved the other amendment ?

Mr. S. L. KARANDIKAR : I have already moved the second amendment. About the first one, there was some difficulty about the wording.

The Honourable the SPEAKER : I will now put the amendments to the House with the verbal alterations which the honourable member accepts. The first amendment is :

After the words "two years' imprisonment" occurring in lines 4 and 5 and before the words "and no previous conviction", insert the following, viz —

"and not being an offence against religion and females".

That is the first amendment.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I beg to move
2-30 p.m. the following amendment:—

“ In clause 4 add :

‘ The magistrate’s order of release referred to in this clause shall have operative force only when it is confirmed by the District and Sessions Judge of the district within whose jurisdiction the magistrate had been working at the time of passing the order.’ ”

Question proposed.

Mr. S. L. KARANDIKAR: Sir, in seeking to amend the clause in the manner that I have proposed, I have a definite object in view. This Act tries to empower magistrates in a very important sphere of the administration of justice. Even second and third class magistrates are to have power to let off criminals simply with an admonition. Now, Sir, knowing what second class and first class magistrates very often happen to be, it is important that even in those cases in which these magistrates find that the criminal deserves to be let off simply with an admonition, the final authority to let him off with an admonition should not rest with the magistrate. The magistrate should make a recommendation and, if that recommendation is finally accepted by the Sessions Judge of the district in which that magistrate is working, then alone that recommendation made by the magistrate should have an operative value. My object in bringing this suggestion of restricting the power of the magistrates is merely this. I am afraid that if magistrates are given this unrestrained power of letting off criminals simply with an admonition, it is likely to lead to an amount of bribery in the mofussil taluka places and this Bill, that aims at correcting society, instead of succeeding in that object, would tend to bring about corruption where it was not prevalent up till now. If that is to be avoided and if the corrective object of the Bill is really to be achieved, I believe a kind of check ought to be there over the conduct of magistrates whose hands are going to be strengthened in this way and that check can be effectively exercised if the magistrate, who is to make that recommendation, remembers that there is always a superior power watching at every stage and turn what the magistrate is doing. There are cases in which the magistrate may not exercise his discretion properly and there may be cases also of failure of the exercise of discretion. There may be cases of wrong use of that discretion. If these cases—every case—are submitted to the Sessions Judge, he may correct whatever wrong has been done by the magistrate if any such wrong has in fact been done; and, therefore, I think that a very salutary object is likely to be achieved by making the orders of magistrates finally correctable by the Sessions Judge of the district. I am not taking away anything good that is contained in this Bill because I do not propose to wipe out the recommendation made by the magistrate. The recommendation is to remain there, but the final authority of the recommendation is not to come into force unless the District and Sessions Judge of the district gives his seal of approval to that recommendation. Therefore, I believe that Government, if they really want that this Bill should not lead to

[Mr. S. L. Karandikar]

corruption, should accept my suggestion that the magistrate's recommendation should be final only when it is accepted or confirmed by the Sessions and District Judge of the district where the magistrate is working. That is one amendment that I have sought to move.

Sir, another amendment is as regards the scope of the Bill. Clause 4 says:—

“.....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,.....”

In the above cases the magistrate has got the power of letting off the criminal with a warning. I find that both the kinds of offences that I have referred to in my amendment are most of them offences against females and almost all the offences that are contained in Chapter X of the Indian Penal Code—at least many of those offences are such for which the maximum punishment laid down is two years. If we look to the whole scheme of the Bill, we find that provision is made there for giving compensation to the aggrieved party and these are cases where no compensation is likely to redress the wrong that has been done. If wrong is done, no kind or amount of compensation is likely to redress it. If a wrong is done to the character of a female or to the purity of a deity, no provision of compensation is likely to redress that wrong that is done, and therefore, especially looking to the trend of things that are going on in our society, I want that this Bill should keep out of its scope these two kinds of offences, and if that is done, this Bill and Government even, while trying to correct the criminals in a lenient fashion, will also place before society some high moral standard. There must be some checks over the conduct of the people. Otherwise, if it is possible for a criminal to go to a temple or a church or a mosque and defile the place of worship there simply because he knows that the utmost that the magistrate can do in that case is to let him off with an admonition or a warning, the results are bound to be most serious especially in view of the present tendency in the society. My humble suggestion, therefore, is that both these kinds of offences should be entirely excluded from the purview of the Bill, and with these two modifications, the clause should be accepted and passed by this House. It is for this reason that I propose this amendment and I hope Government will find it convenient and prudent to accept the amendments that I have proposed.

Mr. K. F. NARIMAN (Bombay City): Mr. Speaker, Sir, I hope Government will be prudent not to accept this imprudent amendment. I want, first of all, to point out to the honourable member that his amendment is extremely vague when he says “offences against females”. I do not know if in any other statute book or law book he will find a vague description where the legislature is trying to make laws which are to be administered by courts of law. They have got to have specific descriptions, offences have to be described specifically. What we find is that when we find exceptions made to this or that class of offences,

[Mr. K. F. Nariman]

they are either mentioned by chapter or section as "offences under chapter so and so of the Indian Penal Code" or "offences under sections so and so of the Indian Penal Code" should be excepted. We never find such vague descriptions as offences against a particular class or a particular community or a particular section throughout should be excepted. Otherwise, it will lead to a lot of confusion in courts, leading to arguments after arguments as to what is the offence, against whom, and so on. I know what my honourable friend means. He means offences against the chastity or virtue of a woman, such as outraging the modesty of a woman. If a woman passing on the road is abused or is slapped and if that woman goes to court as a complainant, then according to this description of the offence, that accused will not have the protection of the law. Therefore, this shows the danger of a vague description. He evidently does not know that while he means one thing, his description means quite another thing. Therefore, first and foremost, the amendment is very vague in describing offences against women and against religion. Sir, there are certain offences under the Indian Penal Code described in section after section, which offences are against religion. He should have mentioned that particular chapter or particular section which should be excepted and in that case we could have seen as to whether that particular offence should be excepted or not. A general description of this kind "offences against religion" might sometimes lead to some offences being excepted which are not at all intended even by the mover or covered by the statute.

Now, with regard to his fear that unless there is some authority to supervise the orders of the magistrate, these penal clauses are likely to be abused, the first and foremost requisite of this provision is that there should be an expeditious and quick measure. It is not right that when we want to do a favour to the criminal that we should keep the sword hanging over his head for weeks or for months together. The procedure that my honourable friend suggests is that when a magistrate makes a particular direction either to admonish or to let the criminal go with a bond, the magistrate's order will have to be sent to a higher court, and we all know what a reference to a higher court means—it may take two weeks or four weeks or even two or three months—and till then the unfortunate criminal, who is going to be favoured, is, instead of knowing his fate soon, is to have the sword of Damocles hanging over him, for how long he does not know. It will be better if there is no provision of this kind, as in that case the poor criminal will not have to undergo all the torture of suspense and he would probably prefer to be sent to jail at once rather than have the sword of suspicion and uncertainty hanging over his head for two or three months. The object of the section is to introduce reform where it is possible to reform the mentality of the criminal. It is not applicable to those confirmed bad characters, habitual offenders, people with propensities to crime. Such types of criminals are to be excluded. In other cases in which sometimes men fall into crime quite unexpectedly or unintentionally, either through misfortune or some such cause, discretion is given to

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the magistrate, and if a magistrate finds that a particular case is really a case of outraging the modesty of a woman and is therefore a serious and grave offence, he will certainly not give the criminal the benefit of this Bill as in that case he will say that it is clearly not a case for mere admonition, that it is a serious crime of which the accused is charged. Therefore, the clause, as it stands, is a sufficient safeguard and the addition of an amendment like this will create a situation which ought to be avoided, particularly in the matter of administering the law. Therefore, Sir, I oppose the amendment.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I oppose the amendment. As regards the proposed confirmation by the District and Sessions Judge, the House will see that this proposed clause enlarges the scope of the section 562 of the Criminal Procedure Code. Under the Criminal Procedure Code as it stands, first class magistrates can discharge an accused after giving an admonition. The second class and third class magistrates also can give their reasons and refer the case to the first class magistrate or the sub-divisional magistrate, for admonishing the accused. So, the powers are enjoyed by first class magistrates, and clause 3 of this Bill shows that the intention of Government is to invest only magistrates of the first class with the powers; and, except in extraordinary cases, magistrates lower than those of first class will not be entrusted with the powers. As I pointed out, it is open to a magistrate to acquit the accused; it is open to him to punish the accused with one day's simple imprisonment and let him go. Surely, the magistrates who have not abused these powers can be relied upon to use these powers with equal integrity. Therefore, it is entirely unnecessary.

With regard to the other clause, the safeguard is really contained in the two sub-clauses of clause 4. In order that a man who has committed any offence against a woman or against religion can get the benefit of any of the conditions contained in sub-clauses (a) and (b), he must fulfil the conditions as to age, character, antecedents or physical or mental condition, the nature of the offence or any extenuating circumstance under which the offence was committed. If those conditions do not exist, the man will not get the benefit of this Bill. For instance, take the question of an offence against a woman. If the honourable member's amendment is passed, the result will be: two college boys, just in a fit of gallantry, after a social gathering, just push a college friend down a staircase and she falls down, those boys would not be given the benefit of this Bill even though they immediately apologise and try to make amends for whatever they have done. The honourable member had been to a college and I do not think he seriously wants to do away with such a helpful provision.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I knew the fate of my amendment. Simply because I wanted to discharge my duty, I moved this amendment before the House. The objections that have

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been raised by the honourable member Mr. Nariman are two. In the first place, he says that my amendment is not well drafted. I must admit that I am not an adept in the art of framing laws, and, therefore, if I am guilty of that point, I am open to correction. By attacking the amendment on that one ground, he has admitted that there is something in the amendment which is acceptable to a reasonable mind.

The second charge levelled against the amendment is that they are accidental offenders. I do not intend at all to be harsh to accidental offenders. I believe, in the case of accidental offenders, the Indian Penal Code itself has made enough provision. I believe I am right in saying that a man who commits an offence by accident is not guilty of the offence under the Indian Penal Code. According to the Indian Penal Code, it will be an offence only when there is the intention behind it. So, if I have understood my honourable friend aright, his second charge also against the amendment is not correct.

Coming to the Honourable the Home Minister, he tried to be very pithy in his reply that he gave me. I am also going to be as pithy as himself. My only reply to him is that, if he does not go along the path of caution, the other path will be one of experience, which is the best school-master. If you want to learn from that school-master, the fees will be very heavy. If you are not going to follow the path of caution and prefer to sit at the feet of that school-master, the result will be that Government will have to pay very heavily.

The Honourable Mr. K. M. MUNSHI: I do not want to add anything to what I have said.

The first amendment :

"In clause 4, after the word 'imprisonment' add 'and not being an offence against religion or females'."

put, and negatived.

The second amendment :

"In clause 4 add: 'The magistrate's order of release referred to in this clause shall have operative force only when it is confirmed by the District and Sessions Judge of the district within whose jurisdiction the magistrate had been working at the time of passing the order'."

put, and negatived.

Clause 4 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 offenders with a written statement of the conditions which he is required to observe.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Sir, I beg to move an amendment to this clause.

The Honourable the SPEAKER : I want to be clear about this amendment. There are two "or's" in this clause. Which "or" does the honourable member want to be substituted by "and" ?

Mr. S. L. KARANDIKAR : I want the word "or" in the 11th line to be substituted by the word "and". As the amendment was drafted to the original section, the mistake has occurred.

The Honourable the SPEAKER : The motion is :

In clause 5, in line 11, substitute the word "and" for "or."

The other amendments of the honourable member will be to sub-clauses (a) and (b)—

Mr. S. L. KARANDIKAR : It is gone.

The Honourable the SPEAKER : It has gone substantially, but technically it has not. It is perfectly open to the honourable member to move his amendment again, if he wishes to do so.

Mr. S. L. KARANDIKAR : Though it is open to me to move those amendments, I do not want to take any more chances that way. But this amendment to change the word "or" to "and" is very important. This is a mistake which has inadvertently crept in.

The Honourable the SPEAKER: I have already placed the amendment before the House.

Mr. S. L. KARANDIKAR: If we refer to clause 4, we find that the magistrates are to apply two tests—age, character, antecedents or physical or mental condition of the offender. That is one test. Over and above this, there is the second test that the magistrate should look to the nature of the offence. Even when offences are of a less serious nature, as is contemplated under clause 4, the magistrate cannot give the benefit of this provision, unless he puts the offence to the two tests mentioned therein. In clause 5, offences of a more serious nature are mentioned. We expect, therefore, that at least those two tests should be applied. Of course, the offender is given the chance of probation or something of the kind. But in this case, we find that the magistrate is allowed to put one test only. Probably I think it is a mistake. It is provided that the magistrate can take into consideration the age, the mental condition, physical condition or, if he is not satisfied with these, he can take into consideration the circumstances under which the offence is committed. I believe that it is not contemplated by the framers of this Bill. If that is a mistake, I may suggest that that mistake should be rectified before it is too late. Therefore, I would request Government to put in the two tests for the magistrate to take into consideration in the case of offences of a more serious nature than those contemplated in the previous section.

The Honourable Mr. K. M. MUNSHI: Sir, the honourable member is not correct in thinking that it is a mistake. The reason for putting the word "and" in clause 4 is different. There, the man is to be discharged after mere admonition. Therefore, both the conditions should exist at the same time. But, in this case, the man is to be released, either on sureties or under a supervision order. So, two alternative conditions are put in: either "(i) the age, character, antecedents or physical or mental condition of the offender, or (ii) the circumstances in which the offence was committed, . . .". It is purposely put in in that alternative manner. It is not a mistake.

Amendment put, and negatived.

Clause 5 ordered to stand part of the Bill.

The Honourable Mr. K. M. MUNSHI: May I ask your indulgence to permit me to leave the House for five minutes as I am wanted in the other House? There are no further amendments—

Sir ALI MAHOMED KHAN DEHLAVI: We say "no" to it. Whenever an important discussion goes on, we want the Minister to be here.

An Honourable MEMBER: His Parliamentary Secretary is here. He can delegate his powers to him.

The Honourable the SPEAKER: The Honourable Minister is feeling the difficulty of delegation in view of what happened the other day

[The Speaker]

when the Honourable Minister responsible for the subject matter then under discussion was not present in the House. And if his presence is
 3 p.m. urgently required in the Upper House, I do not see how I or even honourable members in this House can say that the work there should suffer in the absence of the Honourable Minister from that House.

Sir ALI MAHOMED KHAN DEHLAVI: The *via media* is that neither you yourself nor we have anything to say in the matter; he can do what he likes.

The Honourable Mr. K. M. MUNSHI: As the Minister in charge of the Bill, it is my duty to ask your permission.

The Honourable the SPEAKER: Not knowing the business in the Upper House or on what particular point the presence of the Honourable Minister is necessary there, it is not possible for us to come to any conclusion as to the comparative merits of the urgency of the presence of the Honourable Minister in that House or this. But one thing appears certain, and it is that this Bill having come through the select committee and there being practically no amendments now before the House, so far as his presence in connection with the present Bill is concerned, it does not appear to be a matter of such great importance.

Mr. ISMAIL I. CHUNDRIGAR: This Bill will not now take long: it will be disposed of within five or ten minutes.

The Honourable the SPEAKER: The other Bill is more important, and that also is in the charge of the Honourable Minister. So, the Honourable Minister may go and be back in a very short time—say within five minutes or so.

Mr. S. D. SAKLATVALA: On a point of information. I want to know why the Honourable Minister calls the other House the "Upper House." Is it because it is sitting on the first floor, or is it because the Honourable Minister is inclined to give it precedence over this House?

The Honourable the SPEAKER: The word "Upper" is not used in the sense indicated by the honourable member at all. "Upper" and "Lower" are conventional words.

The Honourable Mr. K. M. MUNSHI: It is the revising Chamber; that is why they call it the Upper House. That is the constitutional term for it. [*The Honourable Minister left the House at this stage.*]

Clause 6 ordered to stand part of the Bill.

Clause 7 (*Appeal and powers of court in appeal and revision*) 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*) ordered to stand part of the Bill.

Clause 13 (*Power to make rules*) 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.

Mr. B. S. HIRAY : Sir, I beg to move that Bill No. III of 1938 (A Bill to provide for the release on probation of offenders) be read a third time and passed.

Question proposed.

Mr. S. H. JHABVALA (Railway Unions) : Sir, while supporting the third reading of this Bill, I desire to offer a few observations, at the end of which I wish Government will kindly give an assurance to this House, as they had done to me in the Select Committee on a momentous issue relevant to the present Bill of probation. I need not divulge the secrets of the Select Committee here, but from the minute of dissent that I have appended to the report, it will be seen that I have made a definite suggestion for apt and applicable execution by Government in favour of the prisoners who are given a lease of life in the world abroad on probation. The whole system of probation presupposes a condition that the society in which we live is a classless society. But so long as we are in the existing economic structure, it is not possible that probation will have its fructifying result under the new Bill that has been presented for the acceptance of the House. Probation demands that the offender should be sent out in the same present disrupted and unwelcome economic structure and should fall back upon what help the present society can give him when he is enjoying certain privileges under probation. But unless a certain alteration is made in the economic system itself, it is not possible for it to absorb the offender who is let off on probation. Probation in itself is a kind of social censure, and so the society as a whole has got to bear the burden of the offender's crime and subsequent probation contemplated under the Bill. I do not think the family, the friends, the society, situated as we are, are able to absorb the offender in case he is merely let off on probation. It is very nice to sympathise with an offender; and I am one of those who will always sympathise with him, for the reason that I believe that a man never commits crime except when he is compelled to do so under economic stress—not that he is lacking in moral character—

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every human being, criminal as well as non-criminal, has got a certain moral standard. A man does not like to steal or commit some other crime merely because he is lacking in morality. That argument does not hold water at all. A man steals; the man is deranged only on account of the fact that the economic strain upon him is so very great. Most offenders in our country are starving for want of employment and hence food. That is why they commit crime. The present capitalist society has so ordained the whole system that the poor man has to commit a crime to avoid death by way of suicide. It is not a crime in the essential conscientious sense of the term. However, if such a man is let off on the same standard of ill-equipped society, it is possible that there may not be any right approach made towards the solution of the problem of criminology at all. What is required to be done is what I have stated in my minute of dissent, namely, that to every prison must be attached an industrial house to which a man who has committed an offence should be given compulsory entrance. He should be given all the liberty that he can enjoy. At the same time, he should be made to work to learn an art and if possible to earn a living.

The Honourable the SPEAKER: The two subjects are no doubt correlated, but I am afraid the subject of Industrial Home is outside the scope of the Bill. So, any discussion on that point would be off the mark and not permissible during the third reading of this Bill.

Mr. S. H. JHABVALA: Sir, in my opening remarks, I stated that if Government gave us an assurance that they would fulfil the objects of my minute of dissent, then certainly I would have nothing further to expatiate on the subject just at present. I find now that this is the only opportunity when I can extract such an assurance from Government. Hence, to do so I desired to dilate a little longer on this question. If you permit me, I am prepared to finish my remarks within five minutes. If not, I would ask the Honourable Minister in charge to tell me at once whether he intends to open such industrial houses attached to prisons in future or not, for the reason that I conscientiously believe—I was a member of the Select Committee and certainly I should be considered an important factor—

The Honourable the SPEAKER: Order, order. It is not a question of gaining time or of violating the honourable member's right to speak what is relevant and within the scope of the Bill which compels the Chair to invite the honourable member's attention to the fact that his remarks are irrelevant. Unless he has to say something in regard to a matter within the scope of the Bill, his speech may not be further prolonged.

Mr. S. H. JHABVALA: My speech is relevant in this sense, that probation—

The Honourable the SPEAKER: Order, order. On that point the Chair has given a ruling. There is no doubt on that point.

Mr. S. H. JHABVALA: With the words then, Sir, already spoken I support the third reading of the Bill. [*Laughter.*]

Question, "That the Bill be read a third time and passed," put, and agreed to.

The Honourable the SPEAKER: Bill No. III of 1938 (A Bill to provide for the release on probation of offenders) is read a third time and passed.

BILL No. V OF 1938 (A BILL TO REMOVE DISABILITIES OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).

(As amended by the Select Committee.)

The Honourable Mr. K. M. MUNSHI: Sir, I move that Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples), as amended by the Select Committee, be read a second time.

Question proposed.

Mr. G. K. PHADAKE (Thana South): Sir, I beg to move, under Standing Order VIII, 8 (2) (b), that the Bill, as reported, be recommitted to the same select committee without limitations.

Question proposed.

Sir, there is a general complaint that Government is in a great hurry in getting this Bill through the House. The outside public has not had sufficient time to study this Bill. The orthodox Hindu community is much perturbed over clauses of the Bill and the Honourable Minister has received, I am told, many deputations regarding these points. A meeting was also held yesterday and there were two processions to be seen in the street yesterday. All these people want to express their opinions on this Bill. So, I move that the Bill should be recommitted to the same select committee again, so that they will have proper time to give expression to their opinions on the various points contained in the Bill.

The Honourable Mr. K. M. MUNSHI: Sir, I oppose this amendment moved by the honourable member Mr. Phadake for a recommitment of the Bill to the same select committee which has submitted its report. The Hindu community and every section of it had ample time during the last seventeen years—knowing all along that this has been a plank of the Congress—not only to make up their mind but also to express themselves in effective opposition, if they so chose. This Bill is very much smaller in scope than Mr. C. S. Ranga Iyer's Bill which was before the country for almost a year and a half, and every section of the Hindu community had an opportunity to express its opinion upon it. This is not a Bill which is very much different in its scope from Mr. C. S. Ranga Iyer's Bill which was before the country. On this question, as I stated in my opening speech when I moved the first reading of the Bill, since 1932 the whole country and most of its leading

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men have not only expressed their opinion but have made a definite pledge, and there is no ground for resiling from it. Therefore, there is no reason why further time is required to come to a conclusion upon such a Bill. The honourable member was pleased to refer to some agitation. I can assure him that even if seven years' time were to be given to consider this Bill, there is bound to be some section which will lead a procession or have it published in the newspapers that they are against it. If a Bill is to be sent back again to the select committee because some section chooses to take out a procession or to oppose it, this legislature will not be in a position to pass a single Bill, I can assure my honourable friend, however innocent it may be; and, therefore, I oppose this motion.

Mr. G. K. PHADAKE (Thana South): Sir, There is no question of resiling from the position taken. It is simply for an opportunity for the expression of opinion. This question has been before the public for so many years no doubt, but the present question, namely, the present Bill has not been before the public for a sufficiently long time—the particular clauses that have been included in this Bill have not been before the public long enough—and the public wants to express its opinion on these clauses.

Mr. Phadake's motion put, and negatived.

Question, "That the Bill, as amended by the select committee, be read a second time," put, and agreed to.

Bill read clause by clause.

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

Clause 2 (*Definitions*):

In this Act, unless there is anything repugnant in the subject or context,—

(1) "Court" means the Court of the District Judge and includes the High Court in the exercise of its ordinary original civil jurisdiction;

(2) "District" means a district constituted under section 3 of the Bombay Civil Courts Act, 1869, and includes the City of Bombay;

(3) "Harijan" means a member of a caste, race or tribe deemed to be a scheduled caste under the Government of India (Scheduled Castes) Order, 1936;

(4) "Hindu Community" includes Jains;

(5) "Person having interest" means a person who is entitled to enter or attend for the purpose of the performance of worship in a temple or who is in the habit of entering or attending for such purpose or of receiving any share in the gifts theret;

(6) "Prescribed" means prescribed by rules made under section 9;

(7) "Temple" means a place by whatever designation known used as a place of public religious worship and dedicated to or for the benefit of or used as of right by the Hindu Community or any section thereof, as a place of religious worship.

(8) "Trustee" means a person by whatever description known in whom the administration of a temple is vested by any law for the time being in force or the terms of the instrument of the trust, or the terms of a decree or order of a competent Court, relating to such temple, or if there is no such person, any person who has administered the temple for a period of one year immediately prior to the date of the declaration made under section 3 and who is liable as if he were a trustee.

(9) "Worship" includes attendance at a temple for the purpose of darshan of a deity or deities installed in or within the precincts thereof.

Mr. S. L. KARANDIKAR: Sir, I have tabled two amendments. I do not know whether they have been admitted.

The Honourable the SPEAKER: They have been held to be in order and I have also decided to waive the notice though the amendments have come a bit too late.

Mr. S. L. KARANDIKAR: I wish to move two amendments. As regards sub-clause (4) of clause 2, I find that the definition or the description, whatever we may call it, of Hindu community is entirely unsatisfactory and therefore to make the description complete and comprehensive, I have tabled one amendment and the second amendment that I have moved is—

The Honourable the SPEAKER: As the amendments are given to the separate sub-clauses of the same clause, it is better that each one should be moved separately.

Mr. S. L. KARANDIKAR: Then, I restrict myself to sub-clause (4) of clause 2. We find in the clause that the expression "Hindu community"—

The Honourable the SPEAKER: The honourable member will move his amendment.

Mr. S. L. KARANDIKAR: I beg to move:

In sub-clause (4) of clause 2, the words "includes Jains" should be deleted and instead of these words, the following words should be added:

"Hindu community" includes every individual who either professes any one of the religions of Indian origin or who does not....."

Sir, I am sorry I have not kept a copy of the amendment.

The Honourable the SPEAKER: The honourable member is moving his amendment. After he moves it, I shall put it to the House and then I will read the whole section.

Mr. S. L. KARANDIKAR: I shall formally move this amendment:

In clause 2, sub-clause (4), delete the words "includes Jains" and after the words "Hindu community" add the following words:

"includes every individual who either professes any one of the religions of Indian origin or who does not resent being called a Hindu."

Question proposed.

Sir, the description of the Hindu community as it is given in the draft Bill is extremely faulty and it is also insufficient. I know why those words are put in, the words "includes Jains". I know the reason that has led the framers of the Bill to include those words. Formerly, doubts were entertained as to whether Jains could be included in the word "Hindu" and I believe, if I remember aright, there is a ruling given

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by the President of the late Bombay Legislative Council—Sir Ali Mahomed Khan Dehlavi, now the Opposition Leader in this House—when a heated discussion arose in the House at the time when the Religious Trusts Registration Bill was on the anvil, that Jains were not Hindus, and in order to obviate this difficulty this description has been used in the present Bill. But, Sir, that does not suffice the purpose. Now, we are here passing a law that is to affect the whole of the Hindu community and hence the description of the Hindu community should be satisfactory. I know it is very difficult to define the word “Hindu” or the words “Hindu community”. Even the writers on Hindu Law have not always succeeded in defining the word “Hindu” or the words “Hindu community”. They have very often given a long list of those who can be called Hindus and who cannot be called Hindus, and that way they have got over the difficulty of exactly defining the word “Hindu”. I know that, but still you have somehow to make an effort and define the word “Hindu” or “Hindu community”. It is now no longer possible to avoid this difficulty and therefore an honest attempt has been made to describe or define the words “Hindu” and “Hindu community”.

My definition, I believe, is sufficiently comprehensive. The first part of it includes every sect of Hinduism, whether it is Vedic Hindu religion or whether it is a Protestant Hindu religion. All these sects are of Indian origin. There are Lingayats. A Lingayat is a protestant Hindu. The original founder of Lingayat sect protested against certain things in the Vedic Hindu religion and formed a different school of thought altogether for himself. Still, the sect of Lingayat is only an off-shoot of Hinduism and therefore when we describe Hindus as a whole, we cannot exclude the Lingayats. There are also the Sikhs, for instance, who are in the same category as Jains and Lingayats. All these classes protested against the ancient Vedic religion of the Hindus and still they are all Hindus. When you define the Hindu community, you should not exclude them. You will have to bring them in. Therefore, the first part of my amendment defines “Hindu” community as including every one who professes any religion which is an off-shoot of Hindu religion. Nanak, the founder of the Sikh religion, protested against the Vedic Hindu religion and all the same Sikhs are within the Hindu fold. Therefore, when you are enunciating who form the Hindu community, you must include all the component parts of the community. You will have to include Sikhs among them. If you want to describe the Hindu community efficiently, you will have to bring in all these classes, though they might have protested against certain parts of the Vedic religion.

I now come to the second part of my definition. There were certain laws relating to marriage. For instance, there was the Civil Marriage Act, up to 1923. Those people who contracted marriages under that

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Act were forced to make a declaration that they belong to no religion at all. Now, the law is changed, but those people who contracted marriages under the old Act up to 1923, they are Hindus by birth and are brought up within the Hindu fold. They want to be called Hindus. Therefore, I propose that even these people should be included, namely, those who do not resent being called a Hindu. These people might have made a declaration for certain convenience, but, if you ask them to what community they belong, they will say "Hindu community". You will have to include all such people in the definition, whether they follow the precepts of any religion which is an off-shoot of Hindu religion, or whether they follow the old Vedic Hindu religion or whether they want themselves to be called Hindus. I should caution Government that they will be undertaking a great responsibility in defining the word in the vague way in which they have done. I want the term to be as comprehensive as possible. Here is an opportunity for them to put the definition precisely. It will facilitate very much the work of Government and this definition I have given must be acceptable to every reasonable mind. I entertain a strong desire that the definition should be accepted by the House and the Honourable Minister in charge.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities) : Mr. Speaker, Sir, at the outset, I must confess that this is a matter to be decided carefully outside by the Hindu castes and creeds in India, whether they are more or less related to each other and whether they could be included in the term "Hindu." At the same time, I want to point out one important thing whether it is right on the part of any Government to legislate in an Assembly like this and put in any number of sects as belonging to one class or another and dub them as such. For instance, if the Honourable Minister—luckily he has not put in the word "Mahomedans" also—had put in the word "Mahomedans" when he drafted the Bill, with the backing of the majority he could carry that through the House and lay down the definition "Hindu community includes Mahomedans." What right has the Minister to include the Jains, if they are not willing to be called Hindus? This is what I call a surreptitious way of bringing into the one net people all around and make them come within the Hindu fold, by legislation. This is with regard to his first argument.

Then, my honourable friend referred to the ruling which he traced as coming from me on a certain measure which was before this House. When the Hindu Religious Trusts Bill was before this House, some Sindhi Hindu member proposed that Sikhs should be included as coming under that measure. A discussion followed on the point. An honourable member of this House in those days, I think it was Dr. Dixit, said that, if Sikhs are going to be included, why not the Jains also? He is a Brahmin I understand; it appeared to him as absurd to include a Sikh under the Hindu community as it was absurd to include a Jain. A ruling of the High Court was brought in as authority—I cannot give

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reference to it now—to show that Jains were not strictly speaking Hindus. Whatever the merit of that ruling, it is really an important question for the Honourable Minister to consider whether he can by including these two words “includes Jains” in the definition bring the Jains under Hindus.

Then, the honourable member who has moved this amendment said that his definition is more comprehensive because it includes more communities than can be included. Particularly, in the latter part of it, he says that those who do not resent to be called Hindus must be included. Take for instance my honourable friend Mr. Ali Bahadur Bahadur Khan—I hope he will forgive me mentioning him by way of an example only—if he generously offers to be included as a Hindu, could that make him a Hindu? I know he is a very orthodox Mahomedan and very keen in the observance of Muslim principles. The honourable member's definition “those who do not resent should be included as a Hindu” should not be accepted. I think the amendment should not be accepted, unless the Honourable Minister has any other ground for its acceptance.

Apart from the amendment, I wish to draw his attention once again to the inclusion of the word “Jains” and ask him whether he is right in legislating in this manner, without knowing whether Jains are willing or not to be included in the Hindu community. If I remember right, there was a good deal of controversy, and meetings were held in Ahmedabad and other places when the ruling was given by me that Jains were not Hindus and the ruling was strongly upheld by the Jains, that they were not Hindus. If we go into the details of each sect, it would be found that strictly speaking a particular class of people cannot be included as Hindus. I think Jains cannot be. However, it is an important matter whether these two words should convert the Jains into Hindus or should not, or whether they are included to serve the purpose of this Bill. It is a matter for the Honourable Minister to explain. It raises a difficulty in my mind so far as this clause is concerned, and so far as the amendment is concerned, it is too comprehensive for acceptance.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City North and Bombay Suburban District): Sir, I feel a little nervous in making a few observations on this question, because I feel I should strike a middle path between the two extremes, my honourable friend Mr. Karandikar and my honourable friend Sir Ali Mahomed Khan Dehlavi. I think the amendment which has been proposed before the House will create great confusion both with regard to law and also with regard to the literature and nomenclature. I think the House will be well advised to throw out this amendment. I may enlighten the honourable member Sir Ali Mahomed Khan and also my honourable friend Mr. Karandikar that both of them are wide of the mark so far as the word “Hindu” is concerned—

An Honourable MEMBER: You know it better.

Mr. ALI BAHADUR BAHADUR KHAN: So far as Muslims are concerned, those who read Arabic papers and who keep themselves in touch with the events should know that even the Muslims of India are included by them in the definition of a Hindu, meaning the people of India. Those who know Arabic and read Arabic newspapers will agree with me that the Muslims of India, so far as they are inhabitants of India, are styled as Hindus in those papers.

Sir ALI MAHOMED KHAN DEHLAVI: May I interrupt the honourable member? Is the honourable member a Hafiz or a Haji?

Mr. ALI BAHADUR BAHADUR KHAN: I am a Hafiz and not a Haji.

Sir ALI MAHOMED KHAN DEHLAVI: The honourable member is a Hafiz. If he were a Haji, he would have done his pilgrimage. Then, not having been to Arabia, he is not correct in saying that in Arabia Muslims of India are called Hindus. They are called Hindis and not Hindus. Hindis means residents of India.

Mr. ALI BAHADUR BAHADUR KHAN: My honourable friend betrays his knowledge of Arabic. I will simply recommend him to go to the Crawford Market and purchase Arabic papers. They are available there. He does not know Arabic. I know Arabic and I have been reading those papers for years.

Sir ALI MAHOMED KHAN DEHLAVI: Is it a newspaper?

Mr. ALI BAHADUR BAHADUR KHAN: Yes.

Sir ALI MAHOMED KHAN DEHLAVI: Some misguided paper. People of India, irrespective of their religion or caste or community, are called Hindis.

Mr. ALI BAHADUR BAHADUR KHAN: They are referred to in writings as Hindus. It is not a matter the truth of which cannot be verified. It can be verified very easily in Bombay. No one will have to go to Arabia to do that. We have got Arabs here; we have got Arabic papers and Arabic books here. There are establishments in the city selling thousands of Arabic books. The word "Hindu" is there.

Again, another mistake that my honourable friend Sir Ali Mahomed Khan Dehlavi has committed is this. He says they are called "Hindis" and not "Hindus". Well, Sir, it is the Persians and not Arabs who call the people of India Hindis. Again, Sir, he has betrayed his ignorance of the knowledge of Persian. "Hindi" is a Persian word. "Hind" means India, and the suffix "ye" means "belonging to India". That is what the word "Hindi" means—belonging to India.

I want to correct the honourable member Mr. Karandikar. This word "Hindu" was really given by the Mahomedan invaders of India when they first came across "Sindu" in India. In course of time, they established some systems of nomenclature, and gradually "Sindu" became "Hindu". Several interpretations have been put upon this word by scholars in India and elsewhere. But let me enlighten the

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honourable member that the explanation which I am giving really holds the field so far as the majority of scholars are concerned. In fact, it will create great confusion if you introduce vague terms in the Bill as "any one who does not resent being called a Hindu should be included in the definition of Hindu". So far as admission of certain people in the temples is concerned, if you want to allow any one to enter a temple and if he wants to enter it, and if the temple trustee wants to allow him to enter it, no one should have any objection. Why should I take any objection? But I think the mover of the amendment will complain and perhaps he will have a grievance if some people belonging to religions which perhaps are not to his taste claim that according to this Bill they have a right to enter the temple. Therefore, both from the point of view of legal convenience and from the point of view of avoiding literary confusion, this amendment should be thrown out.

Mr. A. E. SINGAPORI (Surat District) (*Addressed the House in Urdu*): Sir, the previous speaker (Mr. Ali Bahadur Bahadur Khan) said that in Arabia and in Egypt, the Mahomedans of India were referred to as Hindus. As one who has travelled both in Arabia and in Egypt, I refute the assertion made by the honourable member. I have never heard of the Mussalmans of India being referred to as Hindus.

Mr. ALI BAHADUR BAHADUR KHAN: On a point of information. Does the honourable member know Arabic?

Mr. A. E. SINGAPORI (*in Urdu*): Yes, Sir; I know Arabic and I had been to Egypt and Arabia, I never heard—

The Honourable the SPEAKER: Order, order. Will the honourable member resume his seat? The point before the House is not how the Mussalmans of India are called. The relevant point is whether the definition of "Hindu" as suggested by the amendment should or should not be accepted. If we were to enter into a discussion on the issue as to how the different people of India are styled in different parts of the world, we would be side-tracking the discussion to no useful purpose. I find that it is also giving rise to some heat. Honourable members may not now refer to the scholastic propositions about the nomenclatures. They should confine themselves to the merits of the definition as proposed in the amendment.

Mr. A. E. SINGAPORI (*in Urdu*): As the honourable member Mr. Ali Bahadur Bahadur Khan referred to the matter, I wanted to make the position clear.

The Honourable the SPEAKER: If no other honourable member wishes to speak, I shall call upon the honourable mover for a reply.

Mr. S. L. KARANDIKAR (Ratnagiri, North): Sir, I concede, of course, that Government have the right of final reply, but I would be in a better position to reply if I knew the mind of Government.

The Honourable Mr. K. M. MUNSHI: I have nothing to say at this stage.

Mr. S. L. KARANDIKAR : Sir, as regards the objections that have been raised against my definition of the term "Hindu community," I first of all take up the suggestion thrown out by my honourable friend Mr. Ali Bahadur Bahadur Khan. The practical difficulty that he hinted at was whether he could call himself a Hindu. I would be willing to accept him in my temple.

Mr. ALI BAHADUR BAHADUR KHAN : I never wanted to enter a temple and I never shall.

Mr. S. L. KARANDIKAR : That is your question. But I can very confidently assure him that if he does not openly resent being called a Hindu, I am prepared to admit him into my temple. Hinduism is comprehensive and wide enough to embrace within its fold everyone who is not ashamed of calling himself a Hindu. Therefore, if my honourable friend comes forward boldly saying that he is a Hindu, I shall be the first man to recommend that he should be admitted into a Hindu temple.

Mr. ALI BAHADUR BAHADUR KHAN : On a point of explanation. I never said that the Muslims of India belonged to the Hindu religion. I simply said that the word "Hindu" was being used in the Arabic language for the people of India, irrespective of religion, caste or creed, as a geographical or racial expression.

Mr. S. L. KARANDIKAR : If I understood him aright, the practical difficulty that I just now explained was referred to by the honourable member at the conclusion of his speech. If I have misunderstood him, I stand corrected.

As regards the other point that he made, namely, that the Mussalmans of India were called Hindus in Arabia and Persia, there is wrangling here among the Muslim honourable members themselves ; so, the less I say on the point, the better for me. But I can give one answer to that line of thinking. If the Muslims of Arabia call the Muslims of India Hindus, they are very near the truth.

The Honourable the SPEAKER : Order, order. I do not think that discussion on that point should continue. It is not relevant for the purposes of the present amendment.

Mr. ISMAIL HASAN BAPU SIDDIQUI : I emphatically refute the statement made by the honourable member Mr. Ali Bahadur Khan and challenge him to prove it.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I have not followed what the honourable member said.

The Honourable the SPEAKER : The honourable member Mr. Siddiqui emphatically refutes the statement made by the honourable member Mr. Ali Bahadur Bahadur Khan and challenges him to prove it. Unfortunately, this is not the place for it. [*Laughter.*] The honourable member Mr. Karandikar may continue.

Mr. S. L. KARANDIKAR : Sir, the honourable member Mr. Ali Bahadur Khan also tried to enlighten me on another point, namely, that the word "Hindu" was derived from some Arabic word.

Mr. ALI BAHADUR BAHADUR KHAN : On a point of explanation. I said that when the Mahomedans first came to India, they called it "Sind" and that later on "Sind" was changed into "Hind".

Mr. S. L. KARANDIKAR : This change of "Sind" into "Hind" is not due to Arabic or to the Arabs who came to India.

The Honourable the SPEAKER : Order, order. I once remarked, during the course of this debate, that we are not here discussing the etymology of the word "Hindi" or "Hindu". The amendment before the House relates to the definition of the expression "Hindu community". The honourable member will, therefore, now confine himself strictly to the amendment and bring his remarks to a conclusion.

Mr. S. L. KARANDIKAR : I never wanted to enter into etymological discussions. The discussion that was indulged in by my honourable friend Mr. Ali Bahadur Bahadur Khan was likely to give rise to some misapprehensions, and it was with a view that these misapprehensions should be corrected that I wanted to say a word on the subject. The only thing that I wanted to say was that this simple etymology that leads us from "Sind" to "Hind" is due to no migrations—just as it is in the case of "septangular" and "heptangular". For that no invasion or anything of the kind is necessary. Simple rules of etymology lead to those results. All these points, really speaking, have very little bearing on the definition of the expression "Hindu community".

Sir, nothing was said by way of a reply to my definition. The only point that was made was the one put forward by the honourable Leader of the Opposition. He said that my proposed definition was a bit too comprehensive. Yes; I accept that criticism. But, Sir, when you have to deal with a very comprehensive society, your definitions also are bound to be comprehensive. When you want 27 crores of human beings to be included in the nomenclature, you cannot, however ingenious you may be, frame a definition that is very neat and handy; and especially when you are in an experimental stage, your definitions are bound to be comprehensive. If they at all err, they are bound to err on the side of being a bit too comprehensive. That is the only answer I have to make to all the criticisms that were levelled against the definition which I have suggested. There is no more point to be answered, and I simply await the reply that may come from the Government benches.

(The House re-assembled after tea at 4-30 p.m.)

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, I do not want to pursue the honourable members opposite in the very interesting regions of comparative religion and philology. I only want to restrict myself to this piece of legislation and nothing more. This legislation does not purport to define Hinduism. It does not purport to consider the question whether the Hindu religion has anything to do with another religion. The whole question involved is one of untouchability, and in considering that question it must be remembered that what is generally known as the Hindu community and the Jains have more or less similar

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notions ; to a large extent, they are also governed by the Hindu law. For the purposes of this legislation, I need not go into all the matters which have been threshed out here—I am sure very successfully and in a very highly interesting manner. I will only content myself by saying that the Hindu community as defined here just answers that description of the community which is keen on the question of untouchability and desires a uniform solution.

Then, Sir, as regards the other part of the amendment of my honourable friend Mr. Karandikar about those who resent being called Hindus, he is using a word which from the legal point of view would be very difficult to define. "Resent" is such a wide word and surely he does not mean that if once in a lifetime a *pucca* Hindu like himself resents being called a Hindu, that should immediately put him out of the Hindu community. That would be the effect of his amendment. I therefore submit that his amendment should be thrown out.

The Honourable the SPEAKER : I put the amendment :

In clause 2 (4) delete the words "includes Jains" and add the following :—

"includes every individual who either professes any one of the religions of Indian origin or who does not resent being called a Hindu."

Amendment put, and negatived.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Sir, I beg to move my next amendment to this very clause and that is as regards the definition of the word "worship". In that clause, I want the word "includes" to be deleted and I want the word "means" to be substituted in its place.

The Honourable the SPEAKER : If I mistake not, the honourable member has tabled one amendment to sub-clause (8). Does he not propose to move it ? May I take it that he does not wish to move it ?

Mr. S. L. KARANDIKAR : Here again my difficulty is that I hurriedly wrote out the amendment and handed it over without keeping a copy with me.

The Honourable the SPEAKER : I think the honourable member was supplied with a list which contains all these amendments. At my request the Secretary gave him a copy.

Mr. S. L. KARANDIKAR : I beg to move :

In clause 2, sub-clause (8), delete all the words which follow "relating to such temple."

Question proposed.

Mr. S. L. KARANDIKAR : Sir, in moving this amendment my object is to bring this piece of legislation into line with the principles of the Indian Trusts Act. Under that Act, some time has been specified during which a trustee can go on doing things against the trust, but his actions can remain unchallenged during that interval. A certain time is specified there, and now this part of the clause "any person who has administered the temple for a period of one year immediately prior to the date

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of the declaration made under section 3 and who is liable as if he were a trustee" reduces that period and it puts upon the public at large a greater responsibility than has been placed upon the public by the Trust Act. If the Trust Act allows people to watch what is going on for 12 years, this Bill says that the public has to exercise its privilege within the period of one year but that if during that period they fail to do so and let the trustees work as trustees, their right of challenging is gone and when once the trustees, who have been really misappropriating the powers of the trustees, have acted as trustees for one year and they make a declaration, that declaration is to be binding on the public in spite of the fact that the trustees had no right to act as trustees. I believe it is therefore necessary that this Bill should be brought into conformity with the provisions of the Trusts Act and therefore I think we should delete that part of the sub-clause which I have proposed, as such a deletion is necessary if no confusion is to arise in the administration of this Bill when it becomes an Act.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, the honourable member has not realised the importance of the latter part of clause 8 which he wants to delete. In respect of only some temples is there either a trust deed or a decree or an order of a competent court; there are a few other temples where trustees are appointed by any law for the time being in force; but generally, a large majority of the temples in the province have no regular deed of trust nor a decree or order of a competent court to control its administration. There they are and some one or other member of the public is managing it either in hereditary succession or some leading persons of the place meet together and take upon themselves the management of the temple. If this part of the clause is taken away, it would mean that none of those temples would be affected, which means that a large majority of the temples would be excluded from the operation of the Act. That is why the second part of the clause, namely, sub-clause (8), is important and should be retained; and that is why I oppose the honourable member's amendment.

Amendment put, and negatived.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, my next amendment, which is to the same clause, relates to the definition of the word "worship" and the amendment is very simple. It seeks to omit the word "includes" and purports to insert the word "means" in the place of the word "includes". That is a very simple amendment and I beg to move it.

The Honourable the SPEAKER : Will the honourable member move his amendment formally ?

Mr. S. L. KARANDIKAR : I beg to move the following amendment :

In sub-clause (10) of clause 2, delete the word "includes" and substitute the word "means" instead.

Question proposed.

Mr. S. L. KARANDIKAR: Sir, the definition of the word "worship" as is laid down in this clause is based on utter ignorance of facts as they happen in actual practice. Even in the case of those temples that are open to caste Hindus, we find that every caste Hindu is not allowed to go near and touch the deity. The only right that every caste Hindu can exercise in the case of temples is the right of Darshan. That is the last limit to which he can go. Beyond that every caste Hindu cannot go only because he is a caste Hindu as there are restrictions placed upon this right. For instance, there are certain temples in which women cannot go and touch the deity. There are certain temples in which even high class Brahmins cannot go and touch the deity unless they have taken a bath, and therefore, the only right which caste Hindus unreservedly enjoy in the case of all temples is the right of Darshan. That is the last limit to which even a caste Hindu can go. In this definition the word "worship" includes Darshan. I say that it means darshan plus something else, it means something more than darshan. Probably, the interpretation that some people will be inclined to put upon that word will be that all people have the right to go and touch the deity, and I believe if that interpretation is put upon that word, because the phraseology is used there is "includes", nobody will be wrong. In order that such confusion may not arise hereafter, we have to restrict the right. Up to now, it was caste Hindus who had the right to take *darshan* and the untouchables were not allowed that right of *darshan*. We are now trying by this piece of legislation to put the Harijans also on the same footing as the caste Hindus. If you put the word "includes", it may give rise to something which you do not contemplate. My request is that we should be clear in our minds and should exactly define what we mean by worship. As I understand, the object of this piece of legislation is that the caste Hindus should not get a greater right than the Harijans in the matter of worship in a temple. If you leave the definition as it is, people are likely to stretch the phraseology and touch the idol thereby creating unnecessary trouble. My humble submission is that you should drop the word "includes" and substitute for it "means". If you are specific on that point, there is no difficulty and the purpose of the legislation will be rightly served. With these remarks, I request the Honourable Minister to see his way to accept the change that I have proposed.

The Honourable Mr. K. M. MUNSHI: Sir, the honourable member has made the intention of Government quite clear himself when he said that the object of this Bill was to place the Harijans on the same footing as the so-called higher classes, but the word "means" which he has suggested to be substituted for the word "includes" does not carry out that object. If you remove the word "includes" in sub-clause (9) and put the word "means" there, it would mean that the Harijans would be entitled to worship so far as *darshan* is concerned and nothing more. There are several temples in the Presidency where Harijans are not only entitled to *darshan* but also to place flowers on the deity. If the honourable member's amendment is accepted, that right would be taken away and the Harijans will have the right to *darshan* only.

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It will only mean that, whereas higher classes will have the right of worship higher than *darshan*, the Harijans will be permitted only *darshan*. The honourable member's difficulty seems to be that if we put the word "includes" it would mean that the Harijans would be entitled to worship of a higher form than the higher classes. If the honourable member turns to section 3, he will find that it provides "subject to such conditions and the observance of such ceremonies as may be specified in the declaration :". It is therefore open to the trustees to provide conditions that the worshippers should go only so far and no further, provided the conditions imposed by them apply alike to the higher class Hindus as well as to the Harijans. The word is specifically intended to cover cases of that kind. The trustees will be entitled to impose conditions regulating different classes of worship but in such a manner as not to give preference to any one class.

Amendment put, and negatived.

Clause 2 ordered to stand part of the Bill.

Clause 3 (*Declaration by trustees opening the temple to Harijans*):

(1) A trustee, or if there are more than one trustee, the majority of the trustees, of a temple which, by anything contained in the terms of instrument of trust, the terms of dedication or a decree or order of a competent Court relating to such temple or by any custom, usage or law for the time being in force, is not open for the performance of worship to any Harijan may, of his or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms such instrument, the terms of the dedication, the decree or order, custom, usage or law, declare in writing that such temple shall be open to the Harijans to whom such temple was not open, for the performance of worship, subject to such conditions and the observance of such ceremonies as may be specified in the declaration :

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only.

(2) The declaration shall be in such form and shall contain such particulars as may be prescribed.

(3) The declaration shall be forwarded to the Court within the local limits of whose jurisdiction the temple is situate.

(4) The declaration forwarded to the Court shall be accompanied by an affidavit made by the trustee or the majority of the trustees, as the case may be, that he is the trustee or they are the majority of the trustees of the temple in respect of which the declaration is made and also in the case of a temple which is a public trust to which the provisions of the Bombay Public Trusts Registration Act, 1935, apply, by a certified copy of an entry in the Register of Public Trusts maintained under section 7 of the said Act relating to the names and addresses of the trustees of such public trust.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I move the following amendment :

"In clause 3, sub-clause (1), in line 2, delete the words 'the majority of the trustees' and substitute the words 'a clear majority of three-fourths of them'."

Question proposed.

Mr. S. L. KARANDIKAR: In moving this amendment, I want the trustees to take their decision in the matter, after full, deliberate and unequivocal consideration. It very often happens the trustees are forced

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to take up a problem which is quite new to them by the pressure that is brought to bear on them from outside ; and very often the trustees act on account of the pressure from outside. Therefore, if you try by this piece of legislation to change the practice that has been in vogue for many centuries, it should not be, because one of the trustees tries to assert himself. This will entail great hardship. Therefore, it is necessary that there should be a substantial majority in favour of the change that is proposed. I shall quote a recent case to show what really happens. In a very important case, a settlement had to be arrived at, and the trustees had to be taken into the scheme. Now, the trustees stuck to a particular line of action. I am stating this without mentioning the names. The other party thought that it would strengthen their case if they got the signatures of the trustees to a particular document. As the party wanted to get the signature for the settlement, they brought outside pressure to bear on them and got the signature. When people are zealous about a particular object, such things are quite possible. I do not blame those who bring pressure to bear on the trustees. When an age-long practice has to be changed, a decision should not be taken under such circumstances. Therefore, my amendment seeks to avoid this possibility or contingency. When the trustees do so with a three-fourths majority and come to a definite conclusion, then that conclusion has weight. If it is only a bare majority of one, as five against four or 8 against seven, it is not a decisive settlement. After having come to a conclusion, no trustee should repent the decision and say that that fellow brought pressure to bear on him and so on. There should be no cause for repentance ; and progress should not be hampered. If you put the provision that the decision should be by a three-fourths majority, the reform that we are now making will have a better sanction. With this object I have moved my amendment. Even though the other amendments have been thrown overboard, I think this at least will appeal to reason of the Government Benches.

Sir ALI MAHOMED KHAN DEHLAVI: There are two things on which I wish to have information—one from the Honourable Minister and the other from the honourable mover of the amendment. The provision is “A trustee, or if there are more than one trustee, the majority of the trustees. . . .” If there are only two trustees, how is it possible to have a three-fourths majority ? The other point is that, if there are only two trustees and if one trustee is for throwing open the temple to Harijans and the other against, that temple will go out of the operation of this Bill. I do not think that is the intention of the Honourable Minister. He does not wish any temple to go out of the operation of this Bill.

The Honourable the SPEAKER: Obviously, there will be no decision arrived at. This is only a question of *modus operandi* as to how the object is to be achieved. If the trustees are divided half and half, no decision will be come to.

The Honourable Mr. K. M. MUNSHI: Sir, I will reply to my honourable friend Mr. Karandikar. He seems to think that, if there is a certain

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number of trustees in the majority, it indicates absence of pressure from the public. That is, in short, his argument. I shall put it in a concrete way: There are seven trustees; if they come to a conclusion by a majority of four against three, that conclusion is not after mature deliberation or is arrived at as a result of public pressure. If there is a three-fourths majority, i.e., 6 against 1, then he seems to think that the conclusion would have been come to after mature deliberation without any public pressure. This argument is not substantial. The real object of my honourable friend is that greater impediments should be put in the way of throwing open temples. The point is, who is to decide, when the stage has come, that in view of the public opinion outside the temple should be thrown open to Harijans? If there is the public opinion in support of it the trustees should decide by majority to throw open the temple. I do not understand why the number should be placed so high. Therefore, I am unable to accept his amendment.

As regards the remarks of my honourable friend the Leader of the Opposition, I am considering the language of the section. If they do not agree by a majority, there is an end of the matter. But if there are four

5 p.m. trustees, two on each side, it struck me that it might be argued by some ingenious lawyer that as the clause seeks to cover only two kinds of temples—one, a temple having only one trustee, and the other, a temple which is capable of having a majority of trustees on either side—a temple which is not capable of having a majority on either side should be excluded. I do not think such a construction is possible, but, if on a proper consideration, it is thought possible, it is merely a matter of a few words, and if you permit, the amendment can be made at the third reading.

Mr. S. L. KARANDIKAR: Before this amendment is put to vote, I rise to offer a personal explanation. The Honourable Minister just now said that my object in bringing forward this amendment was to put some impediments in the path of reform. I have to repudiate the suggestion very emphatically. In bringing forward all the amendments that I have tabled, my only object is that the path of reform should be ensured, and not that impediments should be thrown in the path of reform. Even if the Honourable Minister does not see his way to accept any of the amendments, he should be charitable enough and should not attribute motives to the member who has tabled them.

The Honourable Mr. K. M. MUNSHI: I did not attribute motives to the honourable member. I suggested that the amendment would have the effect of putting an impediment in the path of reform.

Will you, Sir, give me permission to add the words that I have suggested?

The Honourable the SPEAKER: It will be for the Honourable Minister to consider whether any such amendment is necessary at all. In the view that I am taking of the language of the clause, I do not think any such change is necessary. However, the House need not be guided by that;

[The Speaker]

the Honourable Minister might consider whether any amendment is necessary at all.

The Honourable Mr. K. M. MUNSHI : May I know whether it would be permissible to move it at the third reading ?

The Honourable the SPEAKER : The intention being clear, I should treat it as a verbal amendment. All that I suggested was that, in a moment of hurry, no change should take place which might lead to further difficulty.

The Honourable Mr. K. M. MUNSHI : I only want time to consider whether it is worth while.

The Honourable the SPEAKER : So, I put the honourable member Mr. Karandikar's amendment to the House. I shall read it again :—

In clause 3 (1), line 2, in place of the words "majority of the trustees" substitute "a clear majority of 3/4 of the trustees".

Amendment put, and negatived.

Mr. R. N. MANDLIK (Kolaba District) (*Addressed the House in Marathi*) : Mr. Speaker, Sir, I beg to move :

In clause 3, line 4, delete the words "instrument of trust, the terms of dedication or".

I have already given the reasons in support of my amendment in the minute of dissent which I have appended to the report of the Select Committee. My first objection to the provision in the clause is that Government are thereby going to encourage the trustees to commit breach of trust, for to violate the terms of the instruments of trust or dedication is nothing short of breach of trust on the part of the trustees. My second objection is that the provision is an invasion of the fundamental rights of an individual. It is, therefore, clearly against justice, equity and good conscience. To elucidate these points I cannot do better than read paragraph 1 of the minute of dissent which I have written to the report :

"The provision in the Bill to give full license to the Trustee or majority of them, to ride roughshod over the wishes of the author of the Trust, notwithstanding that they are clearly expressed in the trust-deed, that the temple should be reserved for worship to the Caste Hindus alone, is to say the least immoral. No Government worth the name, least of all the Congress Government under the guidance of Mahatma Gandhiji, the Apostle of Truth, Love and Non-violence, ought to encourage Trustees to commit a breach of trust of this sort. If an Orthodox Hindu desired to build a temple for the exclusive use of the Caste Hindus and entrust same to the Trustees with a stipulation to that effect, this Bill will debar him from doing so. This is a clear invasion of his fundamental civil rights. If the Congress Government really stands for them and respects them, they ought to be the last to force a man by law not to follow his religious principles, as he honestly understands them. One may dislike those principles and even consider them silly! But nobody can have any legal right to prevent him from following them, so long as he causes no actual harm to anybody or does not transgress morality or public order, in doing so."

I have referred in my minute of dissent to Truth, Love and Non-violence for which Mahatma Gandhi stands. But it is possible that this Government may say that they are not one with Mahatma Gandhi in

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that respect. But then I am going to read a quotation from the speech of the Honourable Minister, Mr. Mānshi, in this very House on the 15th September 1937 :

“ Non-violence to us is not a policy at all. It is a creed, a fundamental principle on which alone the greatness of an individual or a nation is based. Sir, it has been the only strength of the Congress and through it only will this country achieve freedom. We believe it as a cardinal tenet of our political religion that it is by and through non-violence alone that this unfortunate world can be rid of dictators and armaments which like a phantom overshadow the whole humanity. It is in this faith, Sir, that we are pursuing the path we do ; and we invite the members of this House to appreciate this point of view. They may not accept it as a creed ; they may accept it as a policy. They may consider that we are religious fanatics in this respect. They are at liberty to think so, but let us agree on this, that they will assist us with all the power behind them inside and outside the House to maintain an atmosphere of non-violence, in which alone we will be able to translate our programme into action. Without such an atmosphere, Sir, whatever attempts we or they might make will fail, and if there are some who cannot see the wisdom of what I am saying, all I can say is that I am very sorry for them.” (Bombay Legislative Assembly Debates, Vol 1, p. 998).

I can say the same about the Government. (*Interruption.*) Non-violence includes truth. There cannot be non-violence without truth. That is the answer given by Mahatma Gandhi.

Now, Sir, I will read a quotation from a judgment delivered by Mr. Justice Beaman, in order to show that it is illegal to violate the conditions of an instrument of trust :—

“ Any extension or limitation of the scope of a trust so as to exclude those who were intended to be included or include those who were intended to be excluded is really a breach and a very serious breach of trust.”

Sir, after the publication of this Bill, orthodox Hindus started an agitation against it. The Government and the members of this House are fully aware of it. But they have not been given sufficient time to express their views on this Bill. In order to give them that time, my friend the honourable member Mr. Phadke had moved that the Bill be recommitted to the Select Committee. But Government did not accept his motion. They want to rush this measure through within three-fourths of an hour. This has made the orthodox Hindus very suspicious of the *bona fides* of the Government. I will now read a quotation to prove it, from the memorial which orthodox Hindus have sent to Government :

“ We take the liberty to point out to you that we, and numerous Hindus will agree with us, feel that this Bill is only the thin end of the wedge being driven into the heart of the religious Hindus. We feel that when once the principle of departing from the purposes of the trust has been enunciated, there will be no limit to the deviation and consequently there can be no existence of any charitable or religious trust. Just as a stroke of the pen now seeks to utilise a temple for the benefit of a section for whom it was not intended, a similar stroke of pen can at a future date abolish worship in temples, nationalise them and divert the funds of temples to objects diametrically opposed to religion.”

That is the fear in the minds of the orthodox Hindus. If Government want to ignore it, they are at liberty to do so at their peril.

As regards the fundamental rights of individuals, to which I have referred in my minute of dissent, I will quote from the Fundamental Rights Resolution of the Karachi Congress. It is notorious that Government have pledged themselves to carry out whatever orders they receive

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from the Congress High Command; they have no independent views of their own. I will, therefore, read from the Karachi Congress resolution about fundamental rights:

"Every citizen shall enjoy freedom of conscience and the right freely to profess and practise his religion subject to public order and morality."

The concluding portion of that resolution makes it clear "that there should be no interference in matters of conscience, religion or culture, and that a minority is entitled to keep its personal law without any change in this respect being imposed by the majority." So, the opinion of the Congress in this matter is clear. If the Government want to respect it, they ought to accept my amendment. Before we pass this Bill and its various clauses, we should see whether the provisions of the Trust Act are going to be either nullified or altered by the particular provision now before the House. I hope and trust that the House will see that the duties of the trustees as laid down in the Indian Trusts Act are not whittled down at least in the present instance, and that they will therefore support the amendment now moved.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I oppose the amendment. When the Government are doing their level best and against odds to do a most helpful and necessary thing, here is my honourable friend from the Kolaba District coming forward to put spokes in the Government's wheel and to hold back religious progress among the Hindu society. I come from the Intermediate Community and I make bold to say on the floor of this House that at least 70 per cent. of the intermediate communities want that more and more facilities should be given to the Harijans. My honourable friend Mr. Mandlik can take this from me.

Mr. R. N. MANDLIK: It is false.

Mr. D. W. RAUT: It is true and not false.

In fact, I would even go so far as to say that it is not Marathas in the villages who are so much against the Harijans getting rights of this character but it is those people who, under the garb of religion, want to keep a hold on the Harijans in this way. Truth and non-violence are not things to be lightly set aside or neglected. I am sure that my honourable friend Mr. Mandlik, though a Brahmin, may have sometimes taken tea in an Irani's shop or at least in other shops at the hands of non-Brahmin waiters. He must have done so at least in his student days, if not now. That also is a breach of trust, the word "trust" meaning "faith" or "*rishwas*" in Marathi. Non-violence and truth are essential to the growth and prosperity of this country in these days. Today the circumstances are not what they were 50 years ago. Even the very dress which Mr. Mandlik puts on probably was not the dress which was worn by his grand-father or great-grand-father. We must

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go according to the changing conditions. I, therefore, say, that instead of opposing this Government measure, every one of us should support them in their march with times. In fact, I am of the opinion that Government should have brought forward a far more liberal measure than the present Bill. I congratulate Government on the present Bill and oppose the amendment moved by the honourable member Mr. Mandlik.

Mr. R. B. THORAT (Nasik East) (*Addressed the House in Marathi*): Sir, I do not think there is need for so much argument because those very people for whom this Bill has been brought are not at all keen about this Bill if we can judge by the silence which the representatives of the Harijans in this Assembly seem to be studiously maintaining. They have not taken any part in this debate all these days. So long as untouchability does not die and so long as the birth-right of Hindus of all castes is not recognised and so long as Harijans are kept out of their natural rights, the agitation for Swaraj can never succeed. If during this debate the European members of this Assembly had been present, they would have felt sure that the British could still remain masters in India for a large number of years more, because they would have known that we are still fighting among ourselves over the question as to who is a Hindu and who is a non-Hindu even from the Hindus themselves. Our Muslim friends here also seem to have copied the English people in this respect. Let alone the question of Mahars. When even we go to temples, we find there is the question of Brahmins versus non-Brahmins. Take the question of the famous Kalaram Temple of Nasik where the question of Brahmins versus non-Brahmins is still supreme.

The Honourable the SPEAKER: This discussion is irrelevant to the question immediately before the House. The point is whether the terms of the instruments of trusts should be permitted to be disregarded. That is the only point, not the other question which the honourable member is dilating upon.

Mr. R. B. THORAT: Sir, the object of this Bill, as we have been told by the Honourable Mr. Munshi, is, whether terms or no terms of the instruments of trusts, there should be no obstruction. Sir, very few of the trustees are elected trustees. I challenge them to show that any of those trustees are elected as trustees. They force themselves on the temples as trustees, that is all. None has elected them as trustees. Many of the trustees are self-elected or self-styled trustees. In Maharashtra nobody elects the trustees. It is only by their might, power and education, some of the people come forward and take upon themselves the management of temples and call themselves trustees.

I neither oppose nor support the Bill and I know the amendment of Mr. Mandlik will not be passed by this House.

Mr. T. S. JADHAV (Sholapur North East) (*Addressed the House in Marathi*): Sir, although the Hindu Mahasabha has on several occasions

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passed resolutions to the effect that untouchability should be removed. I am very pained to see that the honourable member Mr. Mandlik is opposing the removal of untouchability. Neither the Hindu Mahasabha nor the Congress Ministry or the Congress itself wants that the reform of temple entry should be thrust, against their will, on the people, and whatever facilities are sought to be given, are going to be given more as birth-rights of the down-trodden of human beings that we find in this unhappy country. Untouchability has played such a dire havoc in our society that the sooner it is blotted out of existence the better for all of us.

The Honourable the SPEAKER: The honourable member is digressing into the general question of removal of untouchability. The only point is whether the trustees of temples should be permitted to disregard the provisions of trust. That is the only point to which the honourable member should restrict himself.

Mr. T. S. JADHAV: Very well, Sir. Just as the trustees have a right to go near the deity and touch the idol, so also the Hindu population should have that right unrestrictedly. By denying this right to the untouchables, the Hindu community is going farther and farther away from its moral duty and it is giving rise to and widening "avishwas" or "want of faith and trust." The trustees should do everything that would lead to the good of the public—I mean the Hindu public, whether they are so-called touchables or untouchables.

I know that among the orthodox section of the Hindus agitators are busy fomenting feeling against this measure. Have we not known agitators springing up every time any reform is going to be undertaken? There was, has been and always will be agitation against every act of social reform. But, fortunately, today that agitation is not so violent as it used to be before. I therefore want to make one request to my Harijan brothers to remember that this is only a simple thing that Government are going to do for them and that they should support the Bill and oppose the amendment moved by the honourable member Mr. Mandlik whom I also request to withdraw and willingly withdraw his amendment.

The Honourable the SPEAKER: Would the Honourable the Minister like to speak now or after the honourable member Mr. Mandlik has replied?

The Honourable Mr. K. M. MUNSHI: I would like to speak after his reply.

Mr. R. N. MANDLIK: Sir, three honourable members have spoken and all of them belong to the non-Brahmin communities. Some of them belong to the Congress Party but they are non-Brahmins. [Interruptions.]

The Honourable the SPEAKER: Order, order. It will not help any useful discussion to refer to the parties. The question may be argued on its own merits; and the question as placed by the honourable

[The Speaker]

member is as to whether it is proper or not to permit trustees to disregard terms of trusts. That is the only point, and all questions as regards untouchability or as to how many parties there are and so on are irrelevant.

Mr. R. N. MANDLIK: I bow to your ruling, Sir. The three honourable members who criticised this amendment have not understood the gist of my amendment. I say that the expressed desires of the author of the trust ought not to be disregarded by the trustee, after accepting the trusteeship. I do not object to disregarding custom, law, order, decree of a court and things of that sort. I am afraid, Sir, that my amendment is not fully and properly understood by any of the honourable members who criticised it. The honourable member Mr. Raut said that 70 per cent. of the people are non-Brahmins and that none of this 70 per cent. object to all temples being thrown open to all Harijans. I would only request Mr. Raut to visit villages and proclaim to the villagers this theory or opinion of his and see how he fares at their hands.

Mr. D. W. RAUT: On a point of explanation, Sir.

The Honourable the SPEAKER: Order, order. The honourable member can give his explanation if he wants to give any, after the honourable member Mr. Mandlik has finished his remarks.

Mr. R. N. MANDLIK: I know his experience will be queer. I know villages and villagers as well and what the views of the majority of the villagers are. [Interruptions.]

The Honourable the SPEAKER: Order, order.

Mr. R. N. MANDLIK: If you go to the villages and try to throw open the temples or tanks or wells to the untouchables, I am sure the villagers will rise in a body and oppose your action. I am certain that even my scheduled caste brothers in this House will bear me out when I say this.

An Honourable MEMBER: You do not want those things? You want untouchability to continue?

Mr. R. N. MANDLIK: I do want untouchability to go. I do want temples, tanks or wells to be thrown open to the Harijan brethren. But I am telling you what at present is the true attitude of the village people as we find them. The honourable member Mr. Thorat gave us the example of Kalaram Temple of Nasik, where according to him the question of Brahmins versus non-Brahmins is still supreme, and where this distinction is still observed. May I know from him what will be the fate of untouchables entering that temple, wherein the Brahmins do not admit even non-Brahmins, such as Marathas, to a status of equality?

Mr. D. W. RAUT: Who is responsible for it?

Mr. R. N. MANDLIK: The honourable member Mr. Raut. Sir, one honourable member has requested me to withdraw my amendment. I am not prepared to do so and will not withdraw my amendment. In fact, if my amendment fails, I am going to demand a division so that the names of all those who are supporting the Government's measure enabling trustees of temples to disregard express conditions of trust, will be enshrined in print in the annals of this Assembly and the posterity will see who these stalwarts were!

(An Honourable Member rose).

The Honourable the SPEAKER: The honourable mover of the amendment has concluded his reply and the Honourable Minister will now address the House. Other members have no right to speak now. If the honourable member had stood up before the honourable mover of the amendment had risen to speak, I would have given him an opportunity of having his say.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, the honourable member Mr. Mandlik has raised several points which deserve a detailed reply. For the benefit of those people whose views are identical with those of the honourable member, I propose to reply to them point by point. His first point was with regard to fundamental rights. The fundamental rights which were accepted by the Karachi Congress accept the principle that untouchability should be removed. That resolution was passed by the Congress, the principal object of which is to remove untouchability. It requires great ingenuity to argue that this clause affects freedom of religion. To say so is not to understand the Bill at all. As I said more than once, all that the Bill says is that, if representatives of Hindus come to the conclusion that certain Hindus should be allowed to have the benefit of a certain temple which they do not have at present on account of certain decree, custom or trust, they should be allowed to do so. The Hindu community is not sought to be converted by this Bill to another religion. The Hindu religion is not taught a new tenet, but it is accepted as the basic factor. All that it does is that people who are proud to call themselves Hindus and to worship in Hindu temples should not be shut out because of some trust or custom or decree. There is no question of forcing a new tenet on the Hindu community. Therefore, the appeal to fundamental rights is absolutely irrelevant.

The second point is about the appeal to non-violence. I know the reason why the honourable member has brought in the name of Mahatma Gandhi and non-violence in his minute of dissent. I assure him that, if this Bill, in truth, wanted to depart from the principles of Hinduism, this Government will have nothing to do with it.

Then, he argued that the trusts may relate not to a particular family or a particular caste but to Uchchavarnas—he said caste Hindus—; why should they be interfered with? “Caste Hindus” is not a proper translation of Uchchavarnas. The honourable member said that even they are not allowed to touch the idol in many cases. What is an Uchchavarna?

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Does not the significance of Uchchavarna change from year to year ? Thirty or forty years ago, people who were considered as Neechavarnas—low castes—have now among them lawyers, doctors and even Sanskrit students. Their fathers and grandfathers did not dare to go into a temple, simply because they felt that they were not Uchchavarnas ; they never thought that they could belong to the Uchchavarnas ; but during the last 30 or 40 years, they have taken their position among Uchchavarnas. If you look to the 1901 Census Report, a community (I won't mention the name) was considered to be lower than Baniyas ; thereafter it put forward its claim to be Brahmin. By 1931, they established their claim as Brahmins. By a stupendous effort the members elevated their caste, and now they have attained a position as Brahmins as high as a high caste Hindu may be proud. The elevation of a lower class into a higher class is one of the lines on which the Hindu society is evolved. Have we not seen a number of people who were not considered Baniyas being treated as Baniyas ? The present day Kshatriyas belonged to different communities when they came in the wake of invaders to India. Are they not completely absorbed ? Were not the Greek invaders absorbed as Kshatriyas ? Why should Uchchavarnas be described to be the higher classes as are known only to a settlor ? Why should not his sons accept others as higher class ten years later ? Does not my honourable friend think that honourable members like Dr. Ambedkar and Mr. Bhole are as decent and as pure as any member on either side of the House ? Do they not belong to Uchchavarnas ? The temple is intended for the Uchchavarnas. (*Interruption.*) The honourable member will not try to understand. The settlor does not say : " Keep it for persons who were described as Uchchavarnas in 1882 A.D." Each society, each age, will decide who is a Uchchavarna and who is a Neechavarna. Sir, the public opinion of 1937 is represented in this House and it wants that those who are described as untouchables today should be described as Uchchavarnas. Where does violence come in this ? This is the process Hinduism is going through. Can we, the honourable member and myself, call ourselves pure Brahmins ? Is there no admixture of blood in us ? The whole process of Aryan civilisation has been to uplift all the whole continent of India by a change of creeds, schools of thought, beliefs and ideals. It has proceeded on this path all these years. The Hindu society and culture exists today because it has been absorbing all other elements into it from time to time and elevating it to higher ideals and religion. Otherwise, Hindu culture would have shared the fate of the Grecian, the Roman and the Egyptian civilisations. What we are doing today is nothing but following the process of absorbing all communities who were thought 30 or 40 years ago as Neechavarnas. Therefore, it does not contravene either truth or non-violence.

Then, the honourable member put forward a legalistic notion about trusts and said that they should not be altered. If he had said that it should not be altered by a court of law, I would have had no answer.

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It has been recognised over and over again that courts have no right to alter a trust either in its purpose or intention. Sometimes, Sir, this has brought ridiculous results. Courts administer the law, but the legislature gives elasticity to it. Lord Halsbury in the famous case to which I made reference in the course of the first reading of this Bill stated:—

“ Now, in the controversy which has arisen, it is to be remembered that a Court of law has nothing to do with the soundness or unsoundness of a particular doctrine. Assuming there is nothing unlawful in the views held—a question which, of course, does not arise here—a Court has simply to ascertain what was the original purpose of the trust.

My Lords, I do not think we have any right to speculate as to what is or is not important in the views held. The question is what were, in fact, the views held, and what the founders of the trust thought important.”

But this is not a court of law. This is a legislature. It is competent to the legislature, when trust law is rigid, to give it elasticity so as to make it serve the purpose of a society. In that case in England, the court decided that a trust should not be altered; the Parliament at once took it up and passed a legislation in order to secure the benefit of the trust to parties whom the court declined to give relief. We are not a court of law. There is a substantial change of Hindu opinion which requires that trusts ought to be altered. If we cannot succeed in giving effect to it in courts of law, we have a right to come to the legislature and say; “ Present day Hindus themselves want, either by reason of their progress or by reason of their changed views, that for the sake of temple Uchchavarnas should include classes whom the settlers at one time excluded as Neechavarnas.” What is exceptional or extraordinary about it? Therefore, Sir, my honourable friend has missed his forum when he thinks that that argument can appeal to this House. The honourable member says that the legislature is condoning breach of trust. This is incorrect.

The legislature has got the right to define what a breach of trust is. What is a breach of trust? It is a creature of laws; that means that it can always be created or destroyed by the legislature. Why cannot the legislature say that what was a breach of trust yesterday shall not, in view of the overwhelming opinion of the Hindu community, be hereafter considered as a breach of trust? Is it not a fact that legislatures pass various legislations prescribing different duties for trustees, and then what was not a breach of trust yesterday suddenly becomes one today? Is it not a fact that even the courts very often give to a trustee who has committed a breach of trust a kind of free pardon for doing what he did because the courts feel that it has not been done with an intention to commit a breach of trust? Why cannot the legislature say that what had been a breach of trust till yesterday shall not be treated as such today, because the general community wants a new attitude? Therefore, that argument also of my honourable friend is not substantial.

The last argument of the honourable member was his reference to an agitation which, he said, was being carried on very vigorously against

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this measure. In replying to my honourable friend Mr. Phadake, I gave the necessary reply. I can assure my honourable friend Mr. Mandlik that I have followed this agitation as closely as he has done. I know and respect many of the gentlemen who are carrying on the agitation in the city of Bombay. They are sincere, devout Hindus who follow Hinduism according to their own light. I know they are pained; and that fact has also caused us pain. But do you know what pain it would cause to the lakhs and lakhs of untouchables if by rejecting this Bill you were to put upon them, not the stigma of untouchability, but the stigma that in the year 1938 a progressive legislature which claims Swaraj, which wants independence, was so lost to every sense of nationhood, to every sense of progress, that they turned down a Bill of this kind? What would be their pain in that case? We have to choose, in all matters which vitally affect society and life, between causing one kind of pain and another; and ultimately we have to decide upon removing a gross injustice, even if it inflicts pain upon some of our friends whom we hold in respect; we must be prepared to do it in order that greater pain may not be inflicted upon others. Those are my reasons for opposing the amendment of my honourable friend Mr. Mandlik. (Applause.)

Amendment put, and negatived.

The Honourable the SPEAKER: This disposes of the other amendment of the honourable member, which is consequential.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I beg to move:

In clause 3 (1), after the words "specified in the declaration" occurring before the words "Provided that," add:

"Provided that no declaration shall be made by the trustees if the instrument of trust or the terms of the dedication expressly prohibit admission of untouchables to the temple in question."

The Honourable the SPEAKER: Before I put this motion to the House, I should like to know, in view of certain doubts which I feel, as to whether it would be in order now in view of the decision taken by the House just now. I do see the difference between the two; this amendment expressly refers to the prohibitory clause, but it appears *prima facie* that in the amendment which sought to take the instrument of trust and the terms of dedication out of the operation of the section, the subject matter of the present amendment was included. I am feeling doubtful about it, and I should like to know if the doubts I entertain are well-founded or not.

Mr. S. L. KARANDIKAR: As I understood, the amendment moved by my honourable friend Mr. Mandlik referred to all kinds of trusts. In that sense, his amendment, if passed, would have affected the Bill more widely than my amendment seeks to do. My amendment very much agrees in substance with the amendment of my honourable friend Mr. Mandlik; but so far as the scope of the two is concerned, there is a material difference. I have, therefore, to request you to note the distinction between the two and, if possible, allow me to move my amendment.

The Honourable the SPEAKER: That was exactly the point to which I was referring. I do see that some distinction can be drawn between the two amendments. But in view of the decision that the House has taken, namely, that notwithstanding anything contained in the instruments of trust, the trustees may have the liberty to throw open the temple to Harijans, it is difficult to say whether this amendment is in order.

Sir ALI MAHOMED KHAN DEHLAVI: Is it not a negation of the whole clause? The whole object and purport of clause 3 has been explained by the Honourable Minister. It gives power to the trustees, whatever be the terms of the trust deed, to throw open the temple to the Harijans. He made it clear in his last speech. If this proviso is accepted, it amounts to a negation of the clause as a whole.

The Honourable the SPEAKER: It does not appear to amount to a negation of the clause. The distinction, to my mind, is this. The amendment treats of saving certain express clauses in the deed of trust. It refers to such terms only. The other terms may be expressed or implied in an instrument or may be deduced from usage.

Sir ALI MAHOMED KHAN DEHLAVI: Is it not the intention of the clause that the trustees should be able to modify the terms so far as entry of Harijans is concerned, even if there is a decree or order of a court?

The Honourable the SPEAKER: That is what I was referring to. Therefore, it follows that the one is included in the other—not that the one is the negation of the other.

Mr. ISMAIL I. CHUNDRIGAR: May I make a submission? The first amendment was much wider in scope than the second one. It may be that the members of this House were not prepared to go so far as to accept the first amendment, which was much wider in its scope; they thought that this House should of course widen the powers of trustees in certain cases, but all the same, they may be of opinion that in cases where there was an express declaration in a trust deed that the temple should not be thrown open to particular classes, this House may still be prepared to go that smaller length and decide that such temples shall not be thrown open to members of particular communities in view of the express provision to that effect in the trust deed. I submit that it should be open to the members to express their views that they are prepared to go so far as the second amendment proposes to go though they were not prepared to go so far as the first amendment proposed to go. Therefore, this amendment being narrower in scope than the first one, the members should have an opportunity of expressing their views on the matter, and the amendment should be allowed to be moved.

The Honourable Mr. K. M. MUNSHI: Sir, this is more in the nature of an amendment to the amendment of the honourable member Mr. Mandlik. The first amendment said that wherever there were instruments of trust, this Act should not operate; and the second amendment says that wherever the instruments of trust expressly prohibit the entry

[Mr. K. M. Munshi]

of untouchables, the Act should not operate. Really speaking, this is an amendment to the first amendment, which has been thrown out by the House. Therefore, it cannot be moved.

Mr. S. L. KARANDIKAR : Sir, so far as I have been able to follow you and the Honourable Minister, the contention seems to be this, that as the wider amendment has been thrown out, my amendment, which seems to be included in that amendment, cannot now be debated upon. My reply to that is that it is not possible in this particular case to look at the amendments only; you have to look at the amendments in their relation back to the Bill. If my honourable friend Mr. Mandlik's amendment had been accepted, the Bill would have been affected to a very large extent. The House has decided that the Bill shall not be affected to the extent suggested by the honourable member. Now, my amendment is narrower in its scope and, therefore, its operation on the Bill would not be as wide as would have been the case if my honourable friend Mr. Mandlik's amendment had been accepted. Therefore, even though that amendment has been lost, my amendment can be debated upon, when it is related back to the whole scope of the Bill. That is one submission.

Another submission is this. If it was really an amendment that was included in the amendment of my honourable friend Mr. Mandlik, I was, really speaking, entitled to have my say on that amendment. If I had been intimated to that effect, I would certainly have had my argument on that. But as no intimation was given to me even when
6 p.m. my amendment was tabled, I was always under the impression that my amendment was getting proper recognition as an amendment. My submission therefore is that taking this circumstance into consideration and taking also the fact that in its relation to the Bill as a whole this amendment deserves to be treated as an independent amendment, I believe I shall get a chance of moving my amendment.

The Honourable the SPEAKER : I am afraid my doubts have not been removed. The decision which was taken was that it is competent to trustees to make a declaration notwithstanding anything contained in the terms of the instruments of trusts. So, the amendment does not seem to be permissible now in view of the decision of the House on the amendment of the honourable member Mr. Mandlik. I now put clause 3.

Clause 3 ordered to stand part of the Bill.

Clause 4 (*The publication of declaration*).

(1) *The publication of declaration*.—On receipt of such declaration, the Court shall, if it is satisfied that the conditions specified in the declaration do not contravene the requirements of the proviso to sub-section (1) of section 3, cause public notice to be given at convenient places on or near the temple in respect of which the declaration has been made and shall cause the declaration to be published in the *Official Gazette* and in a newspaper published in the principal vernacular of and circulating in the district. The declaration so published shall subject to the provisions of section 6 be irrevocable and the publication of the declaration in the *Official Gazette* shall be conclusive

evidence that the temple is open to the performance of worship to the Harijans to whom it was not so open and the instrument of the trust, the terms of dedication, the decree or order, custom, usage or law relating to the temple shall be deemed to have been amended accordingly.

(2) *Alteration of conditions in declaration.*—Any of the conditions specified in the declaration published under section 4 may, on the application of the trustee or if there are more than one trustee of the majority of the trustees of the temple be altered, added to or omitted with the previous sanction of the Court.

Mr. R. N. MANDLIK (Kolaba District) (*Addressed the House in Marathi*): Sir, I beg to move the following amendment:

“In section 4, in line 10, after the word ‘district’ add the following:—

‘The Court shall further arrange to take a referendum of adult Hindu touchables residing in the area of one mile round about the temple and make the declaration absolute, provided two-thirds majority vote in favour of opening the temple to the Harijans’.”

Question proposed.

Mr. R. N. MANDLIK: Sir, it is said in the Statement of Objects and Reasons:

“This is only an enabling Bill and its object is to remove all legal difficulties in the way of those trustees of public temples, who are convinced of the justice of the claim of Harijans to make use of Hindu public temples and who desire to throw open their temples to them.”

“This Bill”

so the Statement of Objects and Reasons further says:

“enables them to do so, notwithstanding anything contained in the instrument of trust, or the terms of dedication or a decree of a competent court or any custom, usage or law, by filing a declaration in the proper court.”

Sir, I submit that this is not really an enabling Bill, because though in the case of trustees it is an enabling Bill, in the case of the worshippers this Bill is certainly coercive. I have elucidated this point in paragraph 2 of my dissenting minute, which runs as follows: “the Bill invests the trustee or majority of them with almost dictatorial powers. We read in the Bible that God said “let there be light” and there was light! Similarly, under this Bill, if a trustee or majority of them say “let the temple be open to Harijans”, it will be opened to them, notwithstanding the wishes to the contrary either of the author of the trust or of the bulk of the usual worshippers at the temple. Dictatorship always breeds irresponsibility. Legislature, therefore, ought not to encourage both. A safeguard in the form of a referendum, if included in the Bill, will go a long way to satisfy the orthodox Hindus and will also prove a valuable check on the irresponsible tendencies of the trustee. This is what is further said in paragraph 5:—

“The bulk of the Hindu population is still orthodox. It is not vocal. It is disorganised, but for that very reason we must win them by love and justice, by intensive and vigorous propaganda. A wonderful progress has been made in this respect among the orthodox Hindus during the last five or ten years, and I am confident that if further vigorous and intensive propaganda is carried on among them for some time more, the opposition in this matter will completely vanish before long.”

[Mr. R. N. Mandlik]

Moreover, the suggestion about a referendum which I have now made was previously included in the provisions of Mr. C. S. Ranga Iyer's Temple Entry Bill in the Central Assembly. It is well known that that provision for a referendum in that Bill was made on the suggestion of either or both Mahatmaji and Rajaji. Both of them had then agreed to a referendum being taken. I do not, therefore, understand why it is not being agreed to now!

Sir, we know and we cannot be blind to the fact that the orthodox Hindus, whether Brahmins or Non-Brahmins, are opposed to the removal of untouchability and Harijan entry into the temples. I know they are not right but we cannot ignore the fact of their honest opposition to both. We also cannot forget that the orthodox element in the Hindu Society is in a majority. And as we are out, under democracy, to respect the wishes of the majority, under the constitution of this very Assembly, we must respect the wishes of this orthodox majority in respect of this particular question and allow at least for a referendum being taken. If there is two-thirds majority for the reform their view should prevail. Of course, I do not insist on the majority being two-thirds. You may reduce it, you may also reduce the area, but before you throw open the temples or before you bring a Bill of this kind throwing temples open, the people should be given sufficient opportunity of expressing their opinion. This is the duty of Government which I wish to specially bring to their mind.

Sir, it is said that some of the temples are provincial or national temples such as at Pandharpur, Dakor or Benares-Kashi; and it is asked, "how is the referendum to be taken in their case?" I do not say that there is not that difficulty, but if you make arrangements for taking a referendum at least of the people residing in the particular area, you will have tried your best to understand public opinion in the matter. You know the adage that it is better to do something than not to do anything at all. By this Bill you are giving the trustees powers to disregard public opinion under the temporal powers given by this Bill to throw open temples to Harijans. If the people in the surrounding areas will not approve of the reform, many difficulties are likely to arise. There might be breach of peace. There might be cases of resistance by *satyagraha*. It is the Congress itself which has taught the art of civil resistance to the people and it is the *satyagraha* of the Congress which has proved to them that what Government considers as irrevocable at one time can be made revocable if only the proper kind and amount of passive resistance is resorted to by the people. The orthodox Hindus may not be organised now, but you may be sure that they will sometime be organised. And if they offer organised passive resistance to Government in respect of temples thrown open, after this Bill passes into law, by the trustees regardless of the wishes or desires or inclinations of the people of the neighbourhood, what will be the plight of Government? They are making the declaration of the trustees, opening the temple, irrevocable. They themselves will not,

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therefore, be able to revoke it. I earnestly request them to take all these arguments into consideration and, to save themselves from the above difficulties, accept my amendment. They will have at least partially satisfied the orthodox Hindu opinion by doing so.

Mr. S. H. JHABVALA (Railway Unions): Sir, I must now rise to oppose the amendment of my honourable friend. I am not much interested either in worship or forms of religion and temple and all these theological formalities. But my approach to the whole problem is as different as it is simple. The question is whether my honourable friend who has been moving one amendment after another desires to remove this great curse of injustice that is being mercilessly imposed upon the poor untouchables in the name of Hinduism. That is the only question. The present Bill seeks to remove this injustice.

My honourable friend says that the decision for opening a temple should be taken by a referendum. The theistical democracy has not advanced so far as to assert itself in the village or the countryside or even in the town. The untouchables are suppressed in every respect, not only socially but economically also. A large number of these people are under the *danda* of the money-lenders—

The Honourable the SPEAKER: Order, order. I am afraid that would be all irrelevant.

Mr. S. H. JHABVALA: I am talking about referendum. If a referendum is taken, then naturally there will be unwholesome and undesirable influences exercised by the privileged class who hold the purse not only in the countryside but in the towns also. These are the Pandas who could easily dupe the religious-minded. Therefore, in the matter of referendum, I do not think that this suppressed class of people would have scope or occasion enough to assert themselves in the assertion of their rights which are safe under the Bill as it stands. Even the orthodox people are guided away by wrong sentiments. It is nowhere stated in the Hindu Shastras that the untouchables should be kept away from places of worship. They do not understand, I am afraid, the principle underlying the spirit of Hinduism. Hinduism is a mighty philosophy that has evolved the culture of ages among humanity and it is not applied to a section of people who worship in a temple. It is a philosophy and it is a culture of immense magnitude. Until that problem is approached in that light, our orthodox friends are bound to misunderstand the new institution under the present Bill and they will be going on consistently opposing the Bill merely wrongly. With these remarks I oppose the amendment for referendum.

*Mr. G. H. DESHPANDE (Nasik West): Mr. Speaker, Sir, I rise to oppose the amendment moved by my honourable friend from Alibag. (An Honourable Member: Pen.) He has suggested that, if the trustees would declare themselves in favour of opening the temple by

[Mr. G. H. Deshpande]

a majority, that should not be taken to be sufficient reason for opening the temple and a referendum should be taken. His argument is that there is a large section of orthodox Hindus who still oppose this reform. What I have to say is that those people who are really orthodox and sincere, do not agree with this. Their firm opinion is that religious matters should not be decided by vote. Therefore, there is no necessity of taking referendum. If he wants referendum in order to ascertain public opinion, may I point out to him that even the Hindu Mahasabha has passed resolutions to open the temples to Harijans? Is it not public opinion? If it is not public opinion, I do not know what else is.

There is a Marathi saying—"तत्त्व मान्य, तपशील अमान्य". It has become very notorious since 1920. To say that I agree with the principle but to say in regard to details this must be done and that must be done is to go on evading the main issue. A sufficient safeguard is the public opinion and there is already the public opinion in favour of it.

The difficulty is how to persuade the trustees. If the trustees can be persuaded, there is no difficulty about the masses who are more conscious than the trustees. The trustees, most of them, are reactionaries. If at all, it is necessary to persuade the trustees. If the trustees are persuaded and if, by a majority, they declare the temple should be opened, there is no doubt that there will be any opposition whatsoever. I can assure you, if the trustees of the Rama Temple in Nasik decide to throw open the temple to Harijans, there will be no difficulty for the Congress Government. All people will come there without objection. My honourable friend Mr. Thorat has supported it and all the honourable members except a few from the Democratic Swaraj Party. What do we see here? Is it not public opinion? Does not each member represent thousands of their electors? To say that public opinion is not sufficiently awakened I think is far from truth. There is absolutely no necessity of taking a referendum. With these words, I oppose the amendment moved by the honourable member from Pen.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I am really surprised at the opposition that is being shown to the proposal to take a referendum, especially when that opposition comes from a party that is wedded to the principles of democracy. If you are so sure that public opinion is in your favour, why should you not strengthen the hands of the trustees or force the hands of the trustees by taking a referendum? That is my question. If you yourselves say that trustees are reactionaries, why give them this power? Do you mean to say that this Act should be a dead letter? If that is not your object, if you are sincere in opening the temples to Harijans, the Congress benches should welcome the proposal for referendum. The clear conclusion that can be drawn is that this party wants to take to the crutches of the reactionaries, as they have described them, and wants nothing to be done in the matter. Otherwise, there was absolutely no reason. If they are so sure of public opinion

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being in their favour in the matter of temples being made accessible to Harijans, why should they fight shy of the proposal for a referendum? The honourable member Mr. Deshpande taunted my party by quoting the Marathi saying “तत्त्व मान्य, तपश्शील अमान्य”. Those who laugh at it have exploited it. Those people that are ridiculing these words have at last—[*Interruption*].

The Honourable the SPEAKER: Order, order.

Mr. S. L. KARANDIKAR: —accepted those details that we put forward some time back. Now at least, they should wait before they ridicule. They are ridiculing themselves by ridiculing the expression. My fear as regards this Bill—I say it very honestly—is that Government are simply depending on the sweet will of the trustees who, it is agreed on all hands, are reactionaries. You are simply putting the hands of the clock in the wrong direction. If you want really the temples to be thrown open to Harijans, you have to create sanction whereby the trustees will be forced to sanction the temples to be opened. So, referendum is the only method by which it can be accomplished. I am at my wit's end to understand the Honourable Minister opposing a referendum in order that the trustees can be forced to accept this measure. We know the difficulties in the way of the trustees; we also know that the trustees, when they are so inclined, can magnify those difficulties. There is the question of income. The trustees are afraid that if the temple is thrown open to Harijans or low castes, as they are called, they may lose some of the income they get from the worshippers. Making use of all these difficulties, real or imaginary, they will go on postponing throwing open the doors of the temple to the Harijans. In order that this delay may be made impossible, some other sanction is necessary. Therefore, alongside the will of the trustees, you must have this will of the people by means of a referendum of the neighbourhood of the temple. After you take the referendum, you can go to the trustees and say, “These people are in favour of the temple being thrown open to Harijans. You are against it. Now you have no excuse to offer that the public opinion is against you.” If you want the temples to be thrown open to Harijans, you must bring in the element of public opinion. In that way alone, whatever good is possible under this measure can be effectively secured for the Harijans.

My honourable friend from Sholapur (Mr. T. S. Jadhav) has had his jibes at the Hindu Mahasabha also. As a member of the Hindu Mahasabha I tell him that nobody would be more glad than myself if all the temples in the province were thrown open to the Harijans. If I am moving all these amendments here, it is to facilitate it that I am doing it. I do not want the trustees to sleep over this measure. It is from that point of view that I have suggested that from the very beginning this measure of referendum should be resorted to by all of us if temples are really to be thrown open and God is not to be an untouchable as He is at present in very many cases.

[Mr. S. L. Karandikar]

Therefore, I request my honourable friends on the Congress Benches to reconsider their position. Even if after deliberate thought they think it worth while opposing this proposal of a referendum, I think I shall have occasion to say that they are sympathisers of democracy only in name and that they only pay lip homage to democracy but are reactionaries of the first magnitude.

Mr. H. P. MEHTA: On a point of information. The honourable mover has circumscribed the referendum to one mile. Has he done so for the benefit of Pandiyas (priests) and their supporters? The worshippers are likely to be outside.

The Honourable the SPEAKER: That is not a point of information at all.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Mr. Speaker, I rise to oppose the amendment of my honourable friend Mr. Karandikar. In my opinion, the amendment seeks to frustrate the whole object of the Bill. The amendment says that after the trustees have made the necessary declaration, they should not stop there, but should proceed to take a referendum. Only if the referendum proves favourable will the temple be thrown open to Harijans. There is a difference between the referendum proposed in Mr. Ranga Iyer's Bill and the referendum proposed by the honourable member. Whereas Mr. Ranga Iyer's Bill proposed a referendum which could compel orthodox trustees to throw open the temples to Harijans, what the amendment of the honourable member proposes to do is to go backwards: it seeks to impede the action of progressive trustees who have already issued a declaration throwing open the temple to Harijans. I therefore oppose the amendment.

The Honourable the SPEAKER: Does the honourable member wish to reply to the debate?

Mr. R. N. MANDLIK: No, Sir.

The Honourable Mr. K. M. MUNSHI: Sir, only one word in reply. The honourable mover appeared to be a little inconsistent. In the course of the discussion on the last amendment, he said that this House, representative of the voters, could not make a law which would have the effect of making a breach of trust not a breach of trust. But in this amendment, he says that if the trustees commit a breach of trust, then the people residing within a radius of one mile can ratify it. The two positions are scarcely consistent.

As to the other point, the honourable member Mr. Raut has very well answered it. The honourable member forgets that under Mr. Ranga Iyer's Bill, as the honourable member Mr. Raut said just now, the people of the locality could by a vote get reactionary trustees to open temples; but here, my honourable friend does not propose a referendum of this kind. What he wants is that if the trustees decide not to open the temple whatever the people say, nothing should be done; but if the

[Mr. K. M. Munshi]

trustees do decide to open the temple, then they must take a referendum. The idea is to put a barrier against opening the temples. It is not a democratic process; the democratic process is here. We sought election on a programme of which this formed a very important part—removal of untouchability. We have already secured a vote on this question, and we do not want a referendum on a referendum.

The trustees are selected as the deciding factors because they would in many cases form a conservative group. When the trustees do decide very seriously to open the temple to Harijans, it means that they have fully considered the economic factor and its effect on the temple if they open it to Harijans. Therefore, they would be, in the last resort, the most conservative element so far as decisions which are generally in the interests of the orthodox section are concerned; the opening of the temples therefore will be slow. If, on the other hand, you refer the question to the people by means of a referendum, you can promptly get a decision and they will force their way in. This would scarcely please my honourable friends there. But the difficulty is that you cannot have a referendum; the ratio is not correct. They say the referendum should be of people living within a radius of one mile. But there are temples within the vicinity of which there are few devotees living; they may be spread over the whole of the Province. The vote of the locality will therefore be a wrong criterion to go upon. The decision can be taken only by the trustees. With these words, I oppose the amendment.

Amendment put, and negatived.

The Honourable the SPEAKER: There are three further amendments of the same honourable member to this clause. They seem to be consequential to the amendment just lost. Therefore, they fall through.

Clause 4 ordered to stand part of the Bill.

BUSINESS OF THE HOUSE.

The Honourable Mr. K. M. MUNSHI: Sir, tomorrow we proceed with the Harijan Temple Worship Bill and then the Small Holders Relief Bill.

The Honourable the SPEAKER: There will be Questions and Answers. I understand that the Legislative Council has made some slight amendment in the Bombay City Municipal Act Amendment Bill. That may also come on for consideration tomorrow. Do I understand it correctly?

The Honourable Mr. K. M. MUNSHI: Yes.

The Honourable the SPEAKER: So, the business for tomorrow will be: the amendment made by the Upper House in the Bombay City Municipal Act Amendment Bill; then further consideration of the Harijan Temple Worship Bill; then we will take up the Small Holders Relief Bill.

Mr. S. V. PARULEKAR : The Chair said the other day that if some of the amendments to the Small Holders Relief Bill required sanction of the Governor, it would be taken up on Wednesday.

The Honourable the SPEAKER : It was said, and said correctly. I have held that so far as the amendments received up to now are concerned, they do not require fresh sanction ; they are already covered by the sanction previously given. Therefore, no fresh sanction being necessary, we proceed with the Bill tomorrow. This will not apply to further amendments which might be tabled. I may also say that I am very unwilling now to waive notice in respect of any further amendments.

The House then adjourned till 2 p.m. on Tuesday, the 1st February 1938.

Tuesday, the 1st February 1938.

The House re-assembled at the Assembly Hall, Bombay, on Tuesday, the 1st February 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 CURRION, Mr. FRED J.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. DINKERRAO N.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GREAVES, Mr. J. B.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.

HALLIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.

PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THORAT, Mr. R. B.
 THUBE, Rao Bahadur V. L.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

STARRED QUESTIONS AND ANSWERS.

ALLEGED GRIEVANCE OF MAHARS OF KIRKETWADI REGARDING DOUBLE RECOVERY OF LAND REVENUE.

*Mr. R. R. BHOLE (Poona District): Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that the Mahars of Kirketwadi in taluka Haveli of District Poona paid the land revenue for the last year to the talati of the village in the presence of the Circle Inspector ;

(b) whether Government are aware that the said talati had promised to give receipt for the same but had subsequently failed to do so ;

(c) whether it is a fact that the said talati has been since transferred to another place ;

(d) whether Government are aware that the new talati of the village again collected the land revenue from the Mahars ;

(e) whether Government are aware that the revenue was again paid by the Mahars to the new talati under protest ;

(f) whether any application complaining against the conduct of the talati referred to in (a) has been received by the Mamlatdar ;

(g) if so, how was it disposed of ?

The Honourable Mr. MORARJI R. DESAI : (a) and (b) Government are aware that the Mahars of Kirketwadi made allegations to this effect.

(c) Yes.

(d) and (e) The new talati collected the land revenue from the Mahars. The Mahars paid under protest.

(f) and (g) An application complaining against the talati was received by the Mamlatdar on 13th July 1937 but as it was put in the petition box and not presented personally, it was returned to the applicants the same day with an endorsement requesting the applicants to attend the Mamlatdar's office to give their statement. The statements of the applicants were then recorded and an enquiry was made but the allegations of the Mahars were not substantiated by any documentary or reliable oral evidence and were held not to be proved.

Mr. D. G. JADHAV : What is the proper answer for parts (a) and (b) of the question ? The answer printed is not the proper answer.

The Honourable Mr. MORARJI R. DESAI : That is not a supplementary question for which a reply is needed. It is a criticism of the answer.

The Honourable the SPEAKER : What is the supplementary question ?

Mr. B. K. GAIKWAD : Supplementary to (f) and (g) : may I know whether there was any oral evidence ?

The Honourable Mr. MORARJI R. DESAI : Yes, there was.

Mr. B. K. GAIKWAD : May I know whether it was unreliable ?

The Honourable Mr. MORARJI R. DESAI : The whole evidence was considered, and it was found that it could not be accepted as proving the allegations. I myself have seen the papers, and I have agreed with that view.

Mr. B. K. GAIKWAD : Is it a fact that persons from the scheduled castes, that is the Mahar community, came forward and gave evidence in the matter ?

The Honourable Mr. MORARJI R. DESAI : Well, there are the people who had paid who stated this. There are no other people.

Mr. R. R. BHOLE : My question was whether the Mahars of Kirketwadi in Haveli taluka have paid land revenue in the presence of the circle inspector. So the answer can be in the affirmative or in the negative. But the Honourable Minister says in the reply that allegations were made to that effect. I cannot understand the meaning of "allegations".

The Honourable Mr. MORARJI R. DESAI : It means that complaints were made, but they were not accepted.

Mr. R. R. BHOLE : In reply to (f) and (g) it is stated "The statements of the applicants were then recorded and an enquiry was made, but the allegations of the Mahars were not substantiated by any documentary or reliable oral evidence." My question is, what does the Honourable Minister mean by the word "reliable" ?

The Honourable Mr. MORARJI R. DESAI : "Reliable" means what can be relied upon.

Mr. R. R. BHOLE : I was trying to understand whether the evidence put forward by the Mahars of that particular village was found to be unreliable.

The Honourable the SPEAKER : Has not that been already answered in reply to the question of Mr. Gaikwad ?

Mr. R. R. BHOLE : I believe it has not been answered.

Mr. A. V. CHITRE : Was there any special reason for the mamlatdar to disbelieve the story of the Mahars ?

The Honourable Mr. MORARJI R. DESAI : There can be no special reason to disbelieve any story, but the story as given and the evidence recorded is such that it cannot be believed.

Mr. R. R. BHOLE : How can it not be believed when the persons affected themselves say the whole thing to that effect ?

Mr. B. K. GAIKWAD : May I know whether it is the policy of the Government that the Mahars, so-called Harijans, sons of God, should not be believed ?

The Honourable Mr. MORARJI R. DESAI : Certainly not. There can be no such policy.

Mr. D. W. RAUT : Was the result of the enquiry communicated in writing to the Mahars concerned ?

The Honourable Mr. MORARJI R. DESAI : I cannot say. That information was not asked for. I cannot say offhand. If the honourable member wants further information, he can ask another question and I will find it out.

Mr. D. W. RAUT : I want to ask whether Government will place the papers of the enquiry on the Council table.

The Honourable Mr. MORARJI R. DESAI : No.

Mr. R. R. BHOLE : But if the Government is informed—

The Honourable the SPEAKER : The honourable member need not argue. Only a supplementary question may be asked.

Mr. R. R. BHOLE : I was going to put a supplementary question. If the Government is informed to the effect that the Mahars whose grievances have been brought on the floor of this House have given evidence to the effect that they were the people who were harassed in regard to the matter of the talati, will it consider that matter ?

The Honourable Mr. MORARJI R. DESAI : Any information that is supplied will be certainly considered most carefully.

RECRUITMENT OF SCHEDULED CASTES CANDIDATES TO CLERICAL POSTS IN EXCISE DEPARTMENT.

* Mr. B. K. GAIKWAD (Nasik West) : Will the Honourable Minister for Excise be pleased to state—

(a) the number of clerks belonging to the Advanced Classes, the Intermediate Classes, the Backward Classes, the Scheduled castes, the Mohamedan, Christian, and other communities, respectively, in the Excise Department in each district of the Province of Bombay ;

(b) whether it is the declared policy of Government to give preference to candidates belonging to the Depressed classes in making clerical appointments in the Excise Department in the districts ;

(c) if so, what is the number of candidates belonging to the advanced classes, the intermediate classes, the backward classes, the scheduled castes, the Mohamedan, Christian and other communities respectively appointed to the posts of clerks in the Excise Department in each district since the above policy was declared by Government ?

The Honourable Dr. M. D. D. GILDER : (a) and (c) The information required is contained in the appended statement.

(b) The orders of Government are that, if suitable candidates are available, one clerical vacancy in every ten is to be given to candidates from the backward classes until their strength reaches 5 per cent. of the cadre.

STATEMENT

Statement showing the recruitment to posts of clerks in the

District	Hindus		
	Advanced class	Intermediate class	Backward (i.e. De-pressed class)
<i>Information answering clause (a) of question.</i>			
Bombay City	33	11	....
Surat	6	3	....
Ahmedabad	4	4	....
Kaira	3	1	....
Broach and Panch Mahals	3	5	....
Thana	7	3	....
Bombay Suburban District .. .. .	....	....	....
Poona	6	4	....
Nasik	12	5	2
Ahmednagar .. .. .	....	1	....
East Khandesh	5	1	1
West Khandesh .. .. .	....	1	....
Ratnagiri	4	3	....
Dharwar	3	3	....
Belgaum	4	3	....
Bijapur	1	....	....
	91	48	3
<i>Clause (c)—Recruitment since 1st July 1933.</i>			
Bombay City	4	3	1
Surat .. .. .	....	....	....
Ahmedabad .. .. .	....	1	....
Broach and Panch Mahals .. .. .	....	2	....
Thana	1	2	....
Poona .. .. .	....	2	....
Nasik	1	2	1
East Khandesh	2	1	1
Ratnagiri .. .. .	....	1	....
Belgaum	1	....	....
	9	14	3

Examin Department according to the different castes.

Intermediate Classes		Advanced Classes			Remarks
Mahomedans	Indian Christians	Paria	Europeans and Anglo-Indians	Other communities	
....	10	3	1	6	
2	1	....	....	....
2	....	....	....	....
1	....	....	....	....
....	1	1	....	....
....	
....	1	....	....	....
1	....	....	....	....
3	2	1	....	....
....	
2	....	....	....	....
1	1	....	....	....
....	1	....	....	....
....	1	....	....	....
1	1	....	....	....
....	
13	19	5	1	6	
....	5	3	1	....
1	....	....	....	....
....	
....	1	....	....	....
....	
....	
1	1	....	....	....
1	....	....	....	....
....	
....	1	....	....	....
3	3	3	1	....

Mr. B. K. GAIKWAD : With regard to (a), I have asked information regarding scheduled castes, and in the reply information is given with regard to the depressed classes. May I know from the Honourable Minister whether there is no difference between the depressed classes and scheduled castes ?

The Honourable Dr. M. D. D. GILDER : Yes, but the statistics are collected now according to Government order for intermediate and backward classes, and the information is therefore given for backward classes.

Mr. D. W. RAUT : Is there any such order of Government regarding the intermediate classes and communities ?

The Honourable Dr. M. D. D. GILDER : I think there is an order.

Mr. D. W. RAUT : What is the order ?

The Honourable Dr. M. D. D. GILDER : If the honourable member will give me notice, I will find it out and give it to him.

Mr. B. K. GAIKWAD : May I know whether the orders and circulars issued by the Government in the matter are strictly carried out by the officials ?

The Honourable Dr. M. D. D. GILDER : As far as we know, they are.

Mr. D. W. RAUT : Is it a fact that Government issued a circular saying that vacancies in the various departments shall be filled from the backward and intermediate communities ?

The Honourable Dr. M. D. D. GILDER : Not all the vacancies, but they laid down a proportion.

Mr. D. W. RAUT : Was it 50 per cent. ?

The Honourable Dr. M. D. D. GILDER : The ratio is stated in the Government Resolution both for intermediate and for backward classes, and the ratio changes as regards the intermediate classes from district to district.

Mr. D. W. RAUT : Is it not seen by the Government that the intermediate communities are not properly employed ?

The Honourable Dr. M. D. D. GILDER : They are employed according to the schedule laid down.

Mr. B. K. GAIKWAD : It is stated in reply to part (b) :

"The orders of Government are that, if suitable candidates are available, one clerical vacancy in every ten is to be given to candidates from the backward classes until their strength reaches 5 per cent. of the cadre."

May I know on what basis these clerical posts are divided ?

The Honourable Dr. M. D. D. GILDER : The resolution is there that one vacancy out of every ten should be given to the backward classes.

Mr. B. K. GAIKWAD : Is it in principle laid down ?

The Honourable Dr. M. D. D. GILDER : The only order of Government issued is that as regards backward classes ten per cent. of the vacancies should be reserved for them.

Mr. B. K. GAIKWAD : Taking into consideration the population of the depressed classes, is not the number of posts reserved very small ?

The Honourable Dr. M. D. D. GILDER : Government have considered all the relevant questions and issued that order accordingly.

Mr. B. K. GAIKWAD : Will Government reconsider this matter ?

The Honourable Dr. M. D. D. GILDER : It is a suggestion for action.

PROTECTIVE MEASURES AGAINST AIR-RAIDS.

* Mr. S. H. JHABVALA (Railway Unions) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether sufficient provision has been made by Government for the protection of the lives and property of the people of Bombay against possible air-raids ;

(b) whether Government have considered the advisability of taking every possible measure to train the people of Bombay in the art of protecting themselves against such air-raids ?

The Honourable Mr. K. M. MUNSHI : (a) and (b) Government, in consultation with the Military authorities, have under consideration the organization of precautionary measures for the protection of the civilian population in the event of air raids. In this connection, recently an experimental "Black-out" was staged in Bombay and a public demonstration given by the Military authorities of the precautions to be taken during an air raid in which gas bombs are used.

Mr. S. H. JHABVALA : Government have stated :

"Government, in consultation with the military authorities, have under consideration the organization of precautionary measures for the protection of the civilian population in the event of air raids."

May I know the nature of the precautionary measures that Government are contemplating ?

The Honourable Mr. K. M. MUNSHI : The answer is given.

Mr. S. H. JHABVALA : May I know whether Government are imagining that there will be an air raid in the near future ?

The Honourable the SPEAKER : Order, order.

Mr. S. H. JHABVALA : It is stated that an experimental black-out was staged in Bombay. Have Government got any report about its success ?

The Honourable Mr. K. M. MUNSHI : A report was received and a Government communique was issued incorporating the report.

Mr. K. F. NARIMAN : Will Government see that this House is properly protected ? (*Laughter.*)

Mr. S. H. JHABVALA : May I ask whether any gas masks are provided for the civil population and any demonstration is intended to be held in order to train the civilian population in the art of feeling themselves thrilled at the next experimental demonstration ?

The Honourable Mr. K. M. MUNSHI : I would ask the honourable member to ask one question and not three questions at a time.

Mr. S. H. JHABVALA : May I know whether any demonstration is contemplated in which the military authorities will give the people a training in the art of protecting themselves against gas bombs ?

The Honourable Mr. K. M. MUNSHI : The Military authorities have not so far asked for the co-operation of Government in this particular matter.

Mr. ALI BAHADUR BAHADUR KHAN : Are Government aware that the black-out proved only a wash-out ?

The Honourable Mr. K. M. MUNSHI : The report of the Military authorities for whose investigation the black-out was arranged gives a different opinion. They say that as a first experiment it was a success.

Mr. ALI BAHADUR BAHADUR KHAN : Will another experiment be made in the near future ?

The Honourable Mr. K. M. MUNSHI : I have no knowledge that they propose to have it.

Mr. S. L. KARANDIKAR : May I know whether among the precautionary measures is included the precaution that pits should be dug underground and that people should hide there like rats ?

The Honourable Mr. K. M. MUNSHI : I have no knowledge of any such intended precautionary measure.

Mr. S. H. JHABVALA : May I know whether all these measures are taken in view of an impending war ?

The Honourable the SPEAKER : Order, order.

Mr. ALI BAHADUR BAHADUR KHAN : There is a panic in the city and the people do believe that a war is coming.

The Honourable Mr. K. M. MUNSHI : I am not aware of any panic. Proper precautions were taken to apprise the public that the black-out was merely an experimental measure.

Mr. ALI BAHADUR BAHADUR KHAN : Are Government aware that an exodus took place ?

The Honourable Mr. K. M. MUNSHI : Government are not aware.

ALLEGED NON-PAYMENT OF COMMUTATION ALLOWANCE TO MR. TRYAMBAK DAMODAR KULKARNI, A WATANDAR KULKARNI OF NACHANKHADE IN JAMNER TALUKA IN THE EAST KHANDESH DISTRICT.

* Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that one Mr. Tryambak Damodar Kulkarni is a watandar Kulkarni of the village of Nachankhade in Jamner taluka in the East Khandesh District ;

(b) what amount used to be paid to him annually by way of commutation up to the year 1921 ;

(c) whether it is a fact that he was appointed a supervisor at the census of 1921 ;

(d) whether Government are aware that subsequent to his appointment as supervisor he resigned from Government service in obedience to some resolution of the Indian National Congress ;

(e) whether it is a fact that the amount of commutation allowance due to him for the years 1922, 1923, 1924, 1925 and 1926 has not been paid to him by Government ;

(f) if the answers to the above questions are in the affirmative, whether Government propose to pay him the amount of commutation allowance now ?

The Honourable Mr. MORARJI R. DESAI : (a) Yes.

(b) Rs. 119.

(c) Yea.

(d) Yea.

(e) Yea.

(f) No. The allowance is being paid again since 1926-27. Forfeited allowances are not paid in such cases.

Mr. S. L. KARANDIKAR : It is stated in reply to part (f) of the question that "forfeited allowances are not paid in such cases". May I know whether forfeited allowance stands on a different footing from forfeited lands ?

The Honourable Mr. MORARJI R. DESAI : Most certainly.

**GOVERNMENT RESOLUTION PERMITTING LOCAL AUTHORITIES TO EMPLOY
TEACHERS TRAINED AT RECOGNIZED TRAINING SCHOOLS AND
COLLEGES ON CERTAIN CONDITIONS.**

* Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable the Prime Minister be pleased to state—

(a) whether it is a fact that Government issued a resolution on 26th November 1937 permitting the local authorities to employ teachers trained at private recognized training schools and colleges on certain conditions ;

(b) whether it is a fact that the resolution requires that such trained teachers should be treated as untrained teachers for certain purposes ;

(c) if so, what are the reasons for the same ;

(d) whether Government are aware that the resolution is inconsistent with the recognition given to the private training schools and colleges ?

The Honourable Mr. B. G. KHER : (a) Yes.

(b) and (c) Owing to financial stringency Government have had to restrict the number of trained teachers to be employed by local authorities to 50 per cent. only. In order that expenditure of local authorities and of Government may not rise unduly it was laid down that Government had no objection to the entertainment of trained teachers of recognised private training institutions provided such teachers were not paid higher salary (trained teacher's pay).

(d) Government have since cancelled the orders and have under consideration the issue of revised orders.

Mr. S. L. KARANDIKAR : May I know the date of the cancellation of the order ?

The Honourable Mr. B. G. KHER : I have not got the date here. If my impression is correct, the order was cancelled some time before the honourable member's question was received.

Mr. S. L. KARANDIKAR : While revising the orders, will Government take care to see that no discrimination is made between the students turned out by private training schools and colleges and those turned out by Government training schools and colleges ?

The Honourable Mr. B. G. KHER : All proper precautions will be taken.

Mr. D. W. RAUT : Government have stated in reply to part (b) and (c) of the question :

"(b) and (c) : Owing to financial stringency Government have had to restrict the number of trained teachers to be employed by local authorities to 50 per cent. only." May I know whether the teachers appointed from private training institutions, in case the number of trained teachers falls below 50 per cent., will be treated as the trained teachers from Government training institutions ?

The Honourable Mr. B. G. KHER : I do not think it will be permitted. The whole point is that, when the circular was issued, representations were received that several private institutions were training teachers who were quite of the same rank as teachers in Government training institutions and that they would be willing to serve on salaries paid to untrained teachers. Readily, the answer to these representations was that there would be no objection at all. Naturally, if trained teachers from private institutions desired to work on the salary paid to untrained teachers, there should not be any objection. The Government order was not correctly interpreted. As soon as this was known, it was cancelled. All the proper points put before the House will be taken into consideration before a fresh resolution is issued on the subject.

REPORT OF COMMITTEE OF EXPERTS APPOINTED TO EXAMINE THE
PROBLEM OF TEACHING AT THE MEDICAL SCHOOLS.

*Mr. S. L. KARANDIKAR (Ratnagiri North) : Will the Honourable Minister for Public Health be pleased to state—

(a) whether it is a fact that the Bombay Government had, in 1935, appointed a committee of experts to examine the problem of teaching at the medical schools in the Presidency ;

(b) if so, whether the committee has submitted its report ;

(c) whether the Honourable Minister will be pleased to place a copy of the report on the Assembly table ;

(d) whether it is a fact that the question of the conversion of medical schools into medical colleges was one of the questions referred to the committee for consideration ;

(e) whether Government have arrived at any decision in the matter, and if so, what decision ?

The Honourable Dr. M. D. D. GILDER : (a) Yes.

(b) Yes.

(c) No.

(d) The question of the conversion of medical schools into colleges was not referred to the Committee. But the Committee along with its other recommendations recommended that the medical school at Poona should be converted into a medical college.

(e) Yes. Government did not accept the recommendation of the Committee.

Mr. S. L. KARANDIKAR : The reply is that the report is not going to be placed on the Assembly table. Is it because that the report will be too hard a substance for laymen like us to digest ?

The Honourable Dr. M. D. D. GILDER : No.

Mr. S. L. KARANDIKAR : If it is a report by a committee appointed by Government and if Government are not going to accept it, is it not a strong reason for placing the report on the Council table ?

The Honourable Dr. M. D. D. GILDER : The report was not of a public enquiry committee but of a committee of Government officials, or practically of Government officials, appointed on the recommendation of a Government official. It was an official document for official use.

CRIMINAL TRIBES INQUIRY COMMITTEE.

* Mr. R. A. KHEDGIKAR (Sholapur City) : Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that Government have appointed a Committee called the Criminal Tribes Inquiry Committee to enquire into the grievances of the members of the Criminal Tribes ;

(b) if so, how many meetings have been held by the Committee so far, since its appointment ;

(c) whether any questionnaire was issued by the Committee ;

(d) how many witnesses were called and how many were examined ;

(e) how much time is the Committee likely to take to complete its work ?

The Honourable Mr. K. M. MUNSHI : (a) Yes.

(b) Five.

(c) No.

(d) Three witnesses were examined, excluding the settlers who were interviewed by the Committee.

(e) This cannot be stated at the present stage of the enquiry.

Mr. R. A. KHEDGIKAR : With regard to answer to (b), will the Honourable Minister be pleased to give the dates of the meetings ?

The Honourable Mr. K. M. MUNSHI : 24th September 1937, 13th October 1937, 20th December 1937, 21st December 1937, 27th December 1937.

Mr. P. J. ROHAM : May I know when this Committee was appointed ?

The Honourable Mr. K. M. MUNSHI : The Committee was appointed during the last sessions of this Assembly. I have not got the exact date.

Mr. R. A. KHEDGIKAR : Supplementary to (c). May I know why no questionnaire was issued ?

The Honourable Mr. K. M. MUNSHI : There are so few experts on this question that it is no use issuing a questionnaire to all and sundry, but whenever any person is found to be competent to speak on this question, he is invited to give his opinion.

Mr. R. A. KHEDGIKAR : Supplementary to (d). Will the Honourable Minister be pleased to give the names of the three witnesses ?

The Honourable Mr. K. M. MUNSHI : Mr. R. A. Khedgikar, Mr. R. G. Karadkar, and Mr. Abdul Karim Gul Lanji, Secretary, Sholapur City Congress Committee.

Mr. R. A. KHEDGIKAR : Were these three gentlemen examined ?

The Honourable Mr. K. M. MUNSHI : Yes, they were.

Mr. R. A. KHEDGIKAR : I myself being a member know that I was not examined at all and that none of these three gentlemen were examined.

Mr. S. V. PARULEKAR : Does the Honourable Minister believe that the members of the Committee are experts in the problem ?

The Honourable Mr. K. M. MUNSHI : They will be experts by the time they issue their reports.

Mr. S. V. PARULEKAR : Will the Committee examine witnesses who volunteer to give evidence ?

The Honourable Mr. K. M. MUNSHI : Certainly, if the Committee is of opinion that it will add usefully to the matter.

Mr. S. V. PARULEKAR : How is the Honourable Minister or the Committee going to know whether the evidence that will be tendered by a witness will add usefully to the matter before the Committee hears him ?

The Honourable Mr. K. M. MUNSHI : If the honourable member addresses the question to the Committee, perhaps they will be able to answer it.

Mr. R. A. KHEDGIKAR : Have any more witnesses been invited ?

The Honourable Mr. K. M. MUNSHI : Not so far.

Mr. R. A. KHEDGIKAR : Is the Committee inviting any more witnesses ?

The Honourable Mr. K. M. MUNSHI : It is really for the Committee to decide. I cannot say anything.

Mr. JAMNADAS M. MEHTA : Supplementary to (c). Was a questionnaire not issued because Government did not think it necessary to send one ?

The Honourable Mr. K. M. MUNSHI : It did not think it proper to issue a questionnaire.

Mr. JAMNADAS M. MEHTA : Supplementary to (e). Cannot Government give some approximate time as to the result of the inquiry ?

The Honourable Mr. K. M. MUNSHI : The report may be ready by about May. That is the present anticipation.

Mr. R. A. KHEDGIKAR : May I know who is the Chairman ?

The Honourable Mr. K. M. MUNSHI : I am.

ALLEGED DELAY IN REVENUE DEPARTMENT IN THE DISPOSAL OF
MATTERS REGARDING APPLICATIONS FROM PUBLIC.

*Mr. G. K. PHADAKE (Thana South) : Will the Honourable Minister for Revenue be pleased to state—

(a) whether Government are aware that there is extraordinary delay and unnecessary lengthy correspondence in the subordinate revenue offices with regard to the disposal of matters as regards which applications have been received from the public ;

(b) if so, whether this is due to the inefficient and inadequate staff and the tendency on the part of the lower grade staff not to do the work without receiving illegal gratifications ?

The Honourable Mr. MORARJI R. DESAI : (a) Government are well aware that the conduct and disposal of work in the subordinate revenue offices is frequently subject to great delay and unnecessary correspondence. Government are doing their best to remedy this.

(b) The reasons given are probably among those responsible for this unsatisfactory state of affairs. Government cannot stop the taking of illegal gratification unless the public co-operate with them in checking this evil particularly by giving information which would lead to the punishment of offenders.

Mr. G. K. PHADAKE : Do Government have any time limit for the disposal of these applications ?

The Honourable Mr. MORARJI R. DESAI : It is impossible to put a time limit on disposal of these applications.

Mr. G. K. PHADAKE : How is Government going to remedy this ?

The Honourable Mr. MORARJI R. DESAI : It is a matter of administration which cannot be described in an answer to a question like that.

Mr. G. K. PHADAKE : Cannot Government themselves stop this practice of taking illegal gratification ?

The Honourable Mr. MORARJI R. DESAI : They can if you all co-operate and help us.

Mr. G. K. PHADAKE : Does Government mean that this taking of illegal gratification will be connived at by Government till they get co-operation and help from the public in this matter ?

The Honourable Mr. MORARJI R. DESAI : It is not connived at at all.

Mr. JAMNADAS M. MEHTA : Do Government admit that they do not represent the public ?

The Honourable Mr. MORARJI R. DESAI : We do represent the public. That question does not arise, however.

Mr. JAMNADAS M. MEHTA : Government have not got co-operation from the public ?

The Honourable Mr. MORARJI R. DESAI : The co-operation that I mean is not the co-operation which the honourable member means. What I mean by co-operation is mentioned in the reply I have given. If definite information is supplied and if definite evidence is given, then corruption can be rooted out very easily.

Mr. G. K. PHADAKE : What is the kind of protection that Government intend to give to the public for giving that information ?

The Honourable Mr. MORARJI R. DESAI : I do not know what particular kind of protection is the honourable member referring to in putting that question ?

Mr. R. N. MANDLIK : Are Government thinking of increasing the staff which is said to be inadequate as stated in (b) ?

The Honourable Mr. MORARJI R. DESAI : There is no need to increase the staff.

Mr. R. N. MANDLIK : Are not complaints received from the superior officers that the staff is inadequate ?

The Honourable Mr. MORARJI R. DESAI : There may be some, but I cannot say definitely how many.

Mr. G. K. PHADAKE : Cannot Government stop this practice with closer supervision and more stringent measures ?

The Honourable Mr. MORARJI R. DESAI : Government is trying to do all that is humanly possible for them to do.

Mr. M. S. SUGANDHI : Sir, I have already sent to you about 40 questions to be forwarded to Government for being answered and I find

they have been admitted by the Honourable the Speaker. May I know what became of those questions ?

The Honourable the SPEAKER: The fact that the questions have not been answered as yet means that they are under negotiations.

MENIAL STAFF IN EXCISE DEPARTMENT.

*Mr. M. S. SUGANDHI (Bijapur North): Will the Honourable Minister for Excise be pleased to state —

Whether Government have considered the question of increasing the menial staff in the excise department so as to allot at least 10 men for each taluka ?

The Honourable Dr. M. D. D. GILDER: No.

Mr. S. H. JHABVALA: May I know, looking to the size of this taluka, whether the number of men who are now working is sufficient ?

The Honourable Dr. M. D. D. GILDER: This is a question which refers to the pattewala staff and the pattewala staff does not depend upon the area of the taluka but upon the number of officers employed.

Mr. S. H. JHABVALA: May I know whether the amount of work imposed on each of the pattewallas is not so much that it is not possible for one man to carry out ?

The Honourable Dr. M. D. D. GILDER: Government is not aware of it.

Mr. S. H. JHABVALA: Have any complaints been received ?

The Honourable Dr. M. D. D. GILDER: No, Sir.

Mr. S. H. JHABVALA: Is it the intention of Government to increase the staff in the near future ?

The Honourable Dr. M. D. D. GILDER: No, Sir.

Mr. ISMAIL H. B. SIDDIQUI (Kanara District): Sir, I had given a short notice question in the last Poona session in connection with the Islamia Anglo-Urdu School at Bhatkal. That question was admitted by you, but it was not replied to then. I thought it would be answered in the current session, but this session is coming to a close soon and yet there is no sign of any answer from the Honourable the Prime Minister in charge of Education.

The Honourable Mr. B. G. KHER: I will immediately make inquiries.

Mr. S. H. JHABVALA : Sir, I have sent you a letter—

The Honourable the SPEAKER : After questions, please.

2-30 p.m.

SHORT NOTICE QUESTIONS AND ANSWERS.

Mr. MIRZA AKHTAR HASAN : Sir, I gave notice of a short notice question, and I understand that the Honourable the Home Minister is waiving the notice. My question is—

The Honourable the SPEAKER : Will it not be better if the Minister reads the question ?

The Honourable Mr. K. M. MUNSHI : The question of the honourable member Mr. Mirza is :

Will the Honourable Minister for Home Department (and Legal) be pleased to state :

(a)—

Mr. S. L. KARANDIKAR : Is it not possible to make the practice that was followed yesterday with regard to short notice questions as the usual practice ? Yesterday a different practice was followed.

The Honourable the SPEAKER : It was an exception.

The Honourable Mr. K. M. MUNSHI : (a) Whether Government are aware that on 26th January 1938 Mr. Ali Bahadur Khan, M.L.A., led a procession of Mussalmans to the Chowpaty sea-face ?

My answer is Yes.

Then (b). Whether it is a fact that the Honourable Minister joined this procession at or near the Sandhurst Bridge ?

The answer is : No. I did not join the procession. That night while I was returning from a meeting in the Mandvi ward my car was held up near the Royal Opera House, and on account of traffic being regulated my car was compelled to follow the procession a short distance, till the road was clear. I did not get down from the car, nor any car to my knowledge formed part of the procession.

Then question (c) is : Whether it is a fact that in the presence of the Honourable Minister a lathi-charge was made on those Mussalmans who protested against Mr. Ali Bahadur Khan leading the procession in the name of the Mussalmans of Bombay ?

My answer to this is : I did not see any lathi-charge being made during the time my car was held up.

Question (d) is : Whether Government are aware that in consequence of the said lathi-charge several Mussalmans were injured ?

The answer is : No.

Sir ALI MAHOMED KHAN DEHLAVI: Sir, does a report or information regarding a lathi-charge on the public by the Police ever come to the Honourable Minister? Has he learned anything about it? Was anybody injured?

The Honourable Mr. K. M. MUNSHI: So far as the Police are aware, no one was injured by the police lathis.

Sir ALI MAHOMED KHAN DEHLAVI: That shows that there was a lathi-charge. Will the Honourable Minister please repeat what he said?

The Honourable Mr. K. M. MUNSHI: I am asked whether any lathi-charge took place in my presence. To that my answer is "No". Then the next question was: whether in that lathi-charge was anybody injured? To that my reply was that no person was injured by any lathi-charge. So, it does not imply that there was a lathi-charge.

Sir ALI MAHOMED KHAN DEHLAVI: Then what does it imply? The implication of the question put by the honourable member Mr. Mirza is that there was a lathi-charge.

The Honourable Mr. K. M. MUNSHI: My reply is, Government are not aware that there was any lathi-charge, and, secondly, no one was injured in the lathi-charge, if you want to be very accurate.

Sir ALI MAHOMED KHAN DEHLAVI: Was the report called for, or it was in the course of things that it came to the Honourable Minister?

The Honourable Mr. K. M. MUNSHI: It was only with a view to reply to the question, especially to question (d), that I called for a report from the Police.

Khan Saheb FAIZ MAHOMED KHAN: May I know whether the Honourable Minister was in the car when it was detained?

The Honourable Mr. K. M. MUNSHI: I was in the car; I did not get down.

Khan Saheb FAIZ MAHOMED KHAN: All the time?

The Honourable Mr. K. M. MUNSHI: Yes, all the time.

Mr. ALI BAHADUR BAHADUR KHAN: Are Government aware that stones were thrown on the procession?

The Honourable Mr. K. M. MUNSHI: If the honourable member wants to ask me questions about the time when I was not present, I would like to have notice.

Mr. ALI BAHADUR BAHADUR KHAN: Are Government aware that many Red-Shirts were injured by the stones which were thrown?

The Honourable Mr. K. M. MUNSHI : Some people were injured, that is what I know. But I do not know whether they were Red Shirts or anyone else.

Mr. ALI BAHADUR BAHADUR KHAN : Are Government aware that the Muslim League Papers published with full page head-lines that there was a shower of stones thrown at the Red Shirts ?

The Honourable Mr. K. M. MUNSHI : My attention was drawn to the heading of a paper in Urdu stating that there was a shower, or something of that kind, of stones and chappals. I think that was what was read to me.

Sir ALI MAHOMED KHAN DEHLAVI : Is it not in the report ?

The Honourable Mr. K. M. MUNSHI : I am answering the question.

Sir ALI MAHOMED KHAN DEHLAVI : But I think the Honourable Minister is giving his replies from the report.

The Honourable Mr. K. M. MUNSHI : I am stating that it is from my personal knowledge that there was a heading in an Urdu paper.

Sir ALI MAHOMED KHAN DEHLAVI : Some stones were thrown according to your information ? Or is that from the report ?

The Honourable Mr. K. M. MUNSHI : I am afraid the honourable member does not follow what I say. What the member Mr. Ali Bahadur Khan asked me was whether I knew that there was a report in a newspaper to that effect.

Sir ALI MAHOMED KHAN DEHLAVI : No, the question was—

The Honourable the SPEAKER : The question was as stated by the Honourable Minister.

Sir ALI MAHOMED KHAN DEHLAVI : The first question was whether any stones were thrown and to that the Honourable Minister stated that he not having got out of the car, would like to have notice. That is what I understood. But he stated, as far as he knows, stones were thrown.

The Honourable Mr. K. M. MUNSHI : No, no. I did not say that. Sir, I would like to know the warrant for this procedure of imputing to me what I never meant or said.

Khan Sahab FAIZ MAHOMED KHAN : Sir, I heard the honourable member Mr. Ali Bahadur Khan saying that there was an article in the Muslim League Paper. This is very important—

The Honourable the SPEAKER : The question has already been answered by the Honourable Minister, and I do not think that this point arises out of the question.

Mr. ALI BAHADUR BAHADUR KHAN : Sir, I have to submit that many times we cannot hear anything on this side of the House. Honourable members may be requested to speak loudly.

Mr. ALI BAHADUR BAHADUR KHAN : Will the Honourable Minister say if he knows that complaints have been made to the Commissioner of Police that subsequent to the procession cases of criminal intimidation are going on in the city against the Red Shirts and against those who took part in the procession or sympathised with its object ?

The Honourable the SPEAKER : I do not think it arises out of the original question.

Mr. ISMAIL HASAN BAPU SIDDIQUI : Will the Honourable Minister say if his attention was drawn to the reports that were made in some newspapers that a lathi charge was made on the procession ?

The Honourable Mr. K. M. MUNSHI : My attention was not drawn to any such report.

Khan Saheb FAIZ MOHAMED KHAN : What is the manner in which the Honourable Minister's attention is drawn to such papers ?

The Honourable Mr. K. M. MUNSHI : My attention is drawn either by official papers put up to me or by any members approaching me and drawing my attention.

Khan Saheb FAIZ MOHAMED KHAN : May I ask you that within the last so many days has any honourable member approached you in this regard ?

The Honourable Mr. K. M. MUNSHI : This is cross-examining my source of knowledge. If you think, Sir, this question arises, I have no objection to answering it.

The Honourable the SPEAKER : The Honourable Minister may answer it.

The Honourable Mr. K. M. MUNSHI : Several members have drawn my attention to it.

Khan Saheb FAIZ MOHAMED KHAN : May I know any such names ?

The Honourable the SPEAKER : The question does not arise.

Mr. M. C. GHIA : May I, Sir, with your permission, put my questions now ?

The Honourable the SPEAKER : I do not think I should now permit the putting of questions and answering them. If the honourable member

was not present at the time when the question was called out, I cannot help it. The honourable member should have been present. I am sorry I cannot allow the putting of questions when the turn is lost.

Mr. R. R. BHOLE : The question time being one hour, I submit that the Honourable the Speaker might allow it according to the Standing Orders.

The Honourable the SPEAKER : I remember I had made once an exception during the Poona Session and that was in the case of the honourable member Mr. Bhole, but that was distinctly an exception. It was stated at that time that this was not to be a precedent. So far as I remember, the honourable member's questions stood first in the list of questions to be answered that day and he was late by about half a minute or a minute and it was, under those circumstances, that I stated that I should make an exception on that particular occasion without creating a precedent. In this particular case, the honourable member who now wishes to put his question has come in after most of the questions have been finished. I do not think that simply because one hour is allotted, therefore, it should be permitted that any member coming any time may put questions as he likes. If that practice is followed, I think, I shall be running contrary to the precedents established so long and it would be putting others to inconvenience. I am sorry for the opportunity lost, but I believe I am helpless in the matter.

Mr. S. H. JHABVALA : Sir, I have sent you notice of a resolution to be moved by me or reference to be made by you as regards the sad death of Harendra Nath Munshi who died in Dacca Jail of hunger strike. May I know what has happened to it ?

The Honourable the SPEAKER : I do not think that the matter concerns this Assembly and that it is competent for this Assembly to take cognisance of that incident. I regret I cannot give permission.

UNSTARRED QUESTIONS AND ANSWERS.

AUDIT OF CO-OPERATIVE SOCIETIES' ACCOUNTS.

Mr. M. C. GILIA (Indian Merchants' Chamber) : Will the Honourable Minister for Revenue be pleased to state—

- (i) the number of co-operative societies in the province of Bombay and in Bombay Division ;
- (ii) whether there is a statutory obligation on the co-operative societies to submit their accounts for audit at the end of each academic year ;
- (iii) whether all the societies had submitted their accounts for auditing at the end of the last academic year ;

- (iv) how many of them were audited during the last academic year ;
- (v) the number of societies which were not audited last year ;
- (vi) whether they are charged any fees for getting their accounts audited ;
- (vii) whether the accounts of any societies were not audited in spite of their having paid fees and submitting the accounts ; and if so, why ?

The Honourable Mr. MORARJI R. DESAI : (i) At the end of the calendar year 1936 there were 4,950 co-operative societies in the province of Bombay, of which 787 were in the Bombay Division.

(ii) Under the Act every registered society has to be audited at least once a year.

(iii) The co-operative year ends on 30th June. The audit year, however, is the calendar year and the auditor, when he visits the society, audits its accounts for the period intervening between the date of the last audit and the date of his visit. In the case of societies audited by the Special Auditors, the audit is taken up to the date of the last quarter. If, as occasionally happens, the accounts are not made up, the audit has to be postponed.

(iv) 4,031 societies were audited during the calendar year 1936.

(v) The number of societies which were not audited during the calendar year 1936 was 919. Of these, however, 91 were not due for audit during 1936 under the rules because they were registered after 30th June 1936.

(vi) All societies are charged audit fees except those exempted by the Registrar.

(vii) The accounts of 828 societies due for audit were not audited during the calendar year 1936 although they had paid the audit fees because the audit staff is not adequate.

CONSTRUCTION OF CERTAIN ROADS IN THANA DISTRICT.

Mr. KANJI GOVIND KERSON (Thana District): Will the Honourable Minister for Public Works be pleased to state—

(a) whether it is a fact that the Forest Department intends to construct for the convenience of the public the following roads in Thana District :—

(1) Shenva-Dolkhamb ;

(2) Murbad-Mhase-Karjat ;

(3) Khardi-Parli to Wada ; and

(4) Kudus-Kanchad ?

The Honourable Mr. M. Y. NURIE : (a) The Public Works Department is considering the question of the construction of the following roads :—

(1) Shenwa-Dolkhamb,

(2) Murbad-Mhase-Chavchi,

(3) Tembha-Parli Section (Extension to Khardi-Tembha Road).

Roads Nos. (1) and (3) above have been included in the Feeder Road Programme—Stage I—which was approved by the Board of Communications at its meeting held on the 15th March 1937. Survey estimates for these roads were approved in August last. Road No. (2) above is being included in the comprehensive Feeder Road Programme which is being prepared by the Superintending Engineer, Road Development.

The Kudus-Kanchad Road is in charge of the District Local Board and is under construction.

CONSTRUCTION OF A BRIDGE ON THE RIVER NEAR AMBADI IN TALUKA
BHIWANDI, DISTRICT THANA.

Mr. KANJI GOVIND KERSON (Thana South): Will the Honourable Minister for Public Works be pleased to state—

(a) whether Government are aware that on account of the non-existence of a bridge on the river near the village of Ambadi in Taluka Bhiwandi of Thana District accidents take place there frequently ;

(b) whether it is a fact that the Honourable Minister had visited the site of the river in question ;

(c) whether Government have considered the necessity and desirability of erecting a bridge there immediately ;

(d) if so, with what result ?

The Honourable Mr. M. Y. NURIE : (a) Government are aware that an accident took place on the 26th July 1937 at this place. There are no reports on record about any serious accidents having occurred prior to the above mentioned date.

(b) Yes.

(c) and (d) The officers concerned have been asked to prepare the necessary plans and estimates for a full road bridge over the Tansa River near Ambadi on the Bhiwandi-Vada Road. These are awaited.

**BILL No. IV OF 1938 (AN ACT TO AMEND THE CITY OF
BOMBAY MUNICIPAL ACT, 1888).**

Message from the Bombay Legislative Council.

The Honourable the SPEAKER :- With reference to Bill No. IV of 1938 (An Act to amend the City of Bombay Municipal Act, 1888) which was passed by this House on 24th January 1938, a message has been received from the Bombay Legislative Council. The message reads thus :

“ The Bill was passed by the Legislative Council at its meeting held on 31st January 1938, with the following amendment, namely :—

“ In clause 31 the following sub-clause shall be added :

(d) in the proviso the following paragraph shall be added :

‘ (iv) In any case falling under sub-clause (b), the Commissioner shall not take action unless not less than fifteen days previously a copy of the notice under sub-section (1) or sub-section (1-A) of section 274 or under section 274-A, as the case may be, has been affixed to a conspicuous part of the premises.’

“ The Legislative Council requests the concurrence of the Legislative Assembly to the amendment.”

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. IV of 1938 (An Act to amend the City of Bombay Municipal Act, 1888) as amended and passed in the Bombay Legislative Council be approved by this Honourable House.

The Honourable the SPEAKER : The motion is that amendments made in Bill No. IV of 1938 by the Legislative Council be taken into consideration.

The Honourable Mr. L. M. PATIL : Sir, while this Bill was being discussed for the first time in this House, the honourable member Mr. Jamnadas Mehta moved an amendment to clause 31 to the effect that the Commissioner should give 15 days' notice to the tenants before the water supply is cut off. As the amendment was moved at the eleventh hour and as there was no time to consider the amendment in all its aspects, Government promised that they will take into consideration the amendment, if moved in the Upper House. The honourable member Mr. S. C. Joshi moved a similar amendment in the Upper House; it was thoroughly discussed and approved by the Bombay Legislative Council. As the amendment has already been read by the Honourable the Speaker, I am not going to read the amendment, but I would like to mention that the intention of the amendment is to give 15 days' notice to the tenants in order to give them time to make preparations to meet the contingency if the water supply is cut off and also to give them opportunity to bring pressure on the owner of the premises in order to make him pay the water taxes or to observe rules which he has failed to observe and for which the water supply is to be cut off. This amendment will certainly remove the trouble in the way of the tenants and it is in order to give relief to the tenants that the amendment is moved. I request the Honourable House to approve the amendment.

Mr. JAMNADAS M. MEHTA : Sir, I wish to say that the amendment is only the point of view which I tried to submit. I am thankful to Mr. Joshi and to Government for accepting it.

Question, "That the amendment made by the Legislative Council in Bill No. IV of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888) be taken into consideration," put, and agreed to.

Amendment put, and agreed to.

BILL No. V OF 1938 (A BILL TO REMOVE DISABILITIES OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).

(Clause by clause reading resumed.)

Clause 5 (*Application to Court to set aside declaration*) :

(1) Any person interested in the temple in respect of which a declaration has been published under section 4 may, within three months from the date of such publication, make an application to the Court which has caused the declaration to be published for the following reliefs only :—

(a) that the trustee or any of the trustees making the declaration was not entitled to act as such at the time the declaration was made, or

(b) that the trustees making the declaration did not form a majority of trustees of the said temple at the time the declaration was made.

(2) On receipt of such application, the Court shall cause notice to be served on the trustee or trustees who made the declaration or upon any other person to whom in its opinion notice of the application should be given, specifying the date on which the application is to be heard.

(3) On the date so specified, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the applicant and the trustees, if any of them appears and any other person who, it considers, ought to be heard, and shall hold an inquiry.

(4) Such inquiry shall be held in the manner provided by rules made, if any, by the High Court in this behalf with the previous sanction of the Provincial Government.

Save as provided by such rules, the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to such inquiry.

(5) If the Court is satisfied—

(a) that the applicant is a person interested in the temple, and

(b) that person or persons purporting to act as the sole trustee or the majority of trustees was or were not entitled to act as such at the time the declaration was made, or the trustees who made the declaration did not form the majority of trustees entitled to act as such at such time,

it shall set aside the declaration. If the Court is not so satisfied, it shall dismiss the application.

(6) In deciding such application the Court may make such order as to costs as it thinks reasonable. The provisions of the Code of Civil Procedure, 1908, relating to the execution of decrees shall, so far as they are applicable, apply to the execution and order as to costs.

(7) The decision of the Court under sub-section (5) shall be final and conclusive for the purposes of this Act.

Mr. R. N. MANDLIK (Kolaba District) (*Addressed the House in Marathi*) : Mr. Speaker, Sir, I beg to move :

In clause 5, add the following after clause (b) :

"or that the trustee or majority of trustees did not act *bona fide* in making the declaration."

Question proposed.

Mr. R. N. MANDLIK : Sir, the object with which I have brought forward this amendment is this. It happens in some cases that pressure is brought to bear on trustees to make the declaration, and this results in injustice. I have referred to the question in my minute of dissent, and I will read the relevant paragraph :

" A trustee may also be bribed or intimidated, as a result of which he may make a declaration under this Act to open the temple to Harijans. In such a case there ought to be a remedy through a court of Law to set aside the declaration. But the Bill provides no such remedy. This defect in the Bill ought to be done away with."

My amendment is meant to remove this defect.

I will briefly narrate what happened in 1933, when the Deoli temple in C. P. was to be opened. Mahatma Gandhi accepted the invitation to open the temple, because he was given to understand that all the trustees were in favour of throwing it open to Harijans. But the fact was that all the trustees except one were against throwing it open to Harijans. And there were reports in newspapers that the one trustee who was in favour had been bribed by interested parties. I have been supplied with the names of these parties, but I do not want to disclose them here. It is for preventing such cases of fraud that I have tabled my amendment. I hope this provision will be incorporated in the Bill.

The Honourable Mr. K. M. MUNSHI : Sir, I have to oppose this amendment. The difficulty of proving the *bona fides* of trustees in a matter like this would reduce the whole Act to an agency to foment protracted litigations to no purpose. After all, the trustees have come to the decision under one of the earlier clauses of the Bill ; they have made an affidavit ; they have filed it in the court. If that is not enough proof of their *bona fides*, how else is it to be proved ? How is their *mala fides* to be proved ? Therefore, the amendment is unworkable and entirely unnecessary. It will only introduce an element which is scarcely advisable in a matter like this.

Amendment put, and negatived.

The Honourable the SPEAKER : The honourable member's amendments Nos. 8 and 9 fall through, as they are consequential amendments. Before the honourable member moves his amendment No. 10, there is an amendment tabled by the honourable member Mr. Hiray in clause 5.

Mr. B. S. HIRAY (Nasik East) : Sir, I beg to move :

In clause 5 :—

(1) in sub-clause (1) for the words " the trustee or any of the trustees making the declaration was not entitled to act as such ", substitute the words " the person or any of the persons purporting to act as trustee was not entitled to act as such " ;

(2) in sub-clause (2) for the words " trustee or trustees ", substitute the words " person or persons " ;

(3) in sub-clause (3) for the word " trustees " substitute the words " persons making the declaration " .

Question proposed.

Mr. B. S. HIRAY : Mr. Speaker, Sir, the proposed amendment is moved in order to bring the wording in sub-clause (1) (a) into line with that in sub-clause (5) (b). I hope the House will accept it.

Amendment put, and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Mr. R. N. MANDLIK (Kolaba District) : Sir, I move :

After clause 5, add new clause 5A as follows :—

“ A trustee or majority of trustees of the temple may, if and when they deem necessary, move the Court to set aside the declaration made in respect of the temple and the Court shall set it aside.”

Question proposed.

Mr. R. N. MANDLIK (*Addressed the House in Marathi*) : Sir, a trustee of a temple in a moment of elation may throw open the temple to Harijans. But after some experience if he comes to the conclusion that he has committed a mistake in opening the temple to Harijans, the Bill does not provide him an opportunity to rectify himself. The object of my amendment is to give him that opportunity. If honourable members think that such an opportunity should be afforded to the man, they may support the amendment. But looking to the sense of the House so far, I can see what the fate of my amendment is going to be. However, I have done my duty. Sir, I have so far moved my amendments to this Bill not because I wanted to keep the temples closed to the Harijans. But among the people whom I represent there are a great many who are orthodox Hindus, and it is my duty to lay before the House what their point of view in this matter is. It is with that object that I have moved my amendments. My object is not to obstruct the passage of this Bill in any way. What my own personal view on the matter is I have made clear in my minute of dissent and in my speech on the first reading. I hope therefore that there will be no misunderstanding about my attitude, and I leave the amendment in the hands of my honourable friends to do what they like with it.

The Honourable Mr. K. M. MUNSHI : Sir, after the speech made by the honourable member on behalf of some persons whom he says he represents, I have nothing more to say, except that I am opposing the amendment.

Amendment put, and negatived.

Clause 6, ordered to stand part of the Bill.

Clause 7 (*Date on which declaration to take effect*) ordered to stand part of the Bill.

Clause 8 (*Penalty*) ordered to stand part of the Bill.

Clause 9 (*Power of the Provincial Government to make rules*) 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. V of 1938 (a Bill to remove disabilities of Harijans in regard to worship in temples) be read a third time and passed.

Question proposed.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, in rising to support the third reading of this Bill, I wish to make a few observations, firstly because I was not here when the Bill was referred to the select committee, and secondly because I did not wish to speak on any particular clauses but on the whole Bill. At this stage it furnishes an opportunity to say that I thoroughly agree with the principle of the Bill and also with most of its provisions, and to say that that is a definite step forward. I do not remember to have read that in any Provincial Legislature a similar measure has been passed, and if that impression is correct, then the Bombay Legislature will have the unique privilege and the Congress Government the unique honour of having been the first in the field to give statutory recognition to the principle of equality of all the Hindus. It should not be misunderstood that because we on these Benches supported or opposed some amendments that it was in the least intended to derogate from our support to the main principle. I am only sorry that our friends of the Harijan classes have not seen their way to co-operate in the passing of this Bill. All our hopes for the future unification of India, all our hopes for the freedom of this country, are centred round the levelling down of all these castes and communal distinctions, and nothing could have been more productive of this result than a public repudiation of any distinction between Hindus and Hindus in respect of their right to temple entry. Therefore, Government have the good wishes, I am sure, of every section in this House and also its active support.

Whilst saying so, I am somewhat pained that the orthodox Sanatani section were not given ample opportunity for submitting their case either before this Legislature or before Government. This is a blemish, I would say a serious blemish, I say an almost inexcusable wrong, because the Government ought to realise that every section of the community, all citizens, whatever their political or religious persuasion, are entitled to equal protection, equal opportunities of making their submission before Government and the Legislature. It is not only that justice should be done, but those sections against whom a legislative act is proposed should feel that they had ample opportunities to be heard. I regret to say that this thing has not happened. The Bill has been in a manner rushed through the Legislature. It should have been in the first instance circulated for the opinion of those classes against whom it operates. While we all agree that the Sanatanist Hindus are wrong in what they believe to be the sanction of the *shastras*, while we all regret that our ancestors were under such belief, while we would like that belief soon to disappear, it cannot be denied that the Sanatanist section of the Hindus are honestly, sincerely and most thoroughly opposed to any levelling down of the distinction. Because they are opposed, it should not mean that we shall give up our own conviction. Because they are

[Mr. Jamnadas M. Mehta]

opposed, it does not mean that we shall not pass any legislation which will displease them. Because they are opposed, it does not mean that we will not give what we think is due to our fellow citizens the Harijans. All that is true. But it is equally true that Sanatani Hindus are most sincerely and honestly convinced that this Bill is wrong. Whatever may be the facts of the case, even the humblest citizen is entitled to the privilege of representing his case. I wonder why the Government did not give them an opportunity to make their representation. The Honourable Minister admitted that he received shoals of telegrams. What was the good of receiving telegrams if he did not wish to give them an opportunity to be heard? He did make so light of their protests. What wrong would have happened if the Bill had been delayed for a month? When the Money-lenders Bill, which is a very urgent measure, has been referred to the select committee asking them to submit their report within two months, why should not these people who consider untouchability is a passport to heaven receive the same consideration that is shown to money-lenders? If the money-lenders were to receive that much protection, I think the hundreds of thousands of Sanatanist Hindus deserve even more respectful attention. In spite of that fact the Honourable Minister went to the length of telling us that if untouchability was imposed by Shastras, he would consign them to the fire. I think I am not wrong. It was a very bold statement indeed for the Honourable Minister to make. But I think that such an attitude is unworthy of a Minister and it is unworthy of any Government. If he had said that he would consign Koran to the fire, he would not have gone safe out of this House. He had the temerity to make such a disrespectful attack against the scripture of a certain section of the Hindu community. If he had made the same disrespectful attack against Koran, his head would have been off his shoulders within 24 hours. It was cowardice on his part—I am not characterising it any worse—to have attacked a section of a community, however wrong they might have been. He may think that they are wrong. He may be lost in self-admiration or believe that anybody who disagrees with him is in the wrong. He received a deputation. He lectured to them. I am pointing out the ways of the Honourable Minister while legislating a measure. I am illustrating it in the most brief manner. I am pointing out the attitude of the Minister who went to the length of saying that he would confine certain scriptures to the fire. It is entirely unworthy of the Honourable Minister and it is a cowardly attack. He made the statement he made, because he is privileged in this House. He would not have made that statement about any other religion. I do not know whether he should apologise for making that statement in a cavalier fashion. [Honourable Mr. K. M. Munshi *smiled*.] He may laugh; he may dance. It is a cowardly attack on a section of the Hindu community, though that section deserved to be treated with as much respect as the Honourable Minister respects his office. He should have given respect and consideration to that section of the community against whom he is legislating. He has given them no opportunity to represent their case. Nothing

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would have been lost by circulating this Bill. Nothing would have been lost by accepting the motion of my honourable friend Mr. Mandlik to re-refer the Bill to the select committee. My Harijan friends do not seem to be in a hurry to get this measure passed. They have waited so long, for many years, and they would not have minded a delay of a few more weeks. Government ought to have been responsible to any and every section, however weak they may be and however misunderstood they may be. That is the real test of a Government. Are these people so undeserving of being heard? They say that we are not entitled to enact a law affecting the fundamental rights of people. They say that this legislation is *ultra vires* of this legislature, and that you cannot bring in a Bill of this character under the Government of India Act. They say that this is an interference with the religious beliefs of a section of the community. They rely on sections 107, 108, 110 and 295 of the Government of India Act. I have had no time to go through all these. Are they not entitled to be heard? Are they not citizens? Are they not entitled to the protection of law? Are Government so impervious that they deemed it right to treat a section of people with such indifference? I have not been able to understand how a delay of one or two weeks would have made any difference. I am more zealous about the removal of untouchability—

Mr. G. H. DESHPANDE: Has the honourable member changed his mind to oppose the Bill?

Mr. JAMNADAS M. MEHTA: When the honourable member understands English, I will answer him. If he cannot understand, it is not my duty to answer him. I am saying about the indecent and undue hurry in passing this legislation without giving an opportunity to a section of the community to be heard. Now, I suppose he will understand. I submit, Sir, this is a gross lapse on the part of Government from their ordinary obligations to every class or community.

Now, Sir, I have been told that these unfortunate people who have not been given even a hearing and who have been treated so scornfully by the Government and whose scriptures were threatened to be consigned to the fire rely on clause 20 of the Instrument of Instructions. They are going to wait on the Governor and request him, in so far as it lies in his power, "to secure amongst all classes and creed co-operation, goodwill and mutual respect for religious beliefs and sentiments" both in regard to legislation and administration. This measure does not secure all those things from the orthodox section of the Hindus; on the contrary, they have been treated with the utmost contempt by the Honourable Minister.

Beyond that, I have to refer to one more point. It is in regard to the definition of the word "temple". The definition is not as clear as it might have been. It is not, perhaps, the fault of the Government. Drafting is not always an easy thing and you cannot bring into shape in the definition what you want to express, because words themselves are imperfect agency for expressing what we wish to say. I only hope that in administering the measure the temples which are private and where

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admission is allowed to the public out of courtesy would not really come within this Bill. Suppose there are five temples in a locality of which one is claimed to be a private one. In order to respect the sentiment of those people who think that it is a private temple, the definition should be so interpreted as to exclude that one from public temples. The sentiments of those who still hug to the belief in untouchability, in spite of the fact that it has become obsolete, should be treated with the utmost consideration as citizens in the wrong are treated by an indulgent Government and they should not be persecuted.

Then, Sir, the last thing and in conclusion, I wish to repudiate what my honourable friend Mr. Deshpande yesterday talked about the Democratic Swaraj Party. He thought he had made a great point by referring to the "Tatwa" and "Tapshil". He said that Tatwa was acceptable to us but that Tapshil was not, which means the principle is accepted but not the schedule. I wish to assure him that the Hindu Mahasabha, which is denounced as purely a communal body, has more than once reiterated by unequivocal resolutions that untouchability must go. We of the Democratic Swaraj Party go much beyond. Do I think it right that these fellow countrymen of mine, these fellow-religionists of mine, who have been treated through ages past by my ancestors in a most cruel and wrong manner, should continue to be similarly treated hereafter? Do I not realise that? Do I not wish to sit with them? Do I not wish to abolish all castes and creeds? Do I not realise that the fall of India, this subjection of this country, is due to the tyranny of these cursed customs and usages of the past? If these people were not separated from us, those (Muslim League) benches would not have existed. Sir Ali Mahomed Khan Dehlavi would have been Jamnadas Mehta or Mr. Mahomedally would have been Mr. Maganlal. Those benches would not have existed. The foreign invasion of India would not have existed and this country of ours would not have been a prey to foreign invasion. Do we not know this? Is there any doubt there that we, from the bottom of our hearts, desire that these distinctions should go, not only between untouchables and touchables but between Hindus and Mahomedans as well, that these distinctions between all classes and creeds should disappear, so that anybody can worship in a mosque or a temple or a church as he likes and when he likes? Therefore, let us see, without any mental reservation, that all temples are thrown open to all communities who want to worship in them. If we fail, it is because we are powerless against old customs. We are aware that old people are more sincere than those who are younger and that their obstinacy is their misfortune, not their fault. Here is what an eminent Hindu gentleman said about this unfortunate practice :

"The sentiments have grown up amongst our people as the result of age-long customs and practices. These sentiments are sincerely felt and are cherished as priceless heritage of the past. What is in the bone will not go out soon out of the flesh. A sporadic attempt, a violent attack spread over a few weeks or months cannot uproot what has been implanted in the minds of different castes and different communities as the result of what has been happening for many centuries. This is merely the difficulty of getting down the throats of Sanatani Hindus what we want to get there."

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Therefore, Sir, I hope my honourable friend Mr. Deshpande and the honourable member Mr. Thorat will take a more liberal view of matters. The honourable member Mr. Thorat made his maiden speech yesterday only to point out how far away he is from Brahmins, being a Non-Brahmin. Beyond that he gave no indication that he has extended his vision, but I can assure him that no educated classes among the Hindus—99·9 per cent. of the educated classes—have got any but the deepest desire and readiness to purge these communal distinctions and, therefore, this Bill has our heartiest support, and if I make these comments, it is because the humblest of the humble is entitled to be heard and he was not heard. As regards “Tatwa” and “Tapshil”, I know my honourable friend Mr. Deshpande is living in a glass house and he should not throw any stones. He has accepted the Tatwa of joint electorates and yet he is enjoying the fruit of separate electorates. I can find out many things and he will not have the courage to stand up for separate electorates after accepting the principle of joint electorates. Sir, we stand both for Tatwa and Tapshil, we stand both for principle and details, but we wish that every section of the community will be heard, that it will be a convention which will be sedulously honoured by Government that no section of the community will go unheard.

Lastly, I wish again to congratulate the Government for this first momentous step in the removal of untouchability and I hope they will administer this Act with as much thoroughness as with indulgence wherever it is necessary. Indulgence of course will not cover a wrong, but indulgence in seeing that any reasonable objections of people who want to put forward those objections will be duly considered and not brushed aside unceremoniously. With these words, on behalf of myself and on behalf of the whole of my party I say that we support wholeheartedly the third reading of this Bill No. V of 1938.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities): Sir, I wish to make a few remarks, interested as I have always been in the welfare of the Harijan classes, and in furtherance of what I have stated at the first reading of the Bill when I congratulated the Honourable Minister for having taken this step so as to remove the great stigma which is attached to the Hindu community for long. But at the same time, Sir, I pointed out then, and I repeat it with greater reasons now, that the measure does not go far enough, and I say this with better reason because of the number of amendments I have listened to, which were pressed consistently one after another at the second reading showing that there is a big section of the Hindu community who may not welcome this Bill, even if it does not go far. What is troubling the members of the Hindu community who are orthodox—not only the Sanatani section in this House but the larger section outside? As far as this Bill is concerned, there is nothing to fear at all. As I said, the Bill does not go far enough. The Bill does absolutely nothing in the way of meeting the demand of the Harijans at all. It confers no boon on them. All that can be said in its favour is that it is a good step as far as it goes. It is

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a step which ought to bring compliments to the Honourable Minister and the Ministry for having launched it in this House and piloted it successfully; but if you study the Bill, what is there in it to be afraid of at all? The honourable member who spoke last was a bit inconsistent, to my mind, when he said that the Bill should be circulated for the information and opinion of the public outside when in the same breath he said that almost 99·9 of the Hindus would welcome it. If there are 99·9 per cent. of the Hindus who welcome it, why is circulation necessary?

Mr. JAMNADAS M. MEHTA : 99·9 per cent. of the educated classes.

Sir ALI MAHOMED KHAN DEHLAVI : However, the non-educated or the educated who do not agree with the principles of the Bill need not fear the Bill at all. He also requested the Honourable Minister to see that he administers the Bill properly and very enthusiastically. What is there to administer in the Bill at all? I see nothing at all. All that he has done is to give an option to the trustees of certain temples that if they so desire, they may go to court and take the steps that he has pointed out. But the Honourable Minister himself has told this House that as a rule trustees are the most orthodox, the most enthusiastically religious people who come forward and offer their services to look after the interests of a temple in the most orthodox manner. If that be the description of the trustees who look after the safety of the temple with those hackneyed and time-honoured views the Sanatanists hold, does the Honourable Minister expect that any one of the trustees would come forward and take the proceedings he has pointed out to them? Therefore,

3-30 p.m. as I said then, and after following the amendments,
I say with greater emphasis that the Bill does not

go very far. The Bill has not let the doors of the temples open to those whom the Hindu Community would like to call Hindus. If the Harijans are anxious to call themselves a part and parcel of the Hindu community, they may know that they have gained nothing in this Bill. It would be a heyday and a happy day for all those who wish to see in every direction in our country the merging of certain sects, to find even one instance, in a reasonable time, of any trustees or any temples coming forward to take the step suggested in the Bill. I, therefore, think that the Hindu Community need not be agitated, need not be excited, over this Bill at all, because if they read the Bill they will find that it does nothing but give a sort of a choice to certain trustees. The very fact that a Bill of this sort, brought with a timid heart before this House—and I am sure the Honourable Minister will admit it—shows that legislation is necessary and certain people have to be curbed or shown the point of the bayonet and told that if they do not do it nicely, gracefully at this stage, later they would be forced to do it. That depicts the mentality of the society outside. That shows how far the society is ready to accept suggestions like these. It is very difficult to put together men who have remained asunder for centuries. However, as I said at the first reading, I welcome the Bill. I supported the first reading and I support it even at this stage and congratulate the Honourable Minister, but wish him not to go elated with the idea that he has achieved what he hopes to achieve.

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My honourable friend Mr. Jamnadas Mehta showed inconsistency on the one hand advocating in strong language, in words which were very unpleasant to hear, perhaps they were not unparliamentary, that the Minister has erred seriously, grievously, in not circulating the Bill, in not re-submitting the Bill to the Select Committee and so forth, and on the other concluding by the passages that he read to show that the country outside ought to be taught and ought to be brought to realise their sense of duty to their co-religionists as he called the Harijans. Well, if the feeling of the country outside the House is such that they must be heard before this Bill goes through, and if he holds the views he expressed in concluding his speech, I hope that the honourable member when he returns home, will not be assaulted by these people on the way, and that he would not require a Police Guard from the Honourable Minister to take him home and save him from the clutches of the orthodox society. I think that Mr. Jamnadas Mehta was certainly inconsistent, as far as the spirit of the Bill and the endeavour of the Bill was concerned, when he criticised the Honourable Minister with bad intentions in not taking into confidence the country outside. The simple reply is that if he had tried to take the country outside, the Hindu Community outside, into confidence, the Bill could not have been ushered in this House at all.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I rise to support the third reading of the Bill. Sir, when this Bill was introduced I had made it clear that when we are clamouring for Swaraj, we should not in fairness to the Harijans refuse to give these rights of entering temples.

Sir, it was argued by one honourable member that Government should have consulted the orthodox Hindu Community before bringing this Bill before the House. Sir, I do not see any reason why Government should consult the orthodox Hindus, because they are always opposed to bring even the slightest reform. Sir, not only in religious matters but in many other matters—and I can say this from my personal experience of the Thana District—these orthodox Hindus are not prepared to bring in the slightest reform. Sir, the agriculturists in our district wanted to curtail expenses in ceremonials like marriages, and they approached the *upadhyas* (priests) to take less money than they were formerly paid. They plainly refused saying that all the religious ceremonials could not be performed within that amount. Sir, in the House all the sections of the House have supported the Bill, and, in my opinion, there was no necessity of consulting Hindu orthodox opinion outside the House. My honourable friend Mr. Jamnadas Mehta also congratulated the Government for bringing in this measure. Sir, we are the first in our country to bring in this measure.

I am sure they would have agreed to the proposal. I do not think it is worthwhile arguing further. I only wish to congratulate the Ministry on its achievement.

Mr. S. K. PATIL (Bombay City): Sir, I had not the slightest desire to intervene in the debate, particularly at this fag end, but for the remarks

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offered by my honourable friend here (Mr. Jamnadas M. Mehta) the member for Railway Unions. I am afraid the honourable member was absent from this House for about a week and all his accumulated passion against the Government had perhaps to find vent in the kind of outburst in which he indulged on the floor of the House. The two attitudes, the one with which he began and the one with which he ended, are of a type which are perhaps irreconcilable. He began by congratulating the Government. He began in a process of self-admiration that it is a unique privilege of this House that such an enactment has been passed by this House and then he came perhaps to the most significant thing which he wanted to say that the Minister, in his opinion, did not act in a manner in which he would have expected him to act. What is the sin of commission or omission of the Minister for which my honourable friend went into such a fury, I am really at a loss to understand. What did the Honourable Minister say? I am afraid, perhaps my honourable friend was not present in this House, when the Minister in charge of this Bill made his submission. I am recapitulating for the information of the House what exactly the Minister said. The Minister was discussing the question in a debate on a particular amendment that my honourable friend here, Mr. Mandlik, had moved. The honourable member's submission was that it would be a sin or a crime against truth and non-violence, if he really made it a condition or an obligation on the trustees that they should set aside the sacred trust entrusted to their charge. He quoted Mahatma Gandhi at large and observed that such an obligation would revolt against truth and non-violence. An answer to this contention given by the Honourable Minister in charge was that after all the condition imposed in a majority of trusts was not that the particular classes should not go into the temple, but very often a condition was put in these trusts that the temple was meant for *Uchchavarniyas*, i.e. for the higher castes. The Honourable Minister defined that word *Uchchavarniya* and in that he said: Are not our conceptions of higher and lower castes changing from time to time and from day to day? And if these conceptions are changing what was *Uchchavarna* 40 years back may not be so today and some others might have come into that definition and as times change, the definition may change and in fact it has been changing from time to time. The definition of *Uchchavarna* is changed and if that is sought to be incorporated in an enactment there is nothing like violence to any traditional conceptions. The Honourable Minister had further observed that if there was any Shastra in which it was said that a particular class of society had got to be turned away from their God, had got to be prevented from entering the temples for all times to come, such a scripture or such a Shastra, if it existed at all, should be consigned to flames. I do not understand why my honourable friend here at once runs into a fury and says that these sacred scriptures are to be consigned to flames. Where are these scriptures and where are the orthodox Hindus? I can challenge my honourable friend that I am not aware of any scripture that lays down that a particular class should be set aside permanently because it is born either a *Shudra* or

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Atishudra. There is no scripture of that kind. Therefore, if what was alleged to be a scripture and what was at all events a scripture or a Shastra more in imagination than in actual existence, is consigned to flames, I do not understand why my honourable friend goes into flames himself. My honourable friend the Minister-in-charge has already pointed out and I would also like to put one fact before the House. I am not a Shastri, but certainly I am not going to be deceived by any Shastri. I know my religion too well to be deceived in that fashion. In one of the important *Puranas*, the *Garudpurana*, it was laid down as far back as fifteen hundred years ago that there were seven kinds of untouchables, and may I ask my honourable friend where are all these seven untouchables ?

रजकश्चर्मकारश्च नटो बुरुड एव च ।

कैवर्तमेदभिलाश्च सत्ते अन्यजाः स्मृताः ।

Look at these *Rajakas* (Washermen) and the *Kaivartas* (Fishermen) ; are they to-day regarded as untouchables ? Are they to-day the people to whom we attach a stigma and say that these are the untouchables ? Where are the *Rajakas*, where are the *Kaivartas*, and where are the *Natas* (actors) ? Are they not mixed into the society ? Where are the *Medas* ? The same Hindu religion that can put its mark of "Uchcha Varna" on four of these seven types of "Antyajas" can as well extend that stamp to the remaining three castes. What is wrong there if we absorb even the *Charmakars* (shoe-makers), Mahars and the Bhils ? What is wrong there ? If the society is the same society, the scripture is the same scripture and the religion the same religion that put down these seven *Antyajas* for centuries together and then absorbed four of them with the advance of times, what was there to prevent that society from assimilating the remaining three if it chose to do so ? I do not find what is wrong with the explanation that is given by the Honourable the Minister in charge of the Bill. If the honourable member for Railway Unions anyhow wanted to vent his spleen against the Government by characterising the attitude of the Minister as cowardice, I have nothing to say. When did the honourable member for Railway Unions become the champion of orthodox Hindus ? If he wanted that a section of the community should be pleased, I doubt how much he has succeeded. The honourable member has done well in playing to the gallery ; but, so far as the facts of the matter are concerned, there was no mis-statement that was made by the Honourable Minister in charge and he should not have been treated with the language of contempt which the honourable member for Railway Unions has used.

Coming to another point which was more a point of expediency that the honourable member harped upon, namely, why the Bill was not referred to public opinion, I am really surprised at that argument because it was advanced by some one yesterday and it was properly answered. Sir, this is not a question which is before this House or before the public for the first time ; my honourable friend the Leader of the Opposition has made it clear that if 99.9 per cent. of the public are in

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favour of this Bill, where was the fun in waiting for the opinion of 1 per cent. of the population that was left out? I cannot understand that. Reference was made here yesterday on the floor of the House to the Bill introduced in the Central Assembly by Mr. C. S. Ranga Iyer? This measure was even more drastic in its provisions than the present Bill and it was sufficiently commented upon all over the country. Then again, the attitude of the Congress in this particular respect is well known. When all these considerations are borne in mind, I cannot understand why my honourable friend wanted a month or two more to be wasted. Was there going to be any change in the attitude of those people? If that was so, I would have understood his argument—since we have for ages tolerated this sin, if it was put off for a month or two, it would not have mattered. But we know it thoroughly well that for ages we have not been able to induce the orthodox section of the community to see eye to eye with us, and a month more is not likely to bring about any change at all as if by a magic wand. That being so, I cannot understand the fulminations of my honourable friend representing the Railway Unions. There is neither logic, nor point nor propriety in what he has stated on the floor of the House. Since the Bill has received the support of almost 99·9 per cent. of this House, from all sections of the House, it deserves to be passed now and here; and I do not know that even the honourable member himself, though he has spoken so much against the Minister in charge, is going to be a dissentient. With these words, I wholeheartedly support the third reading of the Bill.

Mr. ALI BAHADUR BAHADUR KHAN (Bombay City, North, and Bombay Suburban District): Mr. Speaker, Sir, I rise to congratulate the Government on the occasion of the third reading of this Bill. Ordinarily, a non-Hindu member is not expected to interfere in this debate, which concerns only the Hindu community; but, Sir, the time has come when we must take an interest in all these matters, the so-called exclusive matters of particular communities, because our interests lie there as Indians.

What I appreciated was the attitude of the Government that has been consistently shown by them, not only in this Bill but in many others which have contemplated one reform or other. That attitude is this, that though they want to proceed on the path of reform, they do not want to do so at a break-neck speed. They only want to open the doors which are now banged against any reform. And for once I congratulate my honourable friend Sir Ali Mahomed Khan Dehlavi when he says, "Here is nothing more than mere option for the trustees to open the doors of temples for those who want to enter them". Here is an option which he likes, and I congratulate him on his proper reading of the situation. All the Bills that this Government have brought forward are characterised by the spirit that there should be no compulsion and no coercion, but at the same time the doors that are banged against reform for one reason or other should be opened, and that at least the option must be given to all communities and all classes, if they desire a change, to carry out the reform. No Government can carry on for

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a day if it resorts to coercion. But I hope people will not blow hot and cold with the same breath : I hope they will not say they like option in certain cases and do not like it in certain others. In the present circumstances of India, when there is great diversity of thought, beliefs, faiths, convictions, and superstitions also, while I agree that consideration should be given to all classes, I must say that there is always a limit to that consideration. Every one must agree that if ultimately we have to reach our goal, we must proceed in the direction of that goal. And the present move is nothing else than an indication that the face of the community is turning towards the goal. That goal is, as my honourable friend Mr. Jamnadas Mehta has pointed out, the levelling down of all differences. But, Sir, these differences will never be levelled down unless you open the doors which are now shut. Experience has shown that in many cases satyagraha was resorted to because the temples could not be thrown open on account of the fact that there was no option given to the trustees. That was the excuse put forward for excluding Harijans from temples. Here is a Bill which simply gives an option to the trustees, and nothing could be more innocent than that. I think the charge of coercion is absolutely beside the point, not only in this case, but in the case of all other Bills which have come before the House. With these words, I support the third reading of the Bill.

Mr. S. G. SONGAVKAR (Bombay City, North, and Bombay Suburban District) (*Addressed the House in Marathi*): Mr. Speaker, Sir, I rise to support the third reading of this Bill. I offer hearty congratulations to the Government on their having restored the right of the Harijans.

Sir, there seems to be an impression in the minds of some honourable members that Government have not gone far enough in this Bill. But I may remind them that they have done far more than the 1928 Government ever thought of doing towards this reform. At that time, I used to be an interested visitor in the Gallery, and I can say that not a single ameliorative measure of this character came up for discussion then. Compared with that period, we have gone far ahead towards reform.

One reason why Government did not go as far as they would have wished to go is this. The policy of the present Government is conciliation, not riding rough-shod over all opposition, although they possess that power. They do not want to antagonise the Sanatanists all of a sudden. After all, Sir, this is only a beginning that we are making. The policy of this Government is to adopt persuasive methods and win over all opposition. That is why they have to give some consideration to the opposition to this Bill. I was a member of the Select Committee. If I had wanted to move an amendment compelling all trustees to throw open all temples to the Harijans, I could have done so, but I did not want the Government to face the charge of partiality towards one community as against another. That is why this Bill does not go as far as we would have liked it to go. And although some of the Harijan members have not taken any part in the discussion of this measure, I am sure that they welcome it with as much eagerness as I do.

The Honourable the SPEAKER (in Marathi): Is the honourable member likely to take long? If he is going to finish his remarks within three or four minutes, we can continue; otherwise, we can adjourn for tea now, and he may resume after the recess.

(The House re-assembled at 4-30 p.m. after tea.)

Mr. S. G. SONGAVKAR (*Addressed the House in Marathi*): Sir, I have already stated the reasons why I support this Bill. I do not understand why my honourable friends Mr. Mandlik and Mr. Jamnadas Mehta should feel that this Bill should have been postponed, that the opinion of the Sanatanists should have been obtained in the first instance and then the Bill passed. Sir, have we any reason to believe that left to themselves, the Sanatanists will ever think of opening up the temples to the Harijans? Can you ever imagine that they will say that they will do so? You can ask a drunkard whether he will be prepared to give up drink, and you know what he will say in reply. He will ask for two bottles of liquor instead of one; you can never expect him to say that he does not want liquor. The Democratic Swaraj Party through its press have always been advocating that the gulf existing between the depressed classes and the higher castes should be bridged, and now that Government have come forward to take a step in that direction they say that Sanatanists should have been consulted. Their attitude reminds me of the cow which cries for its calf, and when the calf comes near refuses to suckle it. Now that the Congress Government have brought forward this Bill they say that its consideration should have been postponed and the Sanatanists should have been given an opportunity to express their opinion. Will the Sanatanists ever say that the Bill is a good measure, and they will willingly throw open the doors of their temples to the Harijans? I think it is quite right that the Government have brought forward this Bill. There is nothing in it which can in any way injure the sentiments of the Sanatanists. It is not as if the Bill provides that the moment it is passed, the trustees of all Hindu temples are compulsorily made to throw open the temples to the Harijans. It is a permissive measure. The whole thing depends on the will of the trustees. It is only when the majority of trustees of a temple decide that it should be thrown open to the Harijans that the temple will be so thrown open. Looking to the present condition of things, I do not think there are many among the trustees of temples who will open the doors of their temples to the Harijans. I do not therefore understand why my honourable friends should think that the Bill is being rushed through. The honourable member Mr. Mandlik said that it will have a bad effect on the minds of orthodox Hindus, and their sentiments would be injured, and they fear for their religion. I do not know whether this fear for religion has made the idols in the temples to sweat and this led to the meeting at Madhav Baug on Sunday. If there had been any other Government they would not have brought such a Bill. It is only the Congress Government, who want to do justice to all that has brought up this Bill.

[Mr. S. G. Songavkar]

Another point is that when the Congress Government wants to help the Harijans, the representatives of the Harijans have not taken any part in the debate. I think they have adopted this attitude because the word "Harijan" has been used in the Bill, and because Mahatma Gandhi started using this term for the untouchables. I wonder whether my honourable friends belonging to the Harijan castes still want to stick to the terms applied to them a century ago. If you go to a village and call a Mahar "*Mahardya*", will he be glad about it, and if you call him a Harijan, will he feel ashamed about it? No. Therefore, I do not think there is anything wrong in the use of the word "Harijan".

I have not got anything more to say. I think the Bill should have the wholehearted support of the whole House. I do not know why there need be any difference of opinion. Some people may talk a lot about improving the lot of the Harijans, of having joint electorates for them, and so on, but when they oppose a Bill like this, that shows what their true mentality is. I say this Bill is only a permissive measure. There is no compulsion on anybody to open any temple to the Harijans. There is nothing in it which need cause sorrow. I support it on behalf of the Harijans and I hope it will be passed.

Mr. S. H. JHABVALA (Railway Unions): Sir, any measure, any proposition of a kind that points at radicalism and that is brought forth in this House by any member on any side of the House eliminating virus of differences and solving communal problems on harmonious lines will have our hearty support. The socialists dream of a classless society; though the classes meant are economic classes. Unfortunately still our country is so much split up by religious schisms and communal factions, that we have to thank any member that brings forth any reasonable measure of reform in the direction of removing classes in matters religious and matters communal even so as to ultimately evolve classlessness. Such measures ought to be heartily supported. The whole country has just now been caught in by new ideas, new principles and new ideals. The Congress Government are riding the tide of these new ideals and have had to move in the right direction, but they have moved in that direction by only a hair's breadth. They have also been caught in those new principles, ideas and ideals. They have tried to do what best they can under the circumstances. It is here again that they have adumbrated the principle of option, a measure of rational latitude which our Muslim friends in a former proposal mistakenly refused to accept. But in this connection—

The Honourable the SPEAKER: Order, order.

Mr. S. H. JHABVALA: They did not take advantage of the offer of option in that direction. They now say that option should be guaranteed by religious-minded orthodox temple-owners to the depressed classes, but they themselves did not accept the obligation in another direction. Sir, in Russia, because of the tyranny—

The Honourable the SPEAKER : Order, order. I may just remind honourable members that this is the third reading of the Bill which has been sufficiently debated upon at the first reading and at the second reading, and at the clause by clause stage various amendments have been discussed. Everything has been discussed threadbare. The object of discussion at the third reading is not to turn it into a field of discussion as if the Bill is new. Honourable members should confine themselves to the points they want to make very shortly with regard to third reading and not go into very lengthy or elaborate arguments.

Mr. S. H. JHABVALA : Everything else was discussed except the position of classlessness in Russia. Russia is considered to be an irreligious country because in the country's cause they have kept conscience and temple as back numbers. As you do not permit me the reference to that country, I will only then content myself with saying that this measure of reform which the Congress Government have brought forward should be accepted.

There is a saying amongst us "यथा राजा तथा प्रजा". As is the king, so is the subject. Unfortunately, the Government here is a slow moving Government. The Congress Government have only offered a bit of reform which opens the goal to Harijans. In spite of our desire for more reform and for radicalism, we have to fall in line with them and in this respect I accord my support to the third reading of the Bill.

Mr. K. R. TALKAR (Kolaba District) : अध्यक्ष महाराज,

हरिजनांच्या मंदीरप्रवेशाला मी मोठ्या कष्टाने पाठिंबा देतो. कारण काँग्रेस-सरकारने हरिजनांस जितक्या सवलती द्यावयास पाहिजे होत्या, त्या ह्या विलास दिलेल्या नाहीत; कारण हल्लींच्या काँग्रेससरकारास अडचणीच्या स्थितीत समाजकार्य करावयाचे आहे. असें असून हरिजनांस थोड्या सवलती मंदीरप्रवेशा-मध्ये दिल्या असल्यामुळे लोकशाही म्हणविणारे आमचे कुलाबा जिल्ह्यांतील ऑनोरेबल मॅबर रामभाऊ मंडलीक, हरिजनांच्या विलास काल विरोध करीत होते. सरकारने हरिजनांस पूर्ण मंदीरप्रवेशास पाठिंबा दिला असता तर मि. रामभाऊ मंडलीक काल बोलत असतां मूर्च्छा येऊन पडले असते असें मला वाटते. तरी काँग्रेससरकारने हरिजनांस थोडेबहुत मंदीरप्रवेश आणला आहे याबद्दल मी काँग्रेससरकारचे हार्दिक अभिनंदन करून विलास पाठिंबा देतो.

Mr. S. L. KARANDIKAR (Ratnagiri North) : Mr. Speaker, Sir, I rise to support the third reading of the Bill. In spite of the fact that all the amendments that were moved from this side in order to improve several parts of the Bill were defeated, I do think it necessary to support the third reading of this Bill, because I am firmly convinced

[Mr. S. L. Karandikar]

that this Bill marks definitely a stage in advance of the state of things that obtained up till now. I was really grieved to find that some honourable members went the length of questioning our motives when we moved those amendments: I would be the first man to welcome a measure, if it were possible, that opened all the temples to the Harijans ; but as we find society to be in a peculiar state, we have to move according to a certain programme. We have to take certain precautionary measures and only in that light we moved amendments. The two Harijan honourable friends who spoke just now seem to have misunderstood the position not only of our amendments but of the Sanatanists outside. Just as I am ready to look upon the Harijans as my friends, I am equally ready to look upon my Sanatanist friends as my friends. Simply because they are not ready to go the whole hog with us, I am not going to condemn them as the Congress Government have done. I am for consolidation of the Hindu society as a whole. In our effort to bring in one community into the Hindu fold, we should not estrange another section. That would be a step in the wrong direction. So, I request all my Harijan honourable friends to agree with the view that the Hindu society is made up of many elements and that our efforts should be directed to bring in all the sections of the Hindu society together and place them all on an equal footing. I believe, if we make adjustments, if we all try to accommodate the points of view of all these sections, we can march solidly to the goal which is the common goal of us all. I believe when this Bill which is going to be enacted into law, when it is brought into force, many adjustments have to be made and many occasions for tolerance will arise. Unless we understand the viewpoint of each other, the administration of this measure will be a hard task. We have to go to the trustees and persuade them. It has been admitted that the trustees are a reactionary people. If we have to give effect to this Act, we will have to persuade the trustees, not by force, but by pressure of public opinion, to throw open the temples. In doing this, the less the opportunity for unpleasantness and the less the occasion for bitterness of feelings, the better for us all. Therefore, I request all those honourable friends of mine who brought in communal feelings and who tried to hurt each other in the course of the discussion to get over that feeling and make common cause in making this Act a success. Even though there are certain loopholes in the Act, as it is now going to be passed, I believe this Bill, when passed, will place my Harijan friends on a better footing than at present and they will really find that their manhood has grown by several cubits. Ultimately they will realise that they are treated with perfect equality. I hope this Bill will bring in the long run fusion of all sections of the society. I support the third reading of the Bill and wish it every success in its working.

The Honourable the SPEAKER : Before the Honourable Minister in charge replies to the debate, I wish to invite his attention to a slight change or two—one in clause 6 and the other in clause 7. They are both small changes to bring out the meaning better. The Honourable Minister is not bound to accept them. The change I suggest in clause 6 is that in the last but one line, after the words "declaration published under section 4", he might omit the words appearing there, viz., "or the decision of" and insert instead the words "unless it is set aside by".

The Honourable Mr. K. M. MUNSHI : Yes, I am looking into it, Sir.

The Honourable the SPEAKER : Another verbal alteration I would suggest would be in clause 7, namely, after the words "declaration shall" in the last but one line, he might insert the words "if not set aside". This would make the language more clear.

The Honourable Mr. K. M. MUNSHI : Very well, Sir, I will look into it presently.

*Mr. B. U. VAGHELA (Kaira District) (*Addressed the House in Gujarati*) : Sir, I rise to give my wholehearted support to the Bill before the House. We have been told on the floor of this House that there is a strong opposition to this measure from the Sanatanists, but to this argument I think a convincing reply has been already given by the Honourable the Minister in charge and so I need not deal with it at any length.

Sir, I think, if I have followed the debate in this House on this question, it has been also suggested that this question should be left to the option of the Sanatanists and that no coercion should be brought to bear upon them in the matter of throwing open temples to the untouchables. I am sure that so long as Government do not pass a definite law, this monster of untouchability will not disappear. My honourable and respected friend Mr. Jamnadas Mehta asked the Honourable Minister to see if he possibly could postpone this Bill for a month or two. I am decidedly opposed to a suggestion of that sort. Does he mean to say that the Sanatanists, who have not listened to reason for so long, will be likely to change their views in two or three months' time? I do not think so. The Sanatanists have had more than enough time to reconsider their attitude in the light of reason and justice and humanity but I would sooner expect a rock to give forth milk than my Sanatanist countrymen to yield an inch of ground on this question of untouchability.

Sir, I need not remind the House and the Sanatanists at the same time that great Kings of the past like Shivaji Maharaj were helped in their wars by armies recruited from the despised Harijans. And why are Harijans despised? Because, perhaps, they work in leather and hides and skins? But what do we find in Benares-Kashi, and Mahadev and other temples where these self-same Sanatanists have no objection to make use of things made of leather. Then, why should these Sanatanists be so much opposed to this simple but important measure which, after all, is an optional measure?

[Mr. B. U. Vaghela]

I am rather sorry that the Party belonging to the honourable member Dr. Ambedkar has been sitting silent and has not taken part in this debate.

The Honourable the SPEAKER: That Party is called Independent Labour Party.

Mr. B. U. VAGHELA: Sir, I support this Bill, and resume my seat. [Applause.]

The Honourable Mr. K. M. MUNSHI: Sir, I am much obliged to you for the suggestions that you were pleased to make, 5 p.m. May I read how the sentence would read if those suggestions are put in :

".....or if such execution would in any way affect or be inconsistent with the declaration published under section 4 unless set aside by the Court under section 5."

In the other case also I will accept the suggestion that the words "if not set aside" may be put after the word "shall" in last but one line of clause 7.

Mr. B. S. HIRAY: Sir, I beg to move :

In clause 6 in the last but one and the last line in place of the words "or the decision of" the following words may be substituted, namely: "unless it is set aside by"

Amendment put, and agreed to.

Mr. B. S. HIRAY: Sir, I beg to move :

In the last but one line of clause 7 after the word "shall" the words "if not set aside" be added.

Amendment put, and agreed to.

The Honourable Mr. K. M. MUNSHI: Mr. Speaker, Sir, I had thought that it would not be necessary for me to speak anything after the elaborate debate which took place in this House for several hours. But the remarks made by the honourable member Mr. Jamnadas Mehta are such that it becomes my painful duty to have to reply to them. But I assure you, Sir, and also the House that I propose to copy neither his taste nor the decency with which he made those remarks. Sir, all those who know my honourable friend—and the House by now is sufficiently familiar with his acrobatics—know how by one stone he can kill not two birds, but any number that he proposes to kill—

An Honourable MEMBER: Unless they fly away.

The Honourable Mr. K. M. MUNSHI: Yes, unless they fly away, which happens in most cases. In the first instance, by a short speech he cleared his conscience of the guilt that he was not present here during the last three days to give support of his mighty voice to the cause of "Harijans" which he says is so dear to him. The second bird which he tried to kill was that his last minute voice might be heard by those who may be interested in him in the gallery and outside, or whom it may be his interest to serve, to placate them for an immediate or a mediate purpose. The third—

Mr. JAMNADAS M. MEHTA: I beg your pardon.

The Honourable Mr. K. M. MUNSHI : I know that my learned friend is hard in many things, but I never thought that he was hard of hearing.

The third bird that he tried to kill was that he successfully gave an interesting exhibition. He is, Sir, well known as a prize dealer in Parliamentary billingsgate, and in that respect he reminded me of the great Daniel O'Connell who was supposed to be a master of the vocabulary of abusive epithets. Sir, it is recorded of him that once the Bar of Dublin told him that in matter of abuses he was not the equal of an umbrella seller on the outskirts of Dublin. But O'Connell, the great Irish leader, would not take this insult lying down. He promptly went to the outskirts of Dublin, to the shop of the umbrella seller,—she happened to be an old woman—and asked what the price of an old umbrella was. The lady said “six pence.” He started, “you, old wench.” On that, the umbrella dealer, who was supposed to be the greatest abuser in the whole of Ireland poured all her epithets upon O'Connell. For an hour the battle raged between O'Connell and the umbrella seller, but neither would yield. After an hour, however, O'Connell's vocabulary began to fail and the old lady was still coming out with a torrent of abuses incomparable in spiciness, taste, and decency. Ultimately, poor Daniel O'Connell in the last resort, turned to geometry and went on using such terms as triangles, rectangles and hexagon by way of abuse. The poor lady who knew no geometry thought they were all abuses and soon came to the end of her resources. Sir, I should like to congratulate my honourable friend ; for, had he been there at the time he would have been a perfect match—

Mr. JAMNADAS M. MEHTA : I accept that compliment.

The Honourable Mr. K. M. MUNSHI : It is only his misfortune that he is born possibly a hundred and fifty years late, otherwise he and the umbrella seller would have been a perfect pair.

Then the third charge which he has levelled against me was more or less of a personal character. He has, with his usual eloquence, charged me with various things including that of being very cowardly. Sir, I know the courage of my honourable friend very well. I will never try to imitate him. It is said of Julius Caesar that when he conquered Britain he said “I came, I saw and I conquered.” My honourable friend, unlike the hero of ancient Rome, but more like the hero of a third-rate burlesque “came, spoke and abused.” Sir, I may not have his courage ; I may be lacking in courage of his sort and kind ; but I have always maintained the courage of standing up to any bully, whether inside or outside the House, whether he is verbal or physical. Sir, the words which he flung at me were neither deserved nor necessary. It was only a fit in epithet-flinging which comes over him and then he does not know the proper occasion or proper word.

It was said that the orthodox community wanted time to consider this Bill. I have already met this argument in reply to my honourable friend Mr. Mandlik. Of course, he was not here and he did not care

[Mr. K. M. Munshi]

whether the point was replied to. Why should we consult, why was it necessary to consult people whose views are unalterable? Was not this a plank in the Congress programme since 1920? Is it not that in our election manifesto we pledged ourselves to do this at the earliest opportunity? If the orthodox gentlemen, whom I honour very much for their sincerity, had suggested any change in the Bill, had made any proposal to put things right, it would have been a great pleasure to consult them. Then three months, six months or a year would have been well spent in discussing things with them. But what is the position? They oppose the very fundamentals on which we have been elected and on which we have to act. According to them, a born untouchable remains untouchable for ever and there is no scope in the Hindu religion to open temples for them. What is the use of giving any time to them? When they came in a deputation they were patiently heard by the Prime Minister and myself. They submitted petitions, and they were carefully considered. They distributed all kinds of vituperative leaflets and they were closely scanned with a view to see if they contained anything which could improve the Bill. Throughout, their whole attitude was that this Bill is based on an erroneous principle, is an insult to the religion, and that untouchability could never be wiped off. Sir, in a meeting which took place of the Sanatanists the other day, two men had the courage to vote against them; they were belaboured and thrown out of the Madhav Baug. Is it possible to argue with such people? I assure my honourable friend that he can sit down with them till eternity and still he will not be able to make them change their outlook. How can you try to convince or argue with people whose religious faith, whose life's faith, is that opening temples to Harijans is the horror of horrors? It cannot be done, it shall not be done under any circumstances whatsoever. Further consultation would have only meant six more months; the result would have been that instead of the 200 telegrams, I would have received two thousand; it would have meant a few more processions, a few more meetings. It would have been easy for Government to carry the Bill through without a Select Committee, but we knew that there were several honourable members here who would not oppose the principle of the Bill, but who were fully posted up with the views of the orthodox section and would give the benefit of their views to the Select Committee. The Select Committee heard them with patience; every point of view that was urged was considered and the Bill was sought to be made as perfect as the Select Committee could do it. Why? Merely with a view to give no opportunity for complaint. Even the Mahomedan members of this House have given us the benefit of their point of view. Why is it said that it is being rushed in a hurry? Why is it extraordinary to have it carried thus? No doubt in the honourable member they have got a great champion of the Sanatanists who does not believe in them.

The other argument which was advanced by my honourable friend was this. He said that the Governor has certain powers under the Instrument of Instructions. Are we concerned with that or are we concerned

[Mr. K. M. Munshi]

with the Provincial Legislature? The deputation that waited upon the Honourable the Prime Minister and myself cited the very article of instruction which my honourable friend has quoted here. But it has no relevance at all to the whole question. I fail to understand the argument, perhaps except as a threat.

Then it is said that I said that the Shastras should be consigned to flames and that I insulted them, and he went on to say that if I had offended the religious scriptures of any other community my head would be broken in 24 hours. Sir, I never hurt the religious susceptibilities of any one. If the honourable member wanted to attack me in this manner,—a manner which legislatures rarely witness, for they believe in the courtesy of parliamentary life,—he could have looked up a copy of my speech and found what I said. What I said then I stand by still and it is this. I will read the transcript because he was not here. [Mr. Jamnadas Mehta: I was here.] Then he either never heard the words—very often he sleeps on the bench—or did not understand them. The notes will speak for themselves, because some capital is made by certain interested people out of the words I used. I will take this opportunity to clarify the situation. I said this:

“Those of us who have tried during a life-time to understand Hinduism or its scriptures can say that Hinduism is not what they understand it to be.”

And I claim to be one of those who have read and tried to understand the meaning and the significance of Hindu scriptures more than many people who call themselves Sanatanists.

“It is a world culture, which knows no racial arrogance, no social inequality. The social structure of the Hindus is entirely different from the spirit of Hinduism and we do hope that Hinduism will be purged of its greatest disgrace of which really we feel ashamed. If I may go a little further—

The House will bear witness to it;

“If I may go a little further, I would say,—I am only confessing my personal view,—that if the Shastras are such as preach—they do not, as a matter of fact, do so—social inequality from generation to generation, then those Shastras would deserve to be consigned to flames.”

Is that an attack on the Shastras? If any one says so, I ask him to read the words over again. I say it is not. No man in his senses can take objection to that qualified sentence.

Then my honourable friend referred to Shastras. Does he know that the Vedas do not contain a word about untouchability, that they did not know anything like untouchability? Does he know that in Panchavimsa Brahmana there is actually a ceremony for lifting the fallen and the lower classes to the height of Brahminhood? Does he know that *Brihad-aranya* lays down that the wise man is he who does not know any difference between *Chandal* and *Achandal*? With what face does he tell us about Hindu Shastras, as to what should be done with them? My honourable friend has, as I said, cleared his conscience by saying that what has been done has been very well done and congratulated the House upon doing so. Sir, I also congratulate this House, because, however small this Bill, it is a great legislative effort. After 17 years,

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the Government, supported by the Indian National Congress, has had the privilege of coming before a House of Indians and putting on the statute book, as it will be done, a measure which will have the effect of removing this disgrace upon the name of Hinduism and India. And, Sir, this is not a moment for squabbles; it is not a moment for personal recriminations. When the House passes the third reading of this Bill, it will be a great moment for the new legislatures under the reforms—it will be the proudest moment for this Legislature—because when the Bill is passed, we shall have once for all given a quietus to this myth that Hinduism countenances untouchability.

With these words, I hope the House will accept the third reading of the Bill without a single dissentient voice. (*Applause.*)

Question, "That the Bill be read a third time and passed," put, and agreed to.

The Honourable the SPEAKER: The Bill is read a third time and passed. [*Applause.*]

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE
TEMPORARY RELIEF OF SMALL HOLDERS IN THE
PROVINCE OF BOMBAY).**

(*As amended by the Select Committee.*)

The Honourable Mr. K. M. MUNSHI: Sir, I move that Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay), as amended by the Select Committee, be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause I (*Short title, extent and duration*):

- (1) This Act may be called the Bombay Small Holders Relief Act, 1938.
- (2) It shall extend to the whole of the Province of Bombay.
- (3) It shall remain in force up to and inclusive of the 31st March 1939.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move:

In clause I (1), for the word "holders", substitute the word "agriculturists."

Question proposed.

Mr. S. V. PARULEKAR: Sir, Government have admitted that the question of agricultural indebtedness was under their consideration for the last six months. They had also stated, when we met in Poona, that they hoped to bring forward a measure before this session that would solve the problem of agricultural indebtedness. But they have not been able to do so. In the statement of objects and reasons it has been stated that Government have under consideration the question of the relief of agricultural indebtedness. The natural conclusion, therefore,

[Mr. S. V. Parulekar]

is that this Bill is the outcome of that consideration. Consistency would therefore demand that instead of calling this measure the Small Holders Relief Act, it should be called the Small Agriculturists' Relief Act. But, Sir, I am not relying merely on consistency when I press my amendment. There are other and more important considerations.

This phrase in the Bill excludes certain sections of people from the relief contemplated in the Bill. It excludes, first of all, large holders. I am entirely in agreement with the purpose of the Bill which tries to exclude that section of the people who are not in need of any relief. That section consists of larger holders. I may have some quarrel with the definition of the "small holder" given in the Bill. But, Sir, the phrase also excludes other sections of people who cannot be described as large holders and who are in a more pitiable plight than the small holders. I should like to ask whether the agricultural labourer is not indebted and whether he is not suffering untold misery on account of the fact that his creditor is trying to attach his property, however trivial it may be. He may have a hut which may be attached and sold. This clause does not protect the hut of an agricultural labourer. He may have a couple of milch cattle which may be his only source of maintenance when he has no employment. This Bill, in spite of the fact that in the statement of objects and reasons it has been stated that Government intend to give some relief to agriculturists, does not protect the agricultural labourer. I should like to ask the Government whether they do not consider the agricultural labourer to be organically connected with agriculture. He is; and he does require protection. Therefore, in order that the Bill may not exclude all those sections of people who are in dire need of some such protection, I have moved this amendment.

I want to make the Bill more comprehensive than it is. It is halting; it does not go far enough to achieve its purpose. It does not go beyond small holders. It might be argued that it includes tenants within its scope. I will argue that point when I move the other amendment. But I may definitely state at this stage that it does exclude agricultural labourers. In order that this class of people, unfortunate people, who are on the last rung of the economic ladder, and who are suffering most on account of their debts and the harassment of the creditors, may not be excluded from the benefits contemplated in this Bill, I propose that for the word "holder" the word "agriculturist" should be substituted. Since Government have stated that it is their intention to help the agriculturists, I hope that they will readily accept this amendment.

The Honourable the SPEAKER: Nobody seems anxious to
5-30 p.m. speak. I call upon the Honourable Minister to
reply.

The Honourable Mr. K. M. MUNSHI: Sir, I certainly would have accepted the amendment if the word "agriculturist" was as clear as the word "holder". The word "holder" has been advisedly used. The word "agriculturist" is defined in the Deccan Agriculturists' Relief Act. It is known to law, and it has a definite meaning which is

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not required for the purposes of this Bill; and therefore that word has not been used. But the word "holder" is the widest word known to the Land Revenue Code. Section 3, clause (11), of the Land Revenue Code defines "to hold land" in this way:

"'to hold land' or to be a 'landholder' or 'holder' of land means to be lawfully in possession of land, whether such possession is actual or not."

And the commentator (Rao Bahadur Joglekar) says that a holder may mean any person holding land by any right or title whatsoever. Therefore, the use of the word "holder" is meant to cover every class of person who holds land by any right or title and therefore I cannot accept the amendment of the honourable member Mr. Parulekar.

Mr. JAMNADAS M. MEHTA : So far as I understand, the object of the amendment is that everybody who is likely to be in distress—

The Honourable the SPEAKER : I thought and I said that nobody seems to be anxious to speak, and that is why I called upon the Honourable Minister to reply.

Mr. JAMNADAS M. MEHTA : I thought he rose not to make the final reply but merely to speak, because it is ordinarily expected that the Government Member will speak immediately after an amendment is moved, though it is not the practice here, and that is why I was glad to see that happen. But if you so desire, I have not the least intention of adding to your burden. I thought that the Minister was simply explaining the position.

The Honourable the SPEAKER : I am sorry for the misunderstanding. I waited for half a minute, looked round and said that nobody seems anxious to speak on the amendment, and therefore I called upon the Honourable Minister to reply. I do not think the honourable member will be in order now to treat it as if the Minister spoke for taking part in the debate and not by way of reply—

Sir ALI MAHOMED KHAN DEHLAVI : May I suggest one thing, Sir, for your consideration? Things like this have happened very often in the past, and the Honourable Minister has not been in any way inconvenienced in that respect. If an honourable member thought that a speech like that was an *interim* reply, then the Honourable Minister was allowed the right of a final reply. If there are arguments raised by any honourable member after the *interim* reply he can reply to them in his final reply. However, as you say, you certainly distinctly said that nobody seemed to be wanting to speak and therefore called upon the Honourable Minister to reply. Even in that case, you may show your leniency and allow perhaps some useful arguments that may come from my honourable friend Mr. Jamnadas Mehta.

The Honourable the SPEAKER : It is not that I should have any objection. But it was distinctly understood by all that the Honourable Minister was standing up for a reply. It would not be right that that should be treated as an *interim* reply. I shall therefore put the amendment to the House.

Mr. S. V. PARULEKAR : Have I no right of reply, Sir ?

The Honourable the SPEAKER : No. Unfortunately, the whole debate consisted of the honourable mover's speech and the reply of the Honourable Minister. That was the unfortunate position.

Mr. S. V. PARULEKAR : If I speak now, the Honourable Minister has a right of reply.

The Honourable the SPEAKER : That is again begging the question. That is what the honourable member Mr. Jamnadas Mehta also thought. I explained the position. As I did not find any one rising to speak, I said so in so many words and I said that I would therefore call upon the Honourable Minister to reply and he stood up.

Mr. S. V. PARULEKAR : I was anxious to speak after the Honourable Minister had spoken.

The Honourable the SPEAKER : Had I known that previously, I should have requested the Honourable Minister, instead of replying, to say whatever he had to say on the question.

Mr. S. V. PARULEKAR : As I spoke before the Honourable Minister spoke, I had no opportunity to answer him.

Mr. JAMNADAS M. MEHTA : If you treat it as an *interim* reply, the whole trouble will be over. It all depends on how you treat what he said.

The Honourable the SPEAKER : It is not a question of avoiding trouble. It is creating a precedent. That is what is passing in my mind.

Khan Saheb FAIZ MOHAMED KHAN : Before the Chair asked the Honourable Minister to reply, would it not have been the just and proper and right thing to do to ask the honourable member to say anything he wanted to say ?

The Honourable the SPEAKER : It could not be. He had said whatever he had to say, and unless he had heard some other person in the debate, I could not be expected to call upon him to reply to something which was never said. He had given out all that he had to say. However, if the honourable member is so anxious, with the consent of the House and taking advantage of the fact that there was an honest misunderstanding on the part of honourable members, I may be inclined to treat the Honourable Minister's speech as not one of reply but an *interim* speech which he was entitled to make.

The Honourable Mr. K. M. MUNSHI : I would have no objection at all. But it is a question of precedent. I stood up only when you gave an indication that I should do so. After all, this matters nothing ; the heavens are not going to fall ; in this case, therefore, I am prepared to waive it. But it is a matter of precedent. You looked round to see if anybody stood up and you asked me to speak for a final reply. In this case if the House wants it, I am prepared to waive my right, but it should be understood that it cannot be made a precedent.

Sir ALI MAHOMED KHAN DEHLAVI: This is a very important point, and I should crave the indulgence of the Chair to let me make a statement. The House fully understood what you meant and said clearly, and we all thought, except my honourable friend Mr. Jamnadas, that the Honourable Minister gave his final reply. The honourable member Mr. Jamnadas is attempting to get the Chair to allow him to make a speech. If you allow him to do so, then others would have a right to speak. But there is a difference between his endeavour and the right of the honourable mover of the amendment to a reply after the Honourable Minister has said whatever he had to say, and particularly when there was no other honourable member who wanted to say anything on his amendment. The honourable mover has a right to reply and then the Honourable Minister can give his final reply. The line I draw between the two is this: the honourable member Mr. Parulekar moved his amendment, there was no debate, and then the Honourable Minister said something which he has a right to do. Then if the honourable mover, without going into any other matters, which you would not allow, has got to say something in reply to what the Honourable Minister has said, I think he should be allowed to say it, and then the Honourable Minister can give a final reply. How can you deny to the honourable mover of an amendment the right of having his say in reply after some one else has spoken, whether it be the Minister in charge or any other member? That is the point for your consideration.

Rao Bahadur G. K. CHITALE: I wish, Sir, that once for all you are firm in your decision in not allowing the motion to be spoken to now. These are little precedents which grow up in time and spoil the whole game. I should think, right or wrong, the House understood that after the amendment was moved and spoken to, nobody else wanted to speak and the Honourable Minister in charge of the Bill was asked to give his reply. After that reply was given, the whole debate was at an end. Therefore, whatever the misunderstanding or understanding, I should think that the Chair should be firm that after the reply is given the debate was closed. We are not losing anything.

Mr. JAMNADAS M. MEHTA: I hope, Sir, you won't listen to this old gentleman.

The Honourable the SPEAKER: I believe I am bound to listen to any one, old or young.

Mr. JAMNADAS M. MEHTA: Not to carry it out.

The Honourable the SPEAKER: To my mind, the position is clear. If once a reply has been made by the party which has got the final right of reply, the question cannot be re-opened. The only point I was considering was, if there was an honest misconception or misunderstanding on the part of any member of this House, whether I should, in such a case, without affecting the general principle, allow or not allow a further speech. I appreciate the inconvenience felt by the honourable member Mr. Parulekar. In view of the opinion expressed, particularly about creating a precedent, I think—I regret the inconvenience caused to the

[The Speaker]

honourable member—rather than set a new precedent of re-opening the debate on the ground suggested, must hold the debate as closed.

Question put. The House divided : Ayes, 25 ; Noes, 76.

Division No. 6.

Ayes.

<p>AIDALE, Mr. J. S. BHAGAT, Kbar Saheb JSSA. BHATANKAR, Mr. R. G. BHOLE, Mr. R. R. CHITRE, Mr. A. V. GAVIT, Mr. D. P. HAKHEM, Kbar Saheb A. B. JADHAV, Mr. D. G. JAGTAP, Mr. D. K. JHABVALA, Mr. S. H. KALE, Mr. R. S. KAZI, Mr. AZIZ GAFFUR</p>	<p>ABDULLAH HAJI</p>	<p>KHEDGIKAR, Mr. R. A. MANDLIK, Mr. R. N. MEHTA, Mr. JAMNADAS M. MOHAMEDALLY ALLABUX, Mr. PARULEKAR, Mr. S. V. PATEL, Mr. MAHOMEDBAWA M. PHADAKE, Mr. G. K. RANE, Rao Saheb B. N. RAUT, Mr. D. W. ROHAM, Mr. P. J. SAVANT, Mr. K. S. THEORAT, Mr. R. B. VARALE, Mr. B. H.</p>
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Tellers for the Ayes : Mr. K. S. SAVANT and Mr. S. L. KARANDIKAR.

Noes.

<p>ANTROLIKAR, Dr. K. B. BHARTIYA, Mr. S. R. CHITALE, Rao Bahadur G. K. CHAWDHARI, Mr. D. N. CRAWHAN, Mr. P. L. COLLAÇO, Dr. J. A. DABHI, Mr. FULSINHJI B. DANDEKAR, Mr. V. V. DESAI, Mr. DINEARRAO N. DESAI, the Honourable Mr. MORARJI R. DESAI, Mr. RANDHIR P. DESHMUKH, Mrs. ANNA PURNA GOPAL DRSHPANDE, Mr. G. H. GANDHI, Mr. M. M. GAVANKER, Mr. S. K. GHIA, Dr. C. J. GILDER, the Honourable Dr. M. D. D. GONHALE, Mr. K. G. GOPI, Mr. M. G. GUPTA, Mr. B. M. HALLIKERI, Mr. N. F. HIRAY, Mr. B. S. JADHAV, Mr. T. S. JAKATT, Mr. P. C. JOSHI, Mr. JINABHAI P. JOG, Mr. V. N. KAMBLI, Sir SIDDAPPA T. KANTGA, Mrs. VIJAYAGAU RI BALVANTRAI KARAVADE, Mr. R. K. KARGUDRI, Mr. S. S. KATHALE, Mr. B. S. KESHWAIN, Mr. S. N. KHERR, the Honourable Mr. B. G. LALA, Mr. BROODHAL D. LATTRE, the Honourable Mr. A. B. MAGANLAL NAGINDAS, Mr. MASTER, Mr. NAGINDAS T. MEHTA, Mr. H. P. MORABHAI KASANJI, Mr.</p>	<p>MUKADAM, Mr. W. S. MUNSHI, the Honourable Mr. K. M. MUNSHI, Mrs. LILAVATI K. NAIK, Mr. V. N. NESVI, Mr. T. R. NEMANEE, Mr. P. A. NURIE, the Honourable Mr. M. Y. PATASKAR, Mr. H. V. PATEL, Mr. BABUBHAI J. PATEL, Mr. BHAILALBHAI B. PATEL, Mr. MANGESH B. PATIL, Mr. ATMARAM N. PATIL, Mr. GAMBHIRRAO A. PATIL, Mr. KALLANGOU DA S. PATIL, the Honourable Mr. L. M. PATIL, Mr. MALGOUDA P. PATIL, Mr. NARHAR R. PATIL, Mr. S. K. PURANI, Mr. C. B. RAJMAL LAKHICHAND, Mr. SAKLATVALA, Mr. S. D. SATRE, Mr. S. H. SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB JAGDEORAO SHIRALKAR, Mr. P. K. SHRIKANT, Mr. L. M. SINGAPORI, Mr. A. E. SONGAVKAR, Mr. S. G. TALKAR, Mr. K. R. THAKOR, Mr. B. P. THUSE, Mrs. LAXMIBAI GANESH TULPULE, Mr. H. V. VAGHELA, Mr. B. U. VINCHOORKAR, Sardar N. G. VYAS, Mr. ISHVARLAL K. WADEKAR, Mr. R. B. WALVEKAR, Mr. B. B. WANDREKAR, Mr. D. N.</p>
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Tellers for the Noes : Mr. D. N. WANDREKAR and Mr. L. M. SHRIKANT.

6 p.m.

Mr. D. W. RAUT : Sir, I beg to move :

In clause 1, sub-clause (3), delete "and inclusive of" and add after 1939 "or till the operation of the proposed legislation regarding the relief of agricultural indebtedness and the regulation of tenancies comes into force".

Question proposed.

Mr. D. W. RAUT (*Addressed the House in Marathi*) : Sir, the amendment that I have moved is before the House. If we see the Statement of Objects and Reasons of this Bill, it will be seen that Government have brought this measure in order to give relief to poor agriculturists and to prevent their eviction from their lands. Government propose to bring in two comprehensive measures, but as it will take some time before they are brought before the House, they have brought this measure meantime. Sir, the present Bill when enacted into law will remain in force till the 31st March 1939, and to this provision I wish to add that this law should remain in force till the two Bills that Government are going to bring are passed into law.

Sir, I may be told by the Government Benches "We are going to bring in two comprehensive measures within one year, so your amendment is unnecessary." But, Sir, if we look to the Congress History we cannot know definitely that the Congress will remain in the saddle for any particular period, and we cannot say that there would be no difference of opinion between the Governor and the present Ministers. Though nobody wishes that such an unfortunate state of affairs should arise, if such an impasse were to come, and if the period of this Bill lapses and no fresh legislation is passed, then the poor agriculturist will have to suffer, unless my amendment is accepted by Government.

The Honourable the SPEAKER : I think a good deal of discussion is likely to take place with reference to this amendment as also the amendment proposed by the honourable member Mr. Jamnadas Mehta. So, it will be better if he (Mr. Jamnadas Mehta) formally moves it now, so that the House will be in a position to discuss both the amendments simultaneously and much time of the House will be saved.

Mr. JAMNADAS M. MEHTA : Sir, I beg to move :

In clause (1), sub-clause (3), after the figure "1939" add "or such further time as the Government by notification in the Gazette fix provided that the time so fixed shall not be longer than 31st March 1940."

Question proposed.

Sir ALI MAHOMED KHAN DEHLAVI : Sir, on a point of information. I thought that all those honourable members in this House who were interested in behalf of the small-holders were anxious that Government should commit itself to a particular period of time within which they would bring the larger legislation. Government have chosen to fix 31st March 1939, and if the honourable member put in those words at the end of the clause, then that would give Government longer period to bring in their legislation, and they would get out of the promise that they make to-day as we see it in this clause 3. I do not know what the object of the amendment is. I have not been able to follow fully my

[Sir Ali Mahomed Khan Dehlavi]

honourable friend Mr. Raut in Marathi, but I think that the object at the back of every one who is interested in the small holders is that he should have relief as soon as possible, and, if that is so, I think we would be ill-advised in telling Government to accept 31st March 1939.

Mr. JAMNADAS M. MEHTA : Sir, I shall try to convince Sir Ali Mahomed Khan Dehlavi that, at any rate, what I have moved will not come within his displeasure. All of us do want that the legislation promised by the Government, will pass in both the Houses of this Legislature and receive the sanction required, so that from the 1st of April 1939 the new permanent measure shall be in operation. We are only conceiving a possibility, not of the kind which my friend Mr. Raut has visualised that this Government will resign. That fear I have not got. They will stick to it like leeches. There is no such fear of any kind in my mind. My honourable friend Mr. Raut is still a greenhorn. He thinks that they will not stick and will leave their places ; I have no such fear. The past six months have proved that they are more capable of giving up their principles than of giving up their places. But I am hoping that once in a way they will fulfil their promise, that they will bring the measure and that the measure will be of the kind we want. But in case in spite of the best that they do it happens that a few months or a few weeks are still needed to complete the legislation, then the interregnum that will follow will bring in an epidemic of attachments because this legislation will have ceased, the new one will not have come into force and the interregnum will be a hard time for these people for whom this legislation is intended ; Sir, I am giving full credit for *bona fides* to the Government that they will bring in a legislation and complete it. But in view of something happening which might delay the best of intentions of Government, I am giving them the power, I do not want them to use it, unless they must, I do not want to go beyond the 1st April 1939, but I realise that legislation requires sufficient time for consideration. The drafting of Bills cannot always be performed within a time-table. We are aware that even after the third reading of a Bill Government would need to make some amendments and after these amendments are made, the Upper House might make some more. My honourable friend Mr. Raut's amendment is intended to give an indefinite length of time. Of course, if Government agrees it will not put the agriculturist in a worse position because the protection will remain. Even if Mr. Raut's amendment is carried, the agriculturists will get protection until a new Bill is brought. Therefore, by accepting either of these amendments, the agriculturists will not suffer. But in case neither legislation is completed within one year and this amendment is not allowed—the period that intervenes between the passing of this Bill and the passing of the new Act, will be a time of great hardship to the small holders who will have a volley of attachments and the sowkars and the creditors will take advantage of the situation ; neither the Government nor the Opposition want that and I do hope that Government therefore will agree to this amendment. That is the submission which I am making to the House and Government in all seriousness and

[Mr. Jamnadas M. Mehta]

it is both for the benefit of the Government and the people to pass this amendment until the new legislation comes. At the same time, I do not want any indefinite period because it will cause hardship to the other side. For this reason, I have moved this amendment and I hope the House will accept it.

Mr. S. H. JHABVALA (Railway Unions): Sir, I rise to support the amendment of my friend Comrade Raut and in so doing I want to draw the attention of the House to the Statement of Objects and Reasons that Government have given at the end of the Bill. In that they say that they have got under consideration the question of the relief of agricultural indebtedness and the regulation of tenancies, but the framing of a complete scheme for this purpose requires very careful consideration and the detailed working out of the necessary measures. Now, these are very weighty expressions and this itself shows that the Congress Government, vested as it is with limited powers, will certainly take a lot of time in the matter of revising and completing their agrarian policy. Up till now, in reality we all are in dark as to what is the nature of the measure necessary nor do we know what is their careful consideration nor do we know what is the gist of their whole agrarian policy. Under the circumstances, though the object of Government is very laudable, namely, to relieve the small-holders of certain kinds and forms of indebtedness, but in the present structure of economic society, whether they will be able to realise that within a certain limited period of time, namely, one year is a matter that raises great and grave suspicions in our minds. Our small holdings are, in the first place, uneconomic. To make them economic and to make these small holders stand on their own legs within a year by suggesting a method of this kind, I think, is not possible nor feasible. Therefore, I have to support the amendment of my friend Mr. Raut that extension of time should be given as a safeguard against possible contingencies as well as with a view to extending economic facilities to small holders. -

*Rao Bahadur G. K. CHITALE (Ahmednagar South): Sir, I rise to oppose both the amendments. Are you really in earnest as regards promoting the status of an agriculturist, uneconomic as it is or do you only want fireworks, passing a certain legislation, which I should think, is not properly conceived in the interest of the agriculturist? The present Bill is only a temporary measure of relief. The shorter the period, the better from my point of view and I am quite willing to put my faith in the Government when they give you a promise that this is really no relief but they want to bring in a wholesome Bill which will relieve the indebtedness of the agriculturists in general.

In the first place, you will find that this Bill confines itself to small holders. Even though the Select Committee has extended the scope of the definition of "small holders" by stating "who holds land not exceeding six acres of irrigated land or eighteen acres of other land, or who holds land of whatever description, the total annual agricultural

* Speech not revised by the member.

[Rao Bahadur G. K. Chitale]

assessment of which does not exceed Rs. 30 ", it is certain that the Bill is not intended to benefit bigger land-holders or tenants. I may put to you a straight question, whether the agricultural classes can hope to get the requisite financial help from quarters on which they have been depending for it so long, after the passing of a measure like this. The present condition of the agriculturist is such that he will not be able to get the wherewithal to carry on his agricultural operations, and he cannot produce the little he can without financial help from outside. As this measure will have the effect of drying up the source on which he has been depending so long, I think the shorter the duration of this measure, the better will it be for us all. Look at the other side of the picture. While you want to help the poor agriculturists, you also throw them away from the stronghold of their financial source.

Now, if you put it down to 1940, that is, two years hence, have you thought about the various dislocations which are likely to grow in the village economy, namely, between the creditor and the debtor ?

Do you assume, as common sense men of this world, that after this Bill is passed they will get what little help they want within a particular period which cannot be exceeded ? Just imagine this. After the rains fall, the grain must be sown in proper time, that is to say, within eight or ten days after the rains have made the ground sufficiently damp. If this Bill is in operation, the landlords or savkars would certainly restrict their advances and would not advance them anything in time. I am quite ready to put before you here a picture of some experience that I had with respect to the administration of such a piece of legislation. You know that in certain tracts in years of famine or scarcity, nothing grows. It has always stood to the credit of the savkars that after good rains fall they provide the agriculturists with seed within the particular period within which it is necessary that the seed should be sown. Do you believe that the Congress Government, omnipotent though it may be, has at its disposal so many distributing agencies which can operate over such wide areas and supply the wants of the agriculturists ? As one who had administered famine measures on four occasions, I was asked by the revenue officers, even though I had ample funds in my hands for providing seed, whether I was able to make the necessary arrangements to provide seed supposing the rains were favourable. I told them, after the experience I had gained, that they need not worry over the matter and that the village savkar, who had something to get out of the agriculturists, would take jolly good care to provide the little seed that the agriculturists wanted, the value of which would not exceed Rs. 5 or Rs. 10—I am talking about small holders, of course. If God helps us and the rains are plentiful, I am sure that all the barren land will be under cultivation. And with whose help ? With the help not of the Government or their funds, but with the help of the savkars. I am here to tell you that in the last four seasons of famine, every money-lender has advanced to the agriculturists for the purchase of seed to an extent to which it will be impossible for any agency to do.

[Rao Bahadur G. K. Chitale]

I wish to put before the House another phase of the question. My honourable friend Mr. Parulekar wanted to extend the scope of the Bill. I should think that the scope of the Bill is sufficiently wide now. What the Government have done is this. They are more practical. Instead of getting rid of all agricultural indebtedness and getting a good name, they say, "We will try and see how the small holders are benefited by the measure we are bringing forward. We will gain experience. If our efforts are successful, we will go ahead." And take it from me that if you extend the period of this Bill, you will be giving excuses to the Local Government for delaying the measure which we really want. We want that measure as early as possible. We want the scope of that measure to be as wide as possible having regard to the limitations which must be adjusted between the village money-lenders, the Government and others and to the safeguards which are needed from the points of view of both parties.

Now, Sir, what does the amendment propose? You want that the holder of land paying an assessment of Rs. 30 should—

Mr. JAMNADAS M. MEHTA: Extension of time.

Rao Bahadur G. K. CHITALE: But I say, give them six months. When they promise that they will bring forward that measure, why not believe them?

Mr. D. W. RAUT: On a point of explanation—

Rao Bahadur G. K. CHITALE: I am not prepared to yield. I do not want any explanations.

The briefer the period, the better, from my point of view. [Interruption.] I do not want to move such an absurd amendment. I am trying to make the point that now that the Government have promised to bring in an all-embracing measure for relieving the indebtedness of the agriculturists proper, you can take them to task if this period expires without their bringing in such a measure. Even if that piece of legislation goes through in the September-session in Poona, it will take the place of this little Bill. It is not intended that it should go on indefinitely. Otherwise, why not accept the honourable member Mr. Raut's amendment? Go on for the full period of five years. Then go to the elections and come back again. I therefore think that this amendment must be thrown out—I mean both these amendments.

Mr. D. W. RAUT: On a point of explanation, Sir. My amendment does not say that the period should be extended. If the Bill which it is proposed to bring in is brought within two months, my amendment will have effect, because it says "till the operation of the proposed legislation comes into force". That means, if the proposed Bill comes into operation within two months, the present Bill will go.

The Honourable Mr. MORARJI R. DESAI: Sir, two amendments have been brought forward with two opposite views. The honourable member from Thana (Mr. Raut) is afraid that this Ministry might resign at any time and that there is a danger that permanent legislation

[Mr. Morarji R. Desai]

may not be brought forward, whereas the honourable member for the Railway Unions (Mr. Jamnadas Mehta) does not believe in the capacity of the Ministry which is in charge, because he does not want to believe, and it does not pay him to believe, in it. He says that it is necessary that the Ministry should be given more time so that they may bring in the proposed legislation and that till then this Bill should last. I wish he had not cast a reflection on the great party to which I have the honour to belong; but I am afraid it is not possible to prevent him from doing so from time to time, because, after all, a man can reflect what is in him; he cannot appreciate what is in others.

Government would not like to accept the amendments only because they are particular to see that they bring in permanent legislation as soon as possible. If the time is extended, there is always a danger of temptation in our path, and it is not necessary to face us with such a temptation. The fear about the Ministry going out of power and the agriculturists getting into difficulties is quite out of place—(Honourable Members: Hear, hear.)—not because my honourable friend for the Railway Unions thinks that we are going to stick to office at any cost, but because the Congress Ministry, when it goes out of power, will have left such precedents that it will be impossible for anybody following after them to put this work aside and not take it up immediately.

The Honourable Mr. K. M. MUNSHI: What about an interim ministry?

The Honourable Mr. MORARJI R. DESAI: There is no scope for an interim ministry coming into existence in future, as far as I can see, because they have had a sufficient lesson as to the result of accepting that sort of ministry. But we need not go into that discussion on this Bill.

Even supposing that the Government which comes into existence after this Government resigns is very reactionary, there will be nothing to prevent that Government from scrapping this Act altogether. It is no use being afraid about this matter. (Mr. R. R. Bhole: Do you want it?) Therefore, Sir, I should like to assure honourable members opposite who have any doubts in the matter that the legislation which we wish to bring forward in this connection is not likely to take more than six months at any rate. That is why we have taken a year's time at the most, to be on the safer side. We do not want any more time than that, because it is an unnecessary temptation in our path. Therefore, I oppose both the amendments.

Mr. JAMNADAS M. MEHTA: Sir, in view of the Honourable Minister's statement, I should be very happy to withdraw my amendment.

Mr. D. W. RAUT: I wish to reply to the debate.

The Honourable the SPEAKER: It may take some time. We may resume tomorrow.

The House then adjourned till 2 p.m. on Wednesday, the 2nd February 1938.

Wednesday, the 2nd February 1938.

The House re-assembled at the Assembly Hall, Bombay, on Wednesday, the 2nd February 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

AIDALE, Mr. J. S.
 ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Sahab ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAUDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 CURBION, Mr. FRED J.
 DABHI, Mr. FULSINJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. GURASHIDDAPPA K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAPURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Sahab
 FIRODEA, Mr. K. S.
 FRENCH, Mr. F. H.
 GANDHI, Mr. M. M.
 GAVANKER, Mr. S. K.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.

GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JANVEKAR, Mr. K. A.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATE, Mr. APPAJI YESHWANTRAO *alias* BAPUSAHEB
 KATHALE, Mr. B. S.
 KAZI, KHWAJA BASHIRUDDIN KHWAJA MOINUDDIN
 KAZI, Mr. AZIZ GAFUR
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. Lilavati K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL

NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PIKE, Mr. G. O.
 PURANI, Mr. C. B.
 RAIS, K.B. SARDAR HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED HAJI SHAIKH KALLA, K.B.
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.

VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE
 TEMPORARY RELIEF OF SMALL HOLDERS IN THE
 PROVINCE OF BOMBAY).**

(Clause by clause reading resumed.)

Mr. R. A. KHEDGIKAR : Sir, may I know how many members of the select committee, other than the Congress members, have signed the report ?

The Honourable the SPEAKER : I believe the select committee report is in the hands of the honourable member. That will show the members who have signed the report. It is not a matter within the special cognisance of the Honourable Minister.

The House was discussing amendments Nos. 2 and 3 yesterday when it adjourned. Does anybody wish to speak ?

Mr. JAMNADAS M. MEHTA : I have asked for permission to withdraw my amendment in view of the assurance given by the Honourable the Revenue Minister.

Mr. S. V. PARULEKAR : The Honourable Minister has assured the House that he would bring a Bill within six months.

The Honourable the SPEAKER : He said that he would bring in a Bill within six months but to be on the safe side, he had put in one year.

The honourable member Mr. Jamnadas Mehta wishes to withdraw his amendment. Has he the leave of the House to do so ?

Amendment, by leave, withdrawn.

The Honourable the SPEAKER : Amendment No. 2 of Mr. Raut is before the House. I understand no member wishes to address the House. The honourable member Mr. Raut is replying.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Sir, my amendment in whatever shape it may be is essential. My amendment only seeks to extend the operation of this Bill beyond 1939 in case the proposed Bill does not come into operation by 1939 March as they have proposed in the Bill. In any case, my amendment will not affect in any way the Bill as it is. During the last six years the prices of commodities have fallen and Government have not done anything to ameliorate the condition of the agriculturists so far.

Sir, the Honourable the Revenue Minister assured the House yesterday that Government would bring in the legislation within six months. Even

[Mr. D. W. Raut]

if it is introduced within that period, we cannot say how long it will take to reach the statute book. That point has not been made clear by the Honourable Minister. My fear is that if this Government resigns, a minority Government may not be able to settle down to business, with the result that the contemplated legislation may not see the light of day. I will give you the instance of Madras. There, the Government have taken to themselves the power to extend the Act for one year more after it expires.

After all, Sir, we must admit that this Bill has been brought forward for the benefit of the agriculturists. The period of its operation does not matter much. Even if the contemplated legislation does come before the House and become law, my amendment will not be out of place, as the present Bill will automatically go out of operation immediately after that proposed Bill comes into force. Supposing that for one reason or other that legislation is not brought in within the promised time, my amendment seeks only to extend the life of this Bill during the intervening period.

The argument advanced by the Honourable the Revenue Minister that my amendment would amount to putting a temptation in the path of the Government does not convince me. I do not think that this Government will succumb to that temptation.

I therefore hope that Government will give us a definite assurance as regards the legislation which they contemplate bringing in. If the assurance is satisfactory, I am prepared to withdraw my amendment.

The Honourable Mr. K. M. MUNSHI : Sir, my honourable colleague has already assured the House that Government are very serious about the legislation which they propose to bring forward and that as far as possible they will be able to bring it before the House within six months and make every possible attempt to see it through. In view of that assurance, the arguments of the honourable member who spoke last are really beside the mark. Evidently, what he is thinking of is that this Government may go out and some other Government may come and may not bring in the legislation. Well, Sir, another Government, if it is a parliamentary Government with a majority behind it, will do all that it possibly can to carry it out. If it does not, then nothing can prevent it from deleting this clause from the Bill, if it has a majority behind it. But supposing it likely that this Government goes out and there is no majority Government here, then nothing that my honourable friend can think of will save the situation. So, in view of our assurance, I would appeal to him to withdraw the amendment. Let us take all steps on the footing that the present situation is to continue another six months. I hope, therefore, that my honourable friend will withdraw his amendment.

Mr. D. W. RAUT : In view of the assurance given by the Honourable Minister, I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Clause 2 (Definitions):

In this Act, unless there is anything repugnant in the subject or context.—

(1) "Person" includes an undivided Hindu family.

(2) "Small holder" means—

(a) an individual—

(i) who holds land not exceeding six acres of irrigated land or eighteen acres of other land, or who holds land of whatever description, the total annual agricultural assessment of which does not exceed Rs. 30, and

(ii) who cultivates land himself or is an inferior village servant:

(b) an undivided Hindu family—

(i) which holds land not exceeding the limits specified in clause (a) (i), and

(ii) at least one member of which personally cultivates land.

Explanation.—For the purposes of this clause, in the case of a person who holds irrigated as well as other land, one acre of irrigated land shall be deemed to be equal to three acres of other land and *vice versa*.

(3) The words and expressions used in this Act, but not defined, shall have the meanings assigned to them in the Code of Civil Procedure, 1908, or the Bombay Land Revenue Code, 1879, as the case may be.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move:

In clause 2 (2), for the word "holder" substitute the word "agriculturist".

Question proposed.

Mr. S. V. PARULEKAR: Mr. Speaker, Sir, I wish the Honourable the Home Minister had listened carefully to the few observations which I made when I moved my first amendment. If he had done so, he would not have given the irrelevant reply that he gave yesterday. In order that the simple issues may not be shrouded in vague discussion, I would like to put a few simple, specific questions to the Honourable the Home Minister and request him to give straight replies. The first question is whether the phrase "small holder" does not exclude from the scope of the benefit contemplated in the Bill persons who are economically in a much more pitiable condition than the small holders. My second question is whether the agricultural labourers do not form a major part of this unhappy class of people in this presidency. Perhaps the Honourable Minister will dispute it and say that agricultural labourers have nothing to do with agriculture. In this connection, Sir, I will only quote a sentence from a book of one who is regarded as an authority on agrarian problems, Mr. Radha Kamal Mukherjee. In his book "Land Problems of India", he thus describes agricultural labourers:

"A considerable portion of the large number of persons in the category of vague and unclassified occupations are labourers clearly connected with the occupation of the land."

The phrase 'holder' which has been adopted in this Bill does, in my view, exclude these agricultural labourers from the benefit of this Bill.

[Mr. S. V. Parulekar]

It also excludes a certain class of tenants. Yesterday the Honourable the Home Minister read from the Land Revenue Code the definition of a "holder". I will read it again for his benefit :

"to hold land' or to be a 'landholder' or 'holder' of land means to be lawfully in possession of land, whether such possession is actual or not."

The phrase small holder includes tenants who are in lawful possession of land to the extent of 6 acres of irrigated land or 18 acres of dry land. But I should like to put to him a question and illustrate my point of view. Take the case of a tenant who has cultivated land since 1934 but who was evicted on 1st January 1936. Is such an agricultural tenant covered by the phrase which has been adopted in this Bill ?

Sir, if it is the intention of the Government to exclude agricultural labourers totally from the benefit of this Bill, if it is their intention also to exclude tenants of the description that I have just given, let them state so in clear and unequivocal terms, so that the people may know really in whose interests this Bill has been brought forward and how far the agriculturists are likely to be benefited by it. That is why I press this amendment. I wish the Honourable Minister, instead of giving vague replies, to come forward with straight answers to my straight questions.

Re : SHORT NOTICE QUESTION.

Mr. HUSEIN ABOOBAKER BEGMAHOMED : Sir, as I was late, on account of a break down of my car, I could not ask the short notice question of which I had given notice. Will you please permit me to ask it now ?

The Honourable the SPEAKER : It may be taken up tomorrow, or at the next sitting, if the Bill is finished to-day.

BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE TEMPORARY RELIEF OF SMALL HOLDERS IN THE PROVINCE OF BOMBAY).

(Discussion on clause by clause reading resumed.)

The Honourable the SPEAKER : I would not call upon the Honourable Minister now to reply, because I should like to see that the honourable member Mr. Parulekar gets an opportunity to speak again. If the Honourable Minister has to say anything, he may speak.

The Honourable Mr. K. M. MUNSHI : Sir, the scope of the Bill is already defined in clause 1. It is a "Small Holders Relief Act"; and the holder, as I have already pointed out, is not merely the owner, not merely the occupant, but even a tenant of an occupant, as has been held by the High Court. That being the scope of the Bill, I do not think the amendment which is sought to be moved is in any way relevant to the purpose of this Bill.

Sir ALI MAHOMED KHAN DEHLAVI: I want the Honourable Minister to clear a point. In the statement of objects and reasons they have stated that the question of the relief of agricultural indebtedness is under consideration, and in this Bill they have descended down to a more limited sphere. But I suppose the Bill that is intended to be brought up would deal with the indebtedness of the agriculturists generally.

The Honourable Mr. K. M. MUNSHI: Agriculturists as a whole.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I am afraid the technical reply or the explanation given by the Home Minister does not take the thing beyond what it was when Mr. Parulekar moved his amendment. The Minister's only plea has been that it is not strictly relevant to the Bill.

This, Sir, is a point for you to decide. You have allowed this amendment and also the preamble does not stop where the Honourable Minister left it. It says:

"Whereas it is expedient to provide for the temporary relief of small holders in the Province of Bombay and for certain other purposes specified herein; "

Therefore, the preamble is wider than merely a provision for people who may be technically called small holders. You have been also pleased to allow the amendment. The question which Mr. Parulekar asked and which the House would like to be answered is whether the Government wish to provide not merely for a person who is technically called a small holder but for every agriculturist who is likely to be in distress in these 12 months' time. This question requires to be answered because, as the honourable the leader of the Opposition asked and it was admitted by the Honourable Minister, that the next Bill, for which this is a stop-gap provision, is going to provide for the permanent relief of indebtedness of the agriculturists. Therefore, this Bill for the intervening period also should protect the agriculturists for the time being. The amendment is, therefore, perfectly relevant. It is not only relevant but it alone fulfils the real object of the Bill, namely, that the people who are to be protected at the end of the next March 1939 should be protected during the interval. The words "holder" and "occupant" are defined in sub-sections (11) and (16) of section 2 of the Land Revenue Code. Sub-section 11 says:

"to hold land' or to be a 'landholder' 'holder' of land means to be lawfully in possession of land, whether such possession is actual or not; "

Occupant on the other hand means a holder in actual possession of unalienated land. In the first, the land may be alienated also. Occupant is a technical word for the holder of unalienated land other than a tenant. This is what sub-section (16) of section 2 says:

"'occupant' means a holder in actual possession of unalienated land, other than a tenant; provided that where the holder in actual possession is a tenant, the landlord or superior landlord, as the case may be, shall be deemed to be the occupant; "

Then the foot-note says that the difference between holder and occupant is that holder signifies a person holding any land alienated or

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unalienated and "occupant" means a holder of unalienated land. Therefore, a tenant or an occupant may be protected by this measure, but an ordinary agriculturist, who has got any debt for which his property is being sold, is not benefited. Mr. Parulekar says: if you want to protect the poor agriculturist, look at his vocation and not the technical term under which he works. If he is an agriculturist, if in essence his vocation is of agriculture and if he is likely to be distressed during the next 12 months by way of sale of his property, then that should be stopped. I think that is the real spirit and letter of the legislation which we hope will be passed next year. Therefore, it is in the fitness of things that this amendment should be accepted by Government, and I hope the House will accept the intended meaning and not the technical meaning behind which shelter is taken.

Mr. R. R. BHOLE (Poona West): Sir, we on this side of the House only want to know whether the Government includes in the definition of "small holder" landless agricultural labourer, as it is defined in other statute books. People might say that if an agricultural labourer is landless why should he be at all included within the provisions of this Bill. But, Sir, I beg to submit that this is a Bill which is intended to relieve them from their debts, and as such every agriculturist, they may define him in any way they like, should be included. I am sure the Government are aware of the fact that the agricultural labourers in our Presidency are to the extent of approximately 21 lakhs, and if such a vast number is excluded from the scope of this Bill, then I should say that the Government would be doing a great injustice to this vast number of agricultural labourers. Is it or is it not the desire of Government to include the landless labourers who are as indebted as any other small holder, and if it is not the desire of the Government, then certainly Government should accept the amendment which Mr. Parulekar has suggested, or any other term which might suit them to include these landless labourers. With these words, I resume my seat.

Mr. S. V. PARULEKAR: Sir, I had asked very simple and straight questions to the Honourable the Home Minister. I cannot conceive that he has not understood them. And yet he has avoided to give straight replies to the questions which I had put. Yesterday he was eloquent when he was propounding the principles of *shastras* and *vedas*, but today when I ask him straight questions, he avoids to give straight replies, and he did not even remotely touch the point which I made out in my speech.

The Honourable the SPEAKER: The occasion is the exercise of a right of reply; it is only to reply to the points, if any are made out. It should not be used as an occasion for ventilating some other grievances. That is not the proper scope of a right of reply.

Mr. S. V. PARULEKAR: Sir, I had no intention of attributing motives to the Government when I moved this amendment, but I would be justified in saying now, since straight replies have not been given to

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straight questions, that they have not the courage to go to the people and say in unequivocal words that they want to exclude the agricultural labourers and certain class of tenants. If they are prepared to admit their cowardice, I have nothing to say. But let them be bold enough to tell people what they want to do, and let them not deceive people by saying that this piece of legislation is for the benefit of all the agriculturists in the Presidency.

With these words, I press my amendment.

The Honourable Mr. K. M. MUNSHI : Mr. Speaker, Sir, I am speaking on this Bill and on the particular amendment. If one can go to everything connected with the agriculturists one might as well write a report like the report of the Royal Commission on Agriculture, which I do not propose to do. The definition of the "small holder" in clause 2 which is now sought to be amended, is only with reference to the operative part of clause 3. The object of these two clauses taken together is this. Government intend to bring legislation which will have the effect of alleviating rural indebtedness. Pending that legislation and relying upon the rumours that are spread outside, the decree-holders are bringing the properties of small holders to sale. Sir, if these two clauses are not there, the effect will be to deprive small holders of their land by the time the substantive Bill is put through. Sections 2 and 3 are intended to save the property of those small holders against whom decrees are pending. That is the object of defining the term "small holder". I ask the House to read with me the section to see how absurd it would look if we accept the amendment to substitute the word "agriculturist" in place of the words "small holder". It would read like this: "Agriculturist" means "an individual who holds land not exceeding five acres of irrigated land or fifteen acres of other land," etc. Therefore, the amendment would reduce this clause to this absurdity that an agriculturist means a person who holds land. Now, "holder" is a well-known term of law; it is a term well-known to the Land Revenue Code and the Department. Then, why should we substitute the word "agriculturist" and say that an agriculturist is a person who holds land?

As regards other matters, they are entirely outside the scope of the amendment as I will show at the proper time. What I want the House to realise is that the word "holder" as stated by me and once more stated by the honourable member Mr. Jamnadas Mehta really means a person who holds land. If we accept this amendment and say that a person who holds land is not a holder but an agriculturist it would be entirely inartistic, crude and stupid.

I, therefore, oppose this amendment.

Mr. S. H. JHABVALA : Sir, in their Statement of Objects and Reasons Government have stated: "to prevent the sale of the lands of small

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agriculturists whose redemption from heavy indebtedness is one of the most important responsibilities of Government." May I know what the Honourable the Home Minister means by this ?

The Honourable the SPEAKER : I will now put the amendment to the House. The amendment is—

In clause 2 (2) for the word "holder" substitute the word "agriculturist".

Amendment put, and negatived.

Mr. S. H. JHABVALA : Sir, what about my point ?

The Honourable the SPEAKER : I think the point has been sufficiently made clear in the reply which the Honourable the Home Minister gave.

Now, we will take up amendment No. 5 standing in the name of the honourable member Mr. Jhabvala.

Mr. S. H. JHABVALA (Railway Unions) : Sir, I beg to move the following amendment—

In clause 2, sub-clause 2 (a) (i) after the word "land" in the second line add the words "in one particular village".

The Honourable the SPEAKER : The amendment is—

In clause 2 (2) (a) (i) after the word "land" add the words "in one particular village".

The sub-clause, when amended, will read as under :

"who holds land in one particular village".

Mr. S. H. JHABVALA : No, Sir. It is not the first "land". I mean the word "land" in the second line. It will read thus :

"who holds land not exceeding six acres of irrigated land or eighteen acres of other land in one particular village."

I want the words "in one particular village" to be added after the coma.

The Honourable the SPEAKER : Unfortunately, the honourable member did not make it clear, otherwise I should have arranged this amendment after amendment No. 6. However, as this amendment is put to the House, I will read it with a little verbal alteration :

In clause 2 (2) (a) (i) after the word "land" occurring a third time, add the words "in one particular village".

Is that correct ?

Mr. S. H. JHABVALA : Yes, Sir.

The Honourable the SPEAKER : The amended clause will read as follows :

"who holds land not exceeding six acres of irrigated land or 18 acres of other land in one particular village."

Question proposed.

Mrs. LILAVATI K. MUNSHI: On a point of information, Sir. Suppose a man has 6 acres of land in six different villages, that is, he has in all 36 acres of land in different villages. Is it the meaning of this amendment that he will be exempted even if he has 36 acres of land ?

The Honourable the SPEAKER: I believe the honourable member himself will make it clear while supporting the amendment. I think he wants to enlarge the scope of the clause.

Mr. S. H. JHABVALA: That is what I want to do. Sir, the present Bill is intended to give relief to small holders. "Small holders" are defined here as those who hold land not exceeding six acres of irrigated land or 18 acres of other land. Now, Sir, suppose a holder has got one piece of 6 acres of Bagait land and 18 acres of other land in one village, and he has got another piece of a similar size or a little more or less in another village, then the condition becomes like this. The small holder becomes a large holder, and under the circumstances he takes advantage of the privileges or of the freedom given in this Bill. The result will be that our object to give protection to small holders will be frustrated and protection will as well be given to those persons who own lands in different villages and whose accumulated possession will be a very large one. Under the circumstances, in order to clear the ground, if this amendment is accepted, a good deal of the difficulty will be solved. There is a qualifying clause indeed, namely, that the assessment should be Rs. 30, but there are different kinds of assessment for different kinds of soil and that qualifying clause may not solve the difficulty as well as this amendment would do.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): The amendment moved by the honourable member Mr. Jhabvala is not in the interest of the small holders. Agriculturists generally possess lands in different villages. It is rarely that an agriculturist holds all his land in one particular village. If this amendment is accepted the small holders will have to forego the privileges given by this Bill.

Mr. T. S. JADHAV (Sholapur North-East) (*Addressed the House in Marathi*): Sir, in opposing the amendment, I have to say that if a man owns six acres of land in three different villages he will cease to be a small holder and become a big landlord. This is not the intention of the Bill. I therefore oppose the amendment.

The Honourable Mr. MORARJI R. DESAI: Sir, there seems to be some confusion in the mind of my honourable friend, Mr. Jhabvala, in bringing this amendment and that is why I want to know exactly what he means. Does he mean that only those people who have six acres of land only in one village should be included in this Bill and that if a man has six acres of land including several villages, he should not be included, or does he mean that all those who have six acres of land in one village or in six villages, that is even 36 acres of land, should be included? Then one can see the results of his amendment. As it is, it is impossible for one to know what his amendment wants.

Mr. S. H. JHABVALA : Sir, I want to ask the Honourable Minister one question : Whether the purpose of the Bill will be satisfied if the expression "in one particular village" is excluded. Such an inclusion is essential so far as I think. Supposing a so-called small holder owns six acres of land in one village and six in another and six in a third, his accumulated possession will be 18 acres. Can such a man be called a small holder and does he deserve to be given protection under this Bill ?

The Honourable Mr. MORARJI R. DESAI : Sir, the question now is quite clear. I am afraid my friend has misread the clause as it is. The clause as it is clearly lays down that only those persons who own six and not more than six acres of land are included. If a man owns 18 acres, he is surely excluded. On the contrary, if his amendment is accepted, he will have the result which he does not want.

The Honourable the SPEAKER : Does the honourable mover want to reply ?

Mr. S. H. JHABVALA : Sir, I think the explanation given by the Honourable Minister is convincing as he says that the holding of the land not exceeding six acres or 18 acres serves the full purpose. I accept his explanation with thanks and I ask permission to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, I beg to move :

In clause 2(2) (a) (i) for the word "six" substitute "seven" and for the word "eighteen" substitute "twenty".

Question proposed.

Mr. S. V. PARULEKAR : Mr. Speaker, Sir, when the Bill was first introduced a small holder was defined as one who holds five acres of irrigated land or fifteen acres of dry land. I must thank those younger members of the lower middle classes who were in a majority in the Select Committee for introducing a favourable change in the definition of the small holder. The Select Committee has defined the small holder as one who cultivates six acres of irrigated land or eighteen acres of dry land and have also added as one "who holds land of whatever description the total annual agricultural assessment of which does not exceed Rs. 30". Sir, I would like to be enlightened by the Cabinet as to what was the principle that guided them to define the small holder as one who owns five acres of irrigated land or fifteen acres of dry land. I should also like to be enlightened why the Select Committee changed it to 6 and 18 and not to 7 and 20. In fixing the limit to the holding of a small holder, the principle which would guide a sensible man would be whether the small holding is an economic holding. From my point of view I would regard a holding of 20 acres of dry land to be an economic holding. In support of my contention, I would cite the authority of Dr. Mann and Professor Kanitkar which has been universally recognised as an authority.

[Mr. S. V. Parulekar]

These two gentlemen have carried on thorough investigations into the economic conditions of the agriculturists of two villages, namely, Pimpal-saudagar and Jategaon Budruk. We have yet to come across an investigation into the economic conditions of agriculturists more thorough than what was carried on by Dr. Mann. He draws his conclusions in the following words :

“ The average return to a cultivator working himself on land is Rs. 14-8-0 per acre of cultivation. This will, of course, vary very much according to the class of land, but if we consider the village as a whole, the result will not differ very widely from truth.”

This is the average income per acre of dry land. His investigation further led him to the following conclusion :

“ We have calculated that a landlord receives from the tenant Rs. 7 per acre and the tenant gets Rs. 7-8-0 per acre.”

Sir, if my amendment which lays down that a small holder is one who cultivates 20 acres of dry land is accepted, it will mean that a man who has got an income of Rs. 300 a year ought to get the protection of this Bill. I should like to ask the Government whether they do not consider that a man whose annual income is Rs. 300 deserves to get the protection contemplated in the Bill. I would further ask whether they are not prepared to consider the investigation carried on by Dr. Mann as authoritative on the subject. Is not Government prepared to concede that the agriculturist whose annual income is Rs. 300 ought to be protected from the rapacity of the money-lender ? If this principle is accepted the conclusion that the income of Rs. 300 of a tenant also deserves to be protected logically follows from it. I owe an apology to the tenants for not having been able to look to this point before I sent my amendments. It would be realised that the extent of holding that deserves protection in the case of a tenant ought to be double that of the holding of an owner, because half the produce is given to the landlord as rent by a tenant and only half of the produce is left to him. (*An Honourable Member* : Not so much.) It is always so, sometimes it is less than half the produce that is left to the tenant, but never does he get more than half. Does not Government, therefore, think it necessary to include all those small holders and tenants who have got an annual income of Rs. 300 within the scope of this Bill ? Sir, if it is accepted that Rs. 300 is the minimum income which is necessary for the maintenance of an agriculturist who has got a family of 4·2 members, Government will have to concede that a small holder ought to be defined as one who cultivates 20 acres of dry land. Now, Sir, I will accept the proportion which they have fixed between irrigated and dry land. They have laid down that three acres of dry land is equal to one acre of irrigated land. If they, therefore, accept 20 acres of dry land as the basis, they will have also to accept as a reasonable proposition that those who cultivate seven acres of irrigated land ought to get the benefit of this legislation. In the case of tenants the Bill contains a mistake—a horrible mistake. A tenant who cultivates 20 acres of dry land has been placed on an equal footing with the land-owner who owns 20 acres of similar land. Just

[Mr. S. V. Parulekar]

as I pointed out, the difference between economic status of a land-owner who has got 20 acres of dry land and of a tenant who is a holder of 20 acres of dry land is vital. The owner cultivator has double the income of that of the tenant. If Government is pleased to move the amendment that will do justice to the tenants at this stage, it would be welcome. In their case it ought to be laid down that those who hold 14 acres of irrigated land or 40 acres of dry land ought to be entitled to the benefit of this Act. Unless this change is introduced in the Bill, I cannot say that Government are treating the owner and the tenant on an equal basis. If the Government do not do that, they will be open to the charge that the cultivating owners are more favoured by the Government than the tenants. That would be an irresistible conclusion. Therefore, I would urge the Government to accept my amendment which says that the small holder is one who cultivates 7 acres of irrigated land and 20 acres of dry land, and I would also request Government to move an amendment which will entitle a tenant who cultivates either fourteen acres of irrigated land or forty acres of dry land to the benefits under this Act.

The Honourable Mr. MORARJI R. DESAI: Mr. Speaker, Sir, the amendment now brought forward by my honourable friend from Ratnagiri was carefully considered in the Select Committee and after careful consideration the Select Committee came to the conclusion that it would not be possible to accept it. I must admit that any figure that will be put down in this section is bound to be empirical, after all, but the criterion that was adopted for fixing originally at 5 acres of irrigated land and 15 acres of dry crop land was certainly the criterion of an economic holding as we considered it. It is possible that there may be difference on this point and in order that injustice may not be done to persons who may be holding 15 acres of land which may not be of good quality, we put in the other limit of Rs. 30 assessment. All land that is inferior will have an assessment of a rupee or thereabouts. In that case, 30 acres of land would be covered by this very clause, and that is why it was not necessary to raise the limit of 15 to 20 acres. But then, it may be asked "Why have you raised it to 6 and 18?" We raised it to 6 acres because it was argued by some representatives of one or two districts that in those districts irrigation was allowed on blocks of land not less in area than 6 acres and in order that nobody may be excluded because they had to cultivate a minimum area of 6 acres, we raised the limit to 6 acres and then, in order that it may be possible to calculate a mixed holding, we had to keep the dry crop area at a multiple of 3 as originally fixed, and that is why we had to raise 15 to 18. If we accept 7, we will have to raise 18 to 21, and then, it may be said that as that is a small area, why not raise it to 8 and, after that, it may be said "Why not raise it to 9". So, there will be no limit to it. After all, we have got to fix some limit, and after very careful consideration, we fix the limit at 6 acres and 18 acres. As I explained before, there is the provision for including holders of inferior land up to 30 acres or even more. There is *warkas* land in three or four districts which is very, very inferior but under this clause an area

[Mr. Morarji R. Desai]

up to 120 acres will be included in this section because for such lands the assessment is nearly 4 annas per acre.

As regards the tenants, I do admit that the tenants also are governed by this very limit as regards the protection given in this Bill, but there will be no question of any decrees against lands in the case of tenants who are not permanent tenants. Therefore, the question arises only about permanent tenants. As regards the other tenants, tenants-at-will, no money-lender can get a decree against the land which does not belong to him or to which the tenant has absolutely no right, but as regards permanent tenants also, there is sufficient protection given by the new clause 9 which will show that it will not be possible for anybody to evict such a tenant by reason of any decree or order of a court. That saves the tenant from being evicted from land and I am sure that it affords sufficient protection to all permanent tenants because permanent tenants are bound to be there for more than 6 years. It is, therefore, not necessary to raise the limit for tenants as suggested by my honourable friend from Ratnagiri. For these reasons it is not possible for Government to accept his amendment and I therefore oppose it.

Mr. D. W. RAUT : May I know why the limit of Rs. 30 assessment is included ?

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, the Honourable Minister has not given any explanation as to the basis on which he made his calculations. He did not give us an idea of what according to him is the income from one acre of irrigated land and an acre of dry land. In order that I may be able to convince him, I cited the authority of Dr. Mann. The Honourable Minister has not refuted that authority. We cannot fix the limit at a fanciful figure. Dr. Mann, who studied the conditions of the agriculturists for 30 years of his life in the Bombay Presidency, has come to the conclusion that 20 acres of dry land should be considered to be an economic holding. Is there any other basis, any other document, in the possession of the Government on the strength of which they can say that it is 18 acres which ought to be considered as an economic holding ? In its absence it is but proper that they should accept my amendment.

Then the Honourable Minister stated that in the case of tenants no injustice would be done, because they possess no land at all. Sir, the Honourable Minister has forgotten that one more clause has been added, namely, new clause 6, under which milch cattle, standing crops and the dwelling house are protected. Sir, if a small tenant is described as one who holds 14 acres of irrigated land and 40 acres of dry land, all those tenants who cultivate 14 acres of irrigated land or 40 acres of dry land will get protection under clause 6. It is true that they have no land which can be sold, but of course they have got huts, they have got cattle and they have got standing crops. I hope the Honourable Minister will realise that if this change is accepted there will be considerable improvement in the Bill, and no injustice will be done to the tenants.

Mr. S. L. KARANDIKAR : On a point of information, Sir, before the Honourable Minister exercises his final right of reply, may I know whether 6 acres of irrigated land, 18 acres of rice land, 18 acres of *warkas* land and land the annual assessment of which is Rs. 30 are all to be deemed on the same level ?

The Honourable Mr. MORARJI R. DESAI : Yes, for the purposes of this Bill.

The Honourable Mr. K. M. MUNSHI : Sir, I will first answer the question put by the honourable member Mr. Karandikar. In the new paragraph (i) of sub-clause (2) of clause 2, the words "the total annual agricultural assessment of which does not exceed Rs. 30" are intended to cover land which is so inferior that the assessment is less than one rupee or even 8 annas. The number of acres required to bring it up to that assessment would depend on the nature of the land. That is one new category, added by the select committee, which would cover *warkas* and other lands which are scattered over the Presidency and which are limited in number.

As regards the other question, the point which I made when I moved the first reading was that there were something like 13 lakhs to 14 lakhs of small holders who hold land up to about 15 acres, and the object was to provide for that category. It was then found that 6 acres of irrigated land was the unit of agricultural land in many districts, and that if it was limited to 5 acres many persons who are on the border line would be denied the benefit. That was the reason why 5 was raised to 6. The income from irrigated land varies considerably. Six acres of irrigated land are estimated to yield from Rs. 300 to Rs. 1,000 per year ; that is taken as the unit ; and it is entirely a satisfactory unit, judged even from the standards which have been set up by some members in this House. There is no logic in saying, increase it by one more : why not increase it by 2 more, why not increase it by 3 more ? The point of keeping to 6 acres, I repeat, is that there is in some districts no farm of irrigated land less than 6 acres in extent. That was why it was raised to 6, and therefore I oppose the amendment.

Question put. House divided. Ayes, 17 ; Noes, 79.

Division No. 7.

Ayes.

BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAVIT, Mr. D. P.
JADHAV, Mr. D. G.
JAGTAP, Mr. D. K.
JHABVALA, Mr. S. H.
KAZI, Mr. AZIZ GAFUR
KHEDGIKAR, Mr. R. A.

MEHTA, Mr. JAMNADAS M.
PABULEKAR, Mr. S. V.
PATEL, Mr. MAHOMEDBAWA M.
RANE, Rao Sahab B. N.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.

Tellers for the Ayes : Mr. K. S. SAVANT and Mr. P. J. ROHAM.

Noes.

ANTROLIKAR, Dr. K. B.	MUNSHI, the Honourable Mr. K. M.
ABADHYE, Mr. D. T.	MUNSHI, Mrs. LILAVATI K.
BHARTIYA, Mr. S. R.	NAIK, Mr. V. N.
CHAWDHARI, Mr. D. N.	NALAVADI, Mr. G. R.
CHAWHAN, Mr. P. L.	NANDA, Mr. GULZARI LAL
COLLACO, Dr. J. A.	NARIMAN, Mr. K. F.
CURRIEN, Mr. FRED J.	NESSI, Mr. T. R.
DABHI, Mr. FULSINHI B.	NIManEE, Mr. P. A.
DANDEKAR, Mr. V. V.	NURIE, the Honourable Mr. M. Y.
DESAI, Mr. RANDHIR P.	PATASKAR, Mr. H. V.
DESEHMUKH, Mrs. ANNAPURNA GOPAL	PATEL, Mr. BABUBHAI J.
DESHPANDE, Mr. G. H.	PATEL, Mr. BHALLALBHAI B.
DODMETI, Mr. A. D.	PATEL, Mr. MANGESH B.
FIRODKA, Mr. K. S.	PATIL, Mr. ATMARAM N.
FRENCH, Mr. F. H.	PATIL, Mr. GAMBHIRRAO A.
GANDHI, Mr. M. M.	PATIL, Mr. KALLANGOUDA S.
GAVANKER, Mr. S. K.	PATIL, Mr. LAXMAN G.
GHA, Dr. C. J.	PATIL, the Honourable Mr. L. M.
GILDER, the Honourable Dr. M. D. D.	PATIL, Mr. MALGOUDA P.
GOKHALE, Mr. K. G.	PATIL, Mrs. NAGAMMA
GOFI, Mr. M. G.	PATIL, Mr. S. K.
HALLIKERI, Mr. N. F.	PURANI, Mr. C. B.
JADHAV, Mr. T. S.	RAJMAL LAKHICHAND, Mr.
JAKATY, Mr. P. C.	SATHE, Mr. S. H.
JOSHI, Mr. JINABHAI P.	SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB
JOG, Mr. V. N.	JAGDEORAO
KANUGA, Mrs. VIJAYAGOURI BALVANTRAI	SHIRALKAR, Mr. P. K.
KARAVADE, Mr. R. K.	SHRIKANT, Mr. L. M.
KARGUDRI, Mr. S. S.	SUGANDHI, Mr. M. S.
KATHALE, Mr. B. S.	TALKAR, Mr. K. R.
KESHWAIN, Mr. S. N.	THAKOR, Mr. B. P.
KHER, the Honourable Mr. B. G.	THUSE, Mrs. LAXMIBAI GANESH
KHIMJI, Mr. BHAWANJI A.	TULPULE, Mr. H. V.
LALA, Mr. BHOGLAL D.	VAGHELA, Mr. B. U.
LATTHE, the Honourable Mr. A. B.	VARTAK, Mr. G. D.
MAGANLAL NAGINDAS, Mr.	VINCHOOBKAR, Sardar N. G.
MASTER, Mr. NAGINDAS T.	VYAS, Mr. ISHVARLAL K.
MEHTA, Mr. H. P.	WADEKAR, Mr. R. B.
MORARJIBHAI KASANJI, Mr.	WALVEKAR, Mr. B. B.
MURADAM, Mr. W. S.	WANDREKAR, Mr. D. N.

Tellers for the Noes: Mr. V. V. DANDEKAR and Mr. V. N. NAIK.

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move:

In clause 2 (2) (a) (ii), after the word "servant", add "doing agricultural work."

Question proposed.

Mr. S. H. JHABVALA: Sir, by "work" I mean agricultural labour. You will see that all along in this clause we have got the qualifying property of doing agricultural work or agricultural labour. What is specially emphasised is the vocation. Here, that vocation is not brought out; the vocation that is brought out is the vocation of being a village servant. But the prime condition should be that he should be doing agricultural work. Hence, I desire that after the expression "village servant", these three words "doing agricultural work" should be added.

The Honourable Mr. MORARJI R. DESAI: Sir, this amendment also, I am afraid, is brought forward through some misunderstanding. Inferior village servants who hold land but who cannot cultivate that

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land because they are very busy with work connected with Government or with the villages are sought to be given protection by the clause as it stands. They are very poor people, and they do require to be protected. If they are not actually cultivating land in some cases, it is only because they have not the time to do so and are doing work which may be called public work. It is only for that reason that the inferior servants are sought to be given protection under this clause. But they are all of them agriculturists; of that there is no doubt. It is possible that they may not be able to cultivate all the land themselves because of other work. That is why they have been specially mentioned in this clause.

Mr. S. H. JHABVALA : Sir, the only commitment is that the village servant is one who is employed in Government service. He may be a man who may be employed throughout the year; but there are other classes of people as well who may not be full-timers. Moreover, agricultural work does not require full time occupation. My only fear is this, that the prime profession namely, agricultural labour, has not been brought out which it is the intention of the Bill to protect. The prime factor of being a village servant is brought out in the clause as it stands, and that is not a desirable feature. Hence, I desire to press the amendment.

The Honourable Mr. K. M. MUNSHI : Sir, I think the explanation given by my Honourable Colleague ought to be quite sufficient. If this amendment is accepted, the result will be that an inferior village servant who is not doing agricultural work but who is a small holder will be excluded from the operation of this Bill. The object of having it wider is that it should include an inferior village servant, who is a very useful kind of man and who, though he is ordinarily a small holder, has not the time to work upon the land himself. I therefore oppose the amendment. I hope the honourable member will withdraw it.

Mr. S. H. JHABVALA : No, no. This time I am unconvinced.
Amendment put, and negatived.

3-30 p.m. Mr. S. V. PARULEKAR : Sir I beg to move :

After clause 2 (2) (a) (ii) insert—

The Honourable the SPEAKER : May I invite the honourable member Mr. Parulekar's attention to the fact that it appears that in view of the decision of the House with reference to his amendment No. 6, the first part of the amendment that he is now moving seems to fall through ?

Mr. S. V. PARULEKAR : Yes.

The Honourable the SPEAKER : And therefore the honourable member will move the other part; and instead of sub-clause (iv), we must say sub-clause (iii).

Mr. S. V. PARULEKAR : Sir, I beg to move :

After clause 2 (2) (a) (ii) insert the following :

“(iii) who ordinarily engages personally in agricultural labour.”

Question proposed.

Mr. S. V. PARULEKAR : Sir, the purpose of moving this amendment is to bring within the scope of the benefit of this Bill the agricultural labourer who has been excluded and also those tenants who have cultivated land since 1934 but who have been evicted, say, in January 1937. Sir, it was admitted by the Revenue Minister in the course of his speech at the time of the first reading of this Bill that the money-lenders, being frightened by the declaration which the Government made in the Poona session that they want to bring forward a legislation for scaling down debts, are trying their utmost to recover debts. It was also admitted by Government that these money-lenders will try to snatch at whatever is available during the course of the year, because they are afraid that their dues will be scaled down when the Bill comes into operation. I am glad that Government recognise the mistake which they committed in a mood of triumph in making the statement that they wanted to scale down debts when they were not ready with the measure with which they could do so. The consequence has been that the money-lenders being frightened with that declaration have been harassing during the last eight months the small holders, the agricultural labourers and the tenants who are indebted. I am glad that Government have admitted the mistake and I am sure that they will try to atone for the sin they have committed by making that declaration. Sir, I should like to ask the Government whether the money-lenders are trying to recover all that is due to them only from the small holders. Is it not true that when the Debt Conciliation Bill passes into an Act all the debts that are due to the creditors will be scaled down? It is this fear created by the announcement of the policy of the Government which is weighing on the minds of the money-lenders. Sir, the debt may be due from a small holder, the debt may be due from an agricultural labourer, or the debt may be due from a tenant who was a tenant last year but who is no longer a tenant today. In the case of every one of these classes the money-lenders think that if they are not able to recover the debts from them during the course of this year, it is very likely that the debts will be reduced and they will lose. So, they are trying their utmost, they are trying their very best to recover all that is possible from every class of these people. Sir, this Bill protects only the small holders, but it does not protect the agricultural labourer and the class of tenants to which I referred just now. Does not Government therefore think that it is their responsibility to protect all these economically weaker classes from the money-lender who has become sensitive and who is trying to recover all that is due to him from these classes? Sir, what is the logic in protecting only small holders while leaving at the same time other economically weaker classes outside the scope of the Bill? I could have understood their exclusion if the Bill had not undergone changes in the Select Committee. All that the Bill aimed at was to stop the sale

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of land. Now, the Bill which has emerged from the Select Committee goes further. It does not now stop at stopping the sale of land, but it wants to check the starvation and to protect the small holder from starvation. The Government seem now to be afraid that the money-lender will not only attach the land, but that he may also attach his hut, the standing crop and any other property. Therefore, a new clause has been inserted in the Bill with a view that the small holder may be protected from starvation. Sir, may I ask the Government if it is not their duty to protect a more unfortunate class of people, economically a weaker class of people, the agricultural labourer and the tenant, from starvation? Sir, an agricultural labourer may have a hut which has been left by his father who may have been an agriculturist. He may have a couple of buffaloes which may be his only means of maintenance and which may be attached during the course of this year by the money-lender if he is not protected, because the money-lender is afraid that he may not be able to get anything from him next year when the Debt Conciliation Bill is passed into law. Therefore, it is necessary, if Government are prepared to take a logical step, that Government should include those who personally engage themselves in agricultural labour within the scope of this Bill.

Sir, I will now refer to some of the figures which will indicate how essential it is that this class of people ought to be included within the scope of the Act. The figures are from a statement showing the number and value of civil suits instituted in the Civil Courts in the Presidency of Bombay for the years 1934 and 1935. The total number of suits instituted in the Courts in 1934 was 1,59,521. Out of these suits, 48,501 were for the recovery of an amount of the value not exceeding Rs. 50. Sir, most of these suits must necessarily have been against agricultural labourers because the debt of a small holder is bound to vary between Rs. 100 and 500. Out of the total number of suits in 1934, 10,711 were for the recovery of an amount of the value not exceeding Rs. 10. Does Government think that the debt of a small holder can be below Rs. 10? Certainly not. Such a proposition would be absurd in its character. In 1935, the number of suits of the value not exceeding Rs. 10 shows an increase. It was 11,227 and the number of suits of the value not exceeding Rs. 50 was 48,633. Now, Sir, I will only refer to another statement of Government, "Summary of administration of civil and criminal justice" for the last year. It says: "There was an increase in institution of suits not exceeding Rs. 10 in value."

From all these facts Government will realise that even the agricultural labourers are harassed by the money-lenders for the recovery of their debt. This class of agriculturists however does not deserve, in the view of the Home Minister, protection under this Act. Not to give him protection is to allow this class of people, who of all classes deserve this protection most, to be subjected to severe hardship. If my amendment

[Mr. S. V. Parulekar]

is not accepted, the conclusion which I will be justified in drawing is that Government want to adopt a method of rule which they themselves condemned in the past. Sir, they condemned the bureaucracy because they tried to divide and rule. Now, Sir, this Government want to adopt the same method of divide and rule. They want to divide the ranks of the peasants. In order to win over the small holders they have brought forward this Bill and have left the agricultural labourers severely alone to starve. What will be the consequences of this step at the end of the year? Government statistics and reports will show an increase in the number of suicides; there will be an increase in the number of thefts and crimes; and it will be necessary perhaps for some of the non-official members to introduce a Bill for punishing those who create conditions that render increase in theft and suicide inevitable. [Laughter]. Sir, this is not a matter which can be laughed away. It is a most serious matter; I am very serious about it.

The Honourable Mr. MORARJI R. DESAI: You are yourself laughing.

Mr. S. V. PARULEKAR: Sir, you are driving to a desperate state a class of people who have not got even a small piece of land, who possess nothing in this world except the labour power which they can sell but which cannot be sold. What are they to do if they are harassed by their creditors, if everything that is in their huts is removed, if the small quantity of grain that they may have is attached, if their buffaloes are sold, if all their property—if property it can be called—is taken away? By denying protection to this class of people—may I repeat—you want to divide the ranks of the agriculturists. You want to divide them in order that you may establish your rule for a longer period. If that is not your intention, why are you unwilling to accept my amendment? It only includes more weaker people within the scope of this Bill. Do you want to exclude them? My honourable friend the Home Minister says that he stands for non-violence; he stands for truth. But he is driving people to violence and if any one deserves to be punished for inciting people to violence it will be he at the end of the year and nobody else. Is he going to preach non-violence to a man who has been deprived of everything? I wish he does go to a village and preach non-violence to a starving man. You can preach non-violence to a man whose stomach is full, who has got a fat belly, but you cannot preach non-violence to a man who is starving and who is even prepared to commit suicide. A couple came here and waited upon the Home Minister a few days back. They were starving, they had no place to live in, they were thrown on the streets, and they came here to commit suicide in the compound of this Assembly Hall. They were persuaded to go to the Congress House. They went there and after some time took a dose of opium. It was not sufficient to kill them, and fortunately they have survived and are at present in the police lock-up. This will be the consequence if you do

[Mr. S. V. Parulekar]

not accept my amendment. If you are really serious and if you do not want to drive these agricultural labourers to starvation and death, you will accept my amendment.

Mr. G. K. PHADAKE : On a point of information, Sir. I want to know from the honourable member whether all the suits he referred to were against the agricultural labourers.

Mr. S. V. PARULEKAR : They cannot be against landlords. No landlord is sued for a sum of Rs. 10.

The Honourable the SPEAKER : It is an inferential statement. It is for the honourable members to accept it or not.

The Honourable Mr. MORARJI R. DESAI : Sir, I could not have heard a more laboured plea for the amendment put forward by the honourable member Mr. Parulekar. But I still do not understand why he says that though we can save these people we are not saving them. We have brought in this Bill to save the small holder, to protect him, because it is necessary to save his means of production. If his land is allowed to be sold, he will have nothing to cultivate and he will lose his means of production ; but in the case of the agricultural labourer no court and no money-lender, howsoever powerful he may be, can deprive him of his means of production which is with him ; and I do not think that there is much grain in the house of an agricultural labourer to be attached by a decree. Every agricultural labourer lives from day to day ; he purchases his articles of food from day to day, and I do not see what can be attached in his house. If there is something to be saved, it can be saved under this Bill. But the only thing that can be done by an agricultural labourer is to seek insolvency, and we are not here bringing a Bill for declaring insolvency or for wiping out all debts. The object of bringing in this legislation is to help people to remove their debts in an honest manner, so that, freed of this burden, they can carry on their profession of agriculture more economically and more profitably. It is also necessary to give protection to the agriculturist in the interest of the agricultural labourer himself because if agriculture does not thrive, if the cultivators, the peasants, the small holders, do not do their industry profitably, the agricultural labourer is bound to starve. [*An honourable member* : Die.] I would readily agree that if all agriculture fails and if there is no industry, labourers will die. But we are not here discussing what would happen if a certain contingency arises. We are here to meet the situation as it is and with the means at our disposal. We may wish to make everybody happy, to give a living wage to every person in the country ; but if with the means and the power at our disposal it is not possible to do so, we have got to rest content with what we are doing.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I rise to support the amendment of my honourable friend Mr. Parulekar. I am sure that the Honourable the Home Minister will see that the original amendment which he ridiculed as stupid was not so stupid after all, but really an

[Mr. Jamnadas M. Mehta]

intelligent amendment. If he had read the amendment of Mr. Parulekar along with what he has now brought, he should have realised that the definition would then have fitted very admirably; it was because he overlooked this last amendment that he was disposed to be so harsh towards Mr. Parulekar's amendment. It is intelligent. It is not stupid. It is those who do not read who deserve that appellation; if the statement of objects and reasons was intended to be read as it stands Mr. Parulekar's amendment ought to be accepted. If it is accepted, the small holder will then be defined along with others as one who ordinarily engages personally in agriculture. And that is why the original amendment of Mr. Parulekar wanted to describe him as "agriculturist" instead of "small holder" and that would have fitted in more properly than even the term "small holder". But since it was not done, this amendment furnishes an opportunity to Government to rectify the omission. What is it that Mr. Parulekar wants? He wants that you will include under the definition one who engages in agricultural labour also. If you do not, what is the result? I am sure the honourable member who comes from Broach must have seen on the banks of the Nerbudda, every year, hundreds of Kolis and Vagris taking what is called "chibda" (cucumber) and many other crops which are only temporary. These people are in every sense of the word "agriculturists" properly so called, though they may not be called small holders because they do not cultivate the land under a long lease—they take it every season; they also borrow money from the money-lenders to carry on their agricultural work. I have seen in Thana District myself. You are definitely excluding this class of agriculturist who wants to earn a living by the sweat of brow. What is the revolutionary thing that Mr. Parulekar is asking in saying that this poor man should be protected? He is as much a part of agricultural economy as the other small holders about whom we find so much solicitude. The Honourable Mr. Morarji R. Desai says that we want to protect his means of production. Will you not protect the means of production of these Vagris or Kolis also? If you will examine the Select Committee's report, a clause has been added that protects in the case of the small holder milch cattle not exceeding two in number and some other articles. That means if a man has a patch of land, the execution of the decree will not only be stayed but some other things also belonging to him will be protected. But unhappily if he does not have a patch of land then he will not be protected at all. I say what is the reason for this cursed attitude of Government in not recognising the claims of an humbler fellow being who stands in greater need of protection? Why is it that their orbit of sympathy is so strictly limited and does not go beyond their nose? Mr. Parulekar has rightly tried to enlarge the clause of the Bill in the interests of labourers whose number is 36 lakhs. I do not know whether the latest figure of 21 lakhs is quite correct, but before Sind was separated the agricultural labour was 36 lakhs. He may have a small hut, he may have a small crop of the kind mentioned. All this will remain outside the orbit of relief in spite of the preamble, in spite of your statement of objects and reasons, in spite of the report of the Select Committee.

[Mr. Jamnadas M. Mehta]

I hope that questions of prestige will not govern the attitude of Government so much as to leave out of their sympathy this class of men whose claim to our indulgence is proved on every basis of public policy.

Sir, I support and I hope that Mr. Parulekar will carry this amendment to a division, if it is not accepted.

Rao Bahadur G. K. CHITALE *rose*.

The Honourable the SPEAKER : I believe there are hardly a couple of minutes now. Is the honourable member likely to finish in a short time? I have no objection to adjourn later on if he finishes. If the honourable member is desirous of speaking for two minutes, he can.

Rao Bahadur G. K. CHITALE (Ahmednagar South) : Mr. Speaker, Sir, I am sorry that both the honourable the mover of this amendment and the honourable the supporter Mr. Jamnadas Mehta have tried to make something out of nothing. In the first place, Vagris, Kolis and others, when they purchase the crop, that land is leased out to them by Government officers on which they have to pay a certain amount of money. (Mr. Jamnadas M. Mehta : No.) If he says no, he does not know it.

Mr. JAMNADAS M. MEHTA : I know next to my own house in Thana this fact which he could not have known.

Rao Bahadur G. K. CHITALE : Now, Sir, there is the Land Revenue Code itself. These alluvial lands which are exposed in the river bed are leased every year. They are auctioned off for the season and some money accruing to the crop has to be paid to Government and therefore they come within the definition of the word "occupant". When my honourable friend says so, I bow to him, but let me tell him also that there is no use drawing away from the main point and to show to the House that we know nothing of this world except the honourable member Mr. Parulekar and himself. It is a fact unfortunately—

The Honourable the SPEAKER : Order, order.

Rao Bahadur G. K. CHITALE : You will see, Sir, that the main object of the honourable member Mr. Parulekar is to protect the labourer, worker and peasant. And if by any means you want to bring in the workers, his plea is, as far as he is concerned, they should be brought in. Now, Sir, a labourer is to be sued. If he shows that he ordinarily engages himself in agricultural labour, all these suits are triable under the Deccan Agriculturists' Relief Act in which the definition of an agriculturist is clear, and I am afraid that under that definition—this Deccan Agriculturists Relief Act is now applied to the whole of the presidency and not merely to the four districts to which it was originally applied—if that Act applies—and it applies because I know as I have fought out cases and here my honourable friend Mr. Jamnadas Mehta is at a disadvantage—in that case agricultural labour of this type is brought in and there ordinary labour (it is not casual labour such as I often employ) is sought to be brought in. That is

4 p.m.

[Rao Bahadur G. K. Chitale]

the difference. I am myself an employer as I employ 30 to 40 labourers on land paying about Rs. 300 assessment. I employ casual labour on 4 annas or 5 or 6 annas according to the exigencies of the day. What my honourable friend wants really is that within the term of these workers those people should be brought. That is another matter altogether, I should think. If that is intended, I have no objection. The poorer people and those who may be coerced by the money-lender may be brought in in another form, but to say that this Bill does not cover the particular matters which are intended to be covered by a small Bill of this type is not correct.

I will further point out that even under the Deccan Agriculturists Relief Act, all these suits under Rs. 20 or Rs. 25 are only triable by the village munsiffs. They do not go to the courts of the subordinate judges where they have to pay stamps. The village munsiffs are intended primarily for the purpose of trying these small suits on a stamp of a very small denomination, and if he were to stick to his statement that those people are being harassed, then under the Deccan Agriculturists Relief Act, there is protection for all the people who come within that definition. Not only that but they find the insolvency proceedings under the Deccan Agriculturists Relief Act are so wide or are so pertinent that they need not pay anything to the money-lender or to the other person, and if you were only to refer to insolvency proceedings, it must be said to the credit of the debtors that I have not seen in the course of 41 years of my practice even an ordinary agriculturist, let alone these labourers, taking advantage of the provisions of the Deccan Agriculturists Relief Act and resorting to these insolvency proceedings which they should have taken in shoals and in numbers. They want to say that they are willing to pay their honest debts and therefore if he were to examine the number of suits or the number of execution proceedings in which insolvency is resorted to, he would find in the whole of the presidency such a small number and that the honest debtors are quite willing to pay their honest debts. I therefore am sorry that I have to oppose this.

(The House re-assembled after tea at 4-35 p.m.)

The Honourable the SPEAKER: Amendment No. 8. Will the honourable member Mr. Parulekar now reply?

Mr. S. V. PARULEKAR: Mr. Speaker, Sir, the Honourable the Revenue Minister in his reply gave us the reason for not including the class of agricultural labourers within the scope of the Bill that this Bill wants to protect the means of production and not the product. That was one of the criticisms which I had levelled when this Bill was introduced and before it was sent to the Select Committee. I do not know why a change was made in the Select Committee for extending the protection to the product as well. Clause 6 in the Bill, which has been placed before us as recommended by the Select Committee, protects milch cattle, one dwelling house and standing crop. We, therefore, find

[Mr. S. V. Parulekar]

that this Bill not only protects the means of production but the product as well. Sir, I do not entirely agree with the Honourable the Revenue Minister when he says that an agricultural labourer has no means of production with him which can be protected. He was not entirely right when he said that, but he was half right. The means of production in the case of an agricultural labourer is the labour power by selling which he maintains himself. If the product in the case of a small holder has been protected, I see no reason why the product in the case of an agricultural labourer should not be protected. Therefore, I maintain that here is a class of people who are more unfortunate than the small holder, than those who have been protected under this Act and who deserve to be protected.

Sir, the honourable member the Deputy Leader of the Progress Party treated the House to a very enlightening discourse on the Deccan Agriculturists Relief Act but he could not point out that all those classes who have been excluded under this Bill are covered by that Act. The fact remains that there is a class of people whom we may describe as agricultural labourers, who are most organically connected with agriculture, who are for all practical purposes included in the agricultural community, and the product of whose labour is not protected by this Bill. Sir, in the absence of any protection they are likely to starve, nay, they are bound to starve. They are likely to lose their huts and whatever little property that belongs to them. The Honourable the Revenue Minister said that it is not possible for the Government to protect this class of people. But he did not explain to us why it was not possible. What is the difficulty in extending the protection of this Bill to agricultural labourers? How is it impossible? Sir, I wish that every member of the Congress had the same amount of courage as the Honourable the Revenue Minister has to approach the agricultural labourer and tell him that with the power which they have been able to secure it is not possible for them to do anything beneficial for him. I wish every member of the Congress copies the example of the Revenue Minister.

In conclusion, I would even now urge Government to be so generous as to include this class of people who are in the neighbourhood of 21 lakhs of people within the scope of this Bill. The number of people who are likely to be protected under the Act as proposed by the Government is in the neighbourhood of 13 lakhs. If you extend the scope of this Bill, a larger class of people who number 21 lakhs will also be benefitted. If you can protect them, if you can render them some help by only extending the scope of the Bill, there is no reason why you should not. With these words, I press my amendment for the acceptance of the Congress Ministry.

The Honourable Mr. K. M. MUNSHI: Sir, it is easy to reply to reason, to logic and to argument. But it is difficult to reply to prejudice, ignorance and irrelevance. It is suggested, Sir, that a certain class of persons are intentionally and deliberately not protected by this Act.

[Mr. K. M. Munshi]

I ask honourable members to look at the Bill itself and say whether any class which deserves protection has been omitted. Sir, if there is any agriculturist who holds even one inch of land, he is included in clauses 2 and 3. The definition of holder being very comprehensive, if he is an owner he is protected, if he is a tenant he is protected, if he is an occupant he is protected, if he is a tenant at will, even he is protected. The persons whom my honourable friend Mr. Jamnadas Mehta referred to are either lessees as stated by Rao Bahadur Chitale or at most they are tenants at will, and they will be "holders" within the meaning of the Act. Therefore they are amply protected. That leaves only one class—the agricultural labourer who works for remuneration on somebody else's land and has no interest in the land itself. Now, Sir, that man needs no protection, because the law has already given him ample protection, and for the benefit of such of them as do not know the provision, I will trouble the House by stating the provisions of the law which protect him.

In the first instance, the word "agriculturist" used in section 60 of the Civil Procedure Code expressly covers all agricultural labourers who are working for remuneration and who have no interest in the land at all. That section protects his implements of husbandry, such cattle and seed grain as in the opinion of the court may be necessary to enable him to earn his livelihood, and such portion of the agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section. Therefore, whatever materials he has got are amply protected, and I stated when I moved the first reading of the Bill that Government propose to issue a notification by which agricultural produce which is not covered by this Bill would also be protected, with the result that this class of agricultural labourer is protected. Further, under clause (c) of section 60 of the Civil Procedure Code, the houses and other buildings (with the materials and the sites thereof, and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him are protected. Further, even an agriculturist within the meaning of the Civil Procedure Code who has no land and who is therefore not a small holder has his house and dwelling protected under the Code. That means that he is entirely immune from any coercive process of law. The only thing left is to prevent the first decree being executed against him personally. Section 21 of the Deccan Agriculturists' Relief Act protects him against it. It says that no agriculturist shall be arrested or imprisoned in execution of a decree for money passed whether before or after the Act comes into force. And now, the latest amendment of the Civil Procedure Code makes any decree against the person of a judgment debtor non-executable unless under certain specific conditions. That, Sir, is under Act XXI of 1936, which makes an amendment in section 51 of the Code of Civil Procedure. It says:

" Provided that where the decree is for the payment of money execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity

[Mr. K. M. Munshi]

of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied,—

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property."

Therefore, every honest agricultural labourer will be fully protected against the execution of decrees so far as his person is concerned. What is then left to execute the decree against? Assuming that there is an agricultural labourer who does not require cattle for his work, but who carries on a trade with a hundred head of cattle, has he to be protected? That is not the intention. The intention is that an honest and *bona fide* agricultural labourer should be protected, and he is fully protected in all respects by the existing law and the notification which Government propose to issue. Therefore, Sir, the phantom which has been raised only for the purpose of taking the credit of killing it really has no substance whatever. I therefore oppose the amendment.

Question put. House divided. Ayes, 15. Noes, 73.

Division No. 8.

Ayes.

BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GHATGE, Mr. G. R.
JADHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KHEDEGIKAR, Mr. R. A.

MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. Y.
PHADAKE, Mr. G. K.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.

Tellers for the Ayes: Mr. K. S. SAVANT and Mr. P. J. ROHAM.

Noes.

ANTHOLIKAR, Dr. K. B.
ARADHYE, Mr. D. T.
BHARTIYA, Mr. S. R.
CHITALE, Rao Bahadur G. K.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHJI B.
DANDEKAR, Mr. V. V.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIR P.
DESHMUKH, Mr. K. B.
DESHMUKH, Mrs. ANNAPURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FIRODEA, Mr. K. S.
GANDHI, Mr. M. M.
GAVANKAR, Mr. S. K.
GHIA, Dr. C. J.
GHIA, Mr. M. C.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.

GUPTA, Mr. B. M.
HALLIKERI, Mr. N. F.
JADHAV, Mr. T. S.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
KARAVADE, Mr. R. K.
KARGUDEI, Mr. S. S.
KATHALE, Mr. B. S.
KESHWAIN, Mr. S. N.
KHEB, the Honourable Mr. B. G.
LALA, Mr. BHOGILAL D.
MAGANLAL NAGINDAS, Mr.
MEHTA, Mr. H. P.
MORARJIBHAI KASANJI, Mr.
MUKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.
MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NALAVADI, Mr. G. R.
NANDA, Mr. GULZARI LAL
NARIMAN, Mr. K. F.

Noes—contd.

NESVI, Mr. T. R.	RAJMAL LAKHICHAND, Mr.
NIMANEE, Mr. P. A.	SATHE, Mr. S. H.
NURIE, the Honourable Mr. M. Y.	SHIBALKAR, Mr. P. K.
PATASKAR, Mr. H. V.	SUGANDHI, Mr. M. S.
PATEL, Mr. BABUBHAI J.	TALKAR, Mr. K. R.
PATEL, Mr. BHAILALBHAI B.	THAKOR, Mr. B. P.
PATEL, Mr. MANGESH B.	THUSE, Mrs. LAXMIBAI GANESH
PATIL, Mr. GAMBHIRRAO A.	TULPULE, Mr. H. V.
PATIL, Mr. KALLANGOUDA, S.	VAGHELA, Mr. B. U.
PATIL, Mr. LAXMAN G.	VARTAK, Mr. G. D.
PATIL, the Honourable Mr. L. M.	VINCHOOKAR, Sardar N. G.
PATIL, Mr. MALGOUDA P.	WADEKAR, Mr. R. B.
PATIL, Mrs. NAGAMMA	WALVEKAR, Mr. B. B.
PATIL, Mr. S. K.	WANDREKAR, Mr. D. N.
PURANI, Mr. C. B.	

Tellers for the Noes: Mr. V. V. DANDEKAR and Mr. D. N. WANDREKAR.

Mr. ALI BAHADUR BAHADUR KHAN: Sir, there are so many amendments to this Bill, about 60 of them, and the session will have to be unnecessarily prolonged. So, I would suggest that we should have night sessions.

The Honourable the SPEAKER: I am entirely in the hands of the House; irrespective of any considerations of personal convenience, I am prepared to sit for any length of time if the House generally so desires. I think we have to sit today, and tomorrow very probably, taking a reasonable length of debate on the large number of amendments that have been tabled; and if the House is agreeable, in view of the fact that the present session has prolonged much beyond what was anticipated by a large number of members originally, we might, instead of adjourning at 6-30, stay on for some time today, and make a determination to sit tomorrow till we finish. There is also another reason for it. The Upper Chamber—the Legislative Council—is sitting from Friday. If it is desired that that House should take this Bill into consideration, as it is believed to be an important measure, it is necessary that this measure also should be finished here before that. However, instead of coming to any conclusion now, we shall reconsider the position at about 6-30, and if the House so desires, I am prepared to sit till 7 or 7-30 or even till 9.

Mr. B. P. THAKOR: We might sit till 9, and finish clause 6.

The Honourable the SPEAKER: We will reconsider the matter later.

Rao Bahadur G. K. CHITALE: May I, Sir, point out that there is a previous ruling that if the Honourable the Speaker is satisfied that the divisions are being called for with the object of prolonging the session, the procedure to be adopted is to make the members stand in their places for taking a count? In this case, we know that the number is now fixed—16 against 72, or 15 against 75, and so on. That ruling, I know, was not followed by you, for certain reasons,—because this Assembly was in an infant stage. We have now progressed a good deal; and if we want to see that the proceedings are expedited, I think that that

[Rao Bahadur G. K. Chitale]

procedure should be resorted to. That would be much better than having night sittings and exhausting ourselves.

Mr. S. V. PARULEKAR : I cannot understand why the Deputy Leader of the Progress Party should think that divisions are being asked with the object of unnecessarily prolonging the discussions. Divisions are being asked on all important issues, and on all vital matters in which the poor population is concerned. It may be that the honourable member is not interested in those points. Whenever a division is asked for, it is not correct to say that the only question to be ascertained is whether the majority of the members are in favour of the proposition. We want the names to be recorded on paper, so that we may take those names to the voters and show them how the members have voted. That purpose will not be served if members are merely asked to stand in their places when a question is to be decided.

Rao Bahadur G. K. CHITALE : I was only pointing out the previous ruling of the Chair on the subject.

Mr. S. V. PARULEKAR : There was no occasion for it.

Rao Bahadur G. K. CHITALE : There was occasion for it.

The Honourable the SPEAKER : I do not think we need introduce any heat into this question. There is time enough to judge as to how the proceedings should be carried on. We can go on up to 6-30, as I have suggested, and then we may consider the matter.

Mr. JAMNADAS M. MEHTA : Only two divisions have been asked for till now.

The Honourable the SPEAKER : The question on which the honourable member the Deputy Leader of the Progress Party raised the point did not relate to the number of divisions but to the propriety of asking for divisions on these questions. That is how I understood him.

Rao Bahadur G. K. CHITALE : Yes, Sir.

The Honourable the SPEAKER : The number of divisions is not the test. Whatever that may be, it is too early to come to any conclusions. We have, as I said, enough time till 6-30 to see how we progress and then decide about the programme later on.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Mr. Speaker, Sir, I beg to move :

Clause 2, sub-clause (2) (b) (i) should be substituted as under :

" which holds land, not exceeding the limits specified in clause (a) (i) for every major co-parcener of the family who personally cultivates the land."

Question proposed.

Mr. D. W. RAUT : Sir, this amendment is very important from the point of view of undivided Hindu families. If you study the definition carefully, you will find that while in the case of undivided Hindu

[Mr. D. W. Raut]

families the limits specified in clause (a) (i) of sub-clause (2) apply collectively to such a family, in the case of members of partitioned Hindu families, those limits apply individually. My amendment seeks to do away with this distinction by including in the definition of "small holder" every major co-parcener of an undivided Hindu family who personally cultivates the land. Otherwise, the benefits which the two kinds of Hindu families will derive will not be proportionate to their holdings. I will give you an instance. Suppose there is a joint Hindu family of 12, of whom two are major co-parceners who actually cultivate the land. Then, under my amendment they would be able to claim the benefits contemplated in this Bill if the family holds 12 acres of irrigated land or 36 acres of dry land or pays Rs. 60 as assessment. That it cannot do under the definition as it stands. Otherwise, the result would be that if this Bill is passed into law, the Hindu families which are for the present undivided would like to divide and will get divided in order to take the benefit of this Act. Sir, this splitting up would not be good. I hope the House will accept my amendment.

The Honourable the SPEAKER: Any statement from the Honourable Minister?

The Honourable Mr. K. M. MUNSHI: No statement.

The Honourable the SPEAKER: Then—

The Honourable Mr. K. M. MUNSHI: Sir, I thought you were asking only for an interim reply.

The Honourable the SPEAKER: Yes, because if no interim statement is made, the mover of the amendment has this difficulty: he does not get a chance of replying to what the Honourable Minister might say. That difficulty was experienced yesterday when Mr. Parulekar moved his amendment.

The Honourable Mr. K. M. MUNSHI: Sir, if this is laid down as a matter of rule, it would be a great hardship. If this is laid down as a rule, it would mean that Government must announce its policy in the middle of the debate, and that, I submit, is not the intention of the Standing Order.

The Honourable the SPEAKER: Not necessarily they must speak twice. After hearing the reply of the mover the Government may come to the conclusion that no further reply is necessary. In that case they need not speak twice.

The Honourable Mr. K. M. MUNSHI: Should they not speak even once? The right of final reply is there by the Standing Order.

The Honourable the SPEAKER: That is true. The right of final reply is there, but I believe it would be more equitable if the mover of the amendment is given a chance of saying in reply whatever he may have to say. He may have nothing to say also, but he should be given a chance.

[The Speaker]

of knowing what the Government view is ; and finally if the Government so think fit, they may or may not reply. I am suggesting this not as a strict rule of law, but more as a matter of equity and fairness.

Mr. S. L. KARANDIKAR : Sir, with your permission may I request the Honourable the Home Minister whether it would be convenient for him to express his views on this clause ? This clause, as I understand it, involves important law points and, if he just elucidates the matter, we on this side will be in a better position to discuss the whole point. Therefore, if he enlightens the House as to the legal position that is involved, the discussion would be on the right lines.

The Honourable the SPEAKER : That is just what I requested the Honourable the Minister to do and he has agreed.

The Honourable Mr. K. M. MUNSHI : Sir, the effect of this amendment is that if there is a father with four adult sons constituting a joint family and we make our Bill applicable to such a case, then the limit of a small-holding would increase from 18 to 90 acres. That means that a Hindu joint family will be protected even if it holds such a large estate as 90 acres which is not the intention of the Bill.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Sir, the Honourable Minister stated that if there is a father having four adult sons he will get more benefit. Sir, I have put the words "Major coparceners" and those sons who are above 20 or 21 will have a share in the property, but then in that case the family would also be getting on more and more big. I have seen joint Hindu families comprising of 25-30 members, and they should get the share. Sir, according to the Muhammadan Law everybody is given the right. Sir, if my amendment is not accepted, we shall be encouraging undivided Hindu families to get separate in order to derive the benefit of this Act.

The Honourable Mr. K. M. MUNSHI : Sir, I have only one word to say. If a joint Hindu family, with a father and four adult sons owns 90 acres, is to be protected then the result will be that this measure will not be a measure for the protection of small holders. A family owning 90 acres is a substantial family. Sir, what about a Muhammadan family which has a father and four adult sons ? It is not a joint family and would not get protection. Sir, if this amendment is accepted the clause would lead to a number of difficulties and it would have the effect of raising the limit of the small holders. The instance which the honourable member gave is not correct. Sir, this is only an interim measure which is to remain in force for one year, and, if within one year the father and four sons, in order to take the benefit of this Act, divide, the result will be that each coparcener will take upon himself one-fifth of the debt ; he will be a small holder and will have to pay one-fifth of the family debt. Therefore, Sir, the Act would work equitably even if they disrupt.

Mr. S. L. KARANDIKAR : Sir, on a point of information. Will the Honourable Minister just explain the illustration that I give. Suppose

[Mr. S. L. Karandikar]

there is an undivided Hindu family consisting of three brothers. One brother, who is actually in possession of the whole joint family property has alienated or mortgaged his share which comprises of only 16 acres. So far as he himself is concerned—

The Honourable the SPEAKER : I believe the honourable member Mr. Karandikar knows that according to the Hindu Law, a partition becomes operative as soon as the intention to partition is evinced by a member of an undivided Hindu family ; and if any member says that this particular share of his is alienated, it will be a case not of a joint Hindu family, but of a family with a divided status.

Mr. S. L. KARANDIKAR : But even without coming to any partition he can alienate his undivided share. That is also a principle of the Hindu law as I have understood it. Without coming to actual or constructive partition, he can alienate under the Mitakshara. Therefore, my illustration is, suppose the total family property amounts to 48 acres and his own share comes to 16 acres only, and he has alienated that, is it the intention of this Act that he should not get the benefit of this Act ?

The Honourable Mr. K. M. MUNSHI : Sir, it is difficult to answer this problem which would much more suit an LL.B. examination paper, than for discussion on the floor of this House. Sir, it is difficult for me to say what would be the decision of the Court if such a case went before it on the facts as stated by my honourable friend Mr. Karandikar.

Amendment put, and negatived.

Clause 2 (*Definitions*) ordered to stand part of the Bill.

Clause 3 (*Stay of decrees transferred to the Collector*) :

(1) Notwithstanding any law for the time being in force, all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the sale of land belonging to a small holder for the recovery of any money under a decree, the execution of which has been or may hereafter be transferred to the Collector under section 68 of the Code of Civil Procedure 1908, shall, on the application of the small holder and on the amount of the interest, as specified under sub-section (2), subject to the provisions of section 10, being paid to the decree-holder or deposited with the Collector, be stayed :

Provided that such proceedings shall not be stayed, if the Collector for reasons to be recorded in writing is of opinion on the application by the decree-holder that such stay will cause substantial loss to such decree-holder.

(2) The interest under sub-section (1) shall be the amount of interest, if any, due under the decree on the sum for the recovery of which the land is sought to be sold for one year from the date on which the said sum became payable, or if the period from the said date up to the date of the application by the small holder for the stay of execution under sub-section (1) is less than one year, the amount of interest due on the said sum for the said period.

(3) If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land or to the proceeds of the sale of such land are likely to be prejudiced by reason of any proceedings taken under any law for the time being in force relating to the said land, the Collector may direct that the proceedings in execution stayed under sub-section (1) shall continue.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, I beg to move the following amendment :

In clause 3 (1) after the words " this Act remains in force " insert " either for the recovery of any dues from a small agriculturist or "

The Honourable the SPEAKER : I believe the honourable member (Mr. Parulekar) will accept a slight verbal alteration in this amendment. As the word " holder " is used in this Bill, instead of the word " agriculturist " the word " holder " may be substituted in the amendment.

Mr. S. V. PARULEKAR : I agree, Sir.

The Honourable the SPEAKER : The amendment is :

In clause 3 (1) after the words " this Act remains in force " insert " either for the recovery of any dues from a small holder or "

The clause, as amended, will read as follows :

" Notwithstanding any law for the time being in force, all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force either for the recovery of any dues from a small holder or for the sale of land belonging to a small holder " etc.

Mr. S. V. PARULEKAR : Mr. Speaker, Sir, the clause, as we find it in the Bill will stop all proceedings for the sale of land. If my amendment is accepted it will mean that all proceedings for the recovery of any dues will be stopped. This is a measure which is not a permanent one. It is a temporary measure and it has been designed to meet the emergency created by the incapacity of the Cabinet to bring forward a measure for the conciliation of the debts of the peasantry. Therefore, it must be a simple Bill. Really it ought to have been a Bill for the postponement of all payments. If it had been a Bill of that character it would have given real relief to the peasants. What is not allowed, under this Act, is only those proceedings which are for the sale of land. Sir, Government can take all coercive measures against the small holder to recover their dues. Government have admitted that a small holder should not lose his piece of land ; but if the clause is not amended, as suggested by me, it will allow the creditor to harass the debtor throughout the year. The only thing that is prohibited is that the creditor will not take actual possession of the land. This being a temporary measure it should have been a simple Bill which would not allow the debtor to be troubled in any way so long as this Act is in force.

With this purpose in view I have moved this amendment and I hope it will be acceptable to the House.

The Honourable Mr. K. M. MUNSHI : Sir, this amendment also arises from not visualising the processes of harassment under law.

Under the notification which Government propose to issue, all decrees in respect of lands will be transferred to the Collector. As soon as a decree is taken it will be stayed by virtue of this Act. What the honourable the mover of this amendment wants is that a suit which is

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already filed and in respect of which a decree has not been taken should be stayed. Now, the emergency for which this Bill is intended, it will be realised, is that pending the legislation which Government propose to bring forward, money-lenders or creditors are bringing the properties to sale with a view to deprive the small holder of them. The relief which is sought is not against going on with the suit but against actually depriving him of the land. The object is, therefore, fully served by the decree against the land being stayed by the Collector.

As regards the proceedings being stayed, the position is this : A money-lender has filed a suit or a creditor has filed a suit. If it is a *bona fide* claim and if it is dishonestly resisted, then to protect such a man would not be just or equitable. If it is admitted and a decree is passed there will be no harassment at all because as soon as the decree is passed it will be automatically referred to the Collector and the execution of it will be stayed by him. It is not the intention of this Act to touch the claim in any manner whatever. There is no emergency arising out of pending suits or suits to be filed, and, therefore, this amendment has really nothing to do with the principal emergency which this Act is intended to meet.

The Honourable the SPEAKER : Does the honourable member (Mr. Parulekar) wish to reply ?

Mr. S. V. Parulekar : No, Sir.

Amendment put, and negatived.

Mr. G. K. PHADAKE (Thana South) : Sir, I beg to move :

In clause 3 (1) after the words " 1908 " in line nine, add the following words " or an award obtained by any co-operative society or for the recovery of any sum due to Government under any law."

Question proposed.

Mr. G. K. PHADAKE (Thana South) : Sir, many of the amendments moved up to this time were for enlarging the scope of the Bill. I am moving an amendment to enlarge the scope of the relief that is to be given to the small holder by this amendment. Relief is sought to be given only at the expense of the creditor, though he is not alone responsible for all the ills of the small holders. There are many other causes for his distress, but only he is singled out for giving this relief. I do not know why it has been so done. What has he done ? He has resorted to the Courts of Law. He has resorted to that Court, a creation of the Government. He has paid the fees to the Court. He has also paid commission to the pleaders, again a creation of the Government. He has also satisfied the small desires of the staff concerned from Nazir down to an ordinary bailiff. Then, after all this expenditure of money, loss of time and wastage of energy, Government comes forward and tells the decree-holder : Gentlemen, we are very much thankful to you for helping us in running this Court. We know, since you have paid the fees, we are bound to help

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you in realising your dues, but now we have decided to give relief to the small holders. We admit that you will have to suffer from the consequences due to this suspension, but we are sorry we cannot help you. That is the present position. This decree-holder did it with the full faith in Government and Government administration and this is the reward for his faith in that institution or as some would construe it, it is a revenge by the party for not boycotting the British courts during the non-co-operation agitation. (*Hear, hear.*) Sir, if the real object of this Bill is to prevent loss of land to the small holder, my amendment suggests that under no circumstances, he should lose his land. Not only the money-lender, but the Co-operative Society or Government should not take his land under any circumstances. There are two decrees. There is one decree of the decree-holder or the money-lender. There is another decree due to an award from a Co-operative Society. They are running concurrently. This Bill prevents the money-lender or the decree-holder from selling the land of the judgment debtor, but the award will have the right to save his land. So, this Co-operative Society will be benefited at the expense of the money-lender. If the money-lender is asked to wait for one year, a Co-operative Society should also be asked to wait for one year and Co-operative Societies can wait. Lakhs of rupees are lying idle in the vaults of the Provincial Co-operative Bank. This Bank and the Central Banks are really scratching their heads to find out ways and means to utilise the money that they have. Their business is going on on very economic and sound lines. They have provided reserve funds for arrears and so many other things. So it will be very easy for these Co-operative Societies to wait for one year. Similarly, Government can also wait for one year. In emergencies Government do suspend the land revenue. We have the instance today of remissions and suspensions given to these small holders. So it is not difficult for Government also to wait for one year. Government has said in the report: Cases of forfeiture of land number 708, little more numerous than last year 643. But last year's figure was lowest since 1928-29. That means these 708 people have been deprived by Government of their land on account of the land revenue. So my point is that on no account the small holder should be deprived of his land and that is why I have suggested this amendment and I hope it will be accepted.

Rao Bahadur G. K. CHITALE (Ahmednagar South): Sir, for once I rise to support the amendment, at least the first part of it. So far as the Co-operative Societies Act dues are concerned, they are recoverable as arrears of land revenue and I know that the Honourable Minister who is in charge of that department will say that the overdues are so many and so many from these small holders, that revenue officers and Head Karkuns are appointed to sell off the lands of these people and to my mind you cannot and you must not distinguish between a collection of creditors and individual creditors. What are co-operative societies? As far as I know, the co-operative societies are not now helped by Government by giving them any funds. It is true that their funds, whatever they may be, come from the pockets of other investors, but you will also

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remember that the credit for the Village Co-operative Society is entire and indivisible from that point of view and naturally, therefore, I rise because I know after looking into the several cases of this indebtedness in the Central Provinces and Berar and in the Punjab, I thought it to be a very invidious distinction between scaling off the debts of individual debtors in the case of ordinary creditors and allowing, I make a deliberate statement, and allowing full credit for the debts of co-operative societies themselves, of the Central Banks themselves, which are sometimes four-fold of the original principal amount. I should think, therefore that this question will again crop up in the Bill which will have to come later on, within the next six months and I shall be seeing that unless and until the Honourable Ministers in their joint responsibility come to a decision which is very much simpler in this particular case than it may be in the other case, because this Bill only gives you moratorium for one year. In the other Bill, it may be, for instance, total remission and scaling it off to a particular figure. In that case, with what face, I ask, the Government can go to the people and say that so far as the creditors represented as they are by the co-operative societies are concerned, they will get their full 8 per cent. or 7 per cent. or 4 times the debt, but so far as individual creditors are concerned, they will be mulcted not only to double the amount of the debt when we find money-lenders selling off land for those dues. I should think that it deserves very careful consideration at the hands of Government. So far as we are concerned here, I may say that I have been working for co-operative societies and a co-operative bank for the last twenty years, and I make bold to state here that even my friend of the Congress Party who faces me now knows also that the Nagar Central Bank or the Nagar Central Co-operative Bank has been as a matter of fact recovering four times the principal sum not only from the original debtors but also from sureties and the debt is never wiped out.

An Honourable MEMBER : Yes.

Rao Bahadur G. K. CHITALE : Because the process was so slow. The Co-operative Department used to make appointments of arbitrators to give an award. As soon as that order was made, you would find that this making of an award took anywhere from 2 years to 7 years and penal interest was allowed on the 9 per cent. to 18 per cent., and those decrees are being executed now and I should think that so far as this moratorium is concerned, I know that the difficulties with respect to the scaling off of debts may be a little bit different, but so far as the debts of co-operative societies are concerned, what the Bill now aims at is only to give some relief for a year and nothing more. I should, therefore, very strongly recommend that the Honourable Minister in charge of this Bill would accept the first part of the amendment. Then, I will be able to induce my honourable friend to take off the other part with respect to Government dues because they stand altogether on a different footing.

Mr. G. K. PHADAKE : There are other dues also, not only landlords' dues.

Rao Bahadur G. K. CHITALE : Government also has to recover the revenues due to them, but those revenues are not on the same platform as a debt incurred, and I should think that the amendment should be put in two different parts and that the first part should be passed. While looking into the question in the Central Provinces, the Berars and the Punjab, I do not think it will be possible to define that the government dues also should be scaled off. The only way to scale them off is the way in which the present Government, which is entitled to our thanks, comes out promptly and gives relief and tells the public what to do by bringing forward a measure which has been delayed for the last sixteen years. I should think that so far as this Bill is concerned, Government is not going to lose anything. It is a gesture, a proper gesture, to treat the money-lenders on the same platform and I should expect that the Government will seriously consider this aspect of the question and give them the moratorium they ask for.

The Honourable Mr. MORARJI R. DESAI : Mr. Speaker, Sir, I am sorry to see that the mover of the amendment and his supporter do not see the difference between co-operative societies, Government, and private money-lenders. In the case of co-operative societies, it must be admitted that these institutions are there for the benefit of the agriculturists themselves. They are managed by the members and if you want to provide a permanent remedy for the relief of indebtedness, it can only be done through co-operation. It is therefore necessary to see that the co-operative societies are not put in the same category as the money-lenders. But at the same time I might assure the honourable members that there is no intention of giving the Cooperative Societies some special advantage over the money-lenders so that they may recover the decrees and the money-lenders will have nothing left for them to recover their decrees afterwards.

Rao Bahadur G. K. CHITALE : That is what has happened.

The Honourable Mr. MORARJI R. DESAI : I cannot understand how that can have happened so far, because I have stopped so far all the decrees of co-operative societies in most cases where such cases happen except in the case of refractory cases ; otherwise, when we stopped the coercive processes, we also took away the recovery officers and decrees were not served. It is obvious that in the interest of the co-operative movement itself Government should see that lands are not sold by co-operative societies as far as possible, because it is in the interest of co-operation itself that lands are not sold by co-operative societies, and that is why, while reorganising the whole movement, Government are trying to see that lands of agriculturists are not sold by co-operative societies for the recovery of their dues and that they make some other suitable arrangement for recovering their debts. While excluding co-operative societies from the scope of this Bill, it is intended to issue suitable executive instructions to see that no particular hardship is caused anywhere, but it is very necessary to differentiate between the two kinds of creditors. As regards Government, I suppose the only intention of bringing that in this Bill perhaps would be to make the whole thing

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impossible. Beyond that I have nothing more to say. I can only say that it is not necessary to include these two creditors if they can be called creditors within the scope of this Bill, because they do not work as harshly as the money-lenders do. We are trying to see even in the matter of tagavi debts that necessary relief is given to the debtors. In the matter of co-operative societies also, as I said, we are trying to see that necessary and possible relief is given to the members of co-operative societies, and while trying to give the relief that we want to give by this Bill and the permanent Bill that will come, if we want to provide an alternative credit, it can be done only through Government and through co-operative societies. That is why it is not possible to include these two in the scope of this Bill. I therefore oppose the amendment.

Rao Bahadur G. K. CHITALE : On a point of information. The mere taking away of the recovery officer does not stop the process of the liquidators in taking the proceedings that they can and bringing the property to sale.

Mr. JAMNADAS M. MEHTA : Sir, I have got a similar amendment to this clause, amendment No. 27 in the list. Do you think it will be taken to be disposed of if this is disposed of, or shall I be free to move it?

The Honourable the SPEAKER : When I scrutinised the amendments, I took the view that amendments Nos. 27 and 32 were, strictly speaking, outside the scope of the Bill, but when I scrutinised this amendment, I felt some doubt whether it was or was not strictly within the scope of the Bill. However, as this amendment has been moved, I do not think that, merely because of this, other amendments should be held to be within the scope of the Bill. Of course, all that I feel at present is that the fate of this amendment will not affect the other amendments on merits, provided they are within the scope of the Bill. I am not prepared to hold at present that they are within the scope of the Bill. I will keep that question open. All that I can say at this stage is that the fate of this amendment will not bar the other amendments.

Mr. JAMNADAS M. MEHTA : That creates a very tantalising situation. If this is in order, I submit the other one should be in order.

The Honourable the SPEAKER : I stated in the beginning that the latter part of it did not strike me as being as obviously outside the scope of the Bill as amendments Nos. 27 and 32. If I felt doubtful, I think I should give the benefit of the doubt to bring it within the scope of the Bill.

Mr. JAMNADAS M. MEHTA (Railway Unions) : Sir, I do not want to take any chances and to risk your ruling later on. I would like to support this amendment. In doing so, I think that both the points raised by my honourable friend Mr. Phadake deserve to be specially considered and conceded by Government. So far as co-operative societies are concerned, we find that there were in the Bombay

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Presidency inclusive of Sind also as many as 5,87,649 members of primary societies, and probably we can assume, subject to such correction as might become necessary, that today in the Province as it is constituted there would be about 4,50,000 members of primary societies. I understand that more than half of these will be small holders. That means about 2,25,000 of these members of primary societies will be members who are small holders. After all, what does it matter whether the creditor is a Marwadi, or a Pathan, or a Banya, or a co-operative society or the Government? The essence of the creditorship is that the debtor will be called upon to pay, and this very Bill postulates that so far as small holders are concerned, they deserve to be protected and that they will not permit anybody to take advantage of their unprotected position whilst a new Bill of a comprehensive character is being prepared. Therefore, I cannot follow the reasoning of the Honourable the Revenue Minister in saying that co-operative societies stand on a different footing. There is really no justification for keeping them on a different footing, except that in the Madras Moratorium Bill also the co-operative credit societies are excluded. The one reason is that because it is so in Madras, therefore it should be so in Bombay. We have a proverb in Gujarati "Copy to copy and *makkhi* to *makkhi*". That is, people imitate blindly. They not only copy out the manuscript, but if they find a dead fly on a page, they kill a fly and attach it to the copy, because it must be copied as it is. This Bill simply follows the Madras Bill in excluding the co-operative societies from its scope. But what is the judgment on that exclusion of the Honourable Mr. Ramadas Pantulu, who is known as one of the most distinguished co-operators and who is also a Member of the Congress Party, I understand, in the Council of State in Delhi? This is the editorial note in the *Indian Co-operative Review* about this particular portion of the legislation:—

"The Madras Moratorium Bill excludes co-operative societies as well as joint stock banks from its scope. While some critics urge that they should also be brought within the full scope of the Bill, others hold that the decision to exclude them totally from the Bill is sound. There is a real divergence of opinion in this matter. We consider that the exclusion of organised credit institutions is generally speaking justified. It is inadvisable to restrain the co-operative banks from recovering their dues generally. Even so we consider that at least in one matter protection may be given under the Moratorium Bill to members of the co-operative societies."

Here, at least so far as members of co-operative societies are concerned, a gentleman who otherwise would not prevent co-operative societies from recovering their dues insists that the small holder should be protected from the rapacities, if there are any, of the co-operative societies, and the general opinion in the districts about co-operative societies is not very complimentary to these bodies. They are considered to be no better than organised sowcars, except that the sowcar can lend money even at midnight and meet the need of the poor tenant or agriculturist, which a co-operative society cannot do. But we are not discussing whether a sowcar is better or a co-operative society is better. We are here concerned with this weighty opinion that there is no particular reason why the small holder should not be protected against the

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co-operative societies' dues. I am told that in the Bombay Presidency the small holders will number over 2,00,000; what percentage of them happen to be indebted, I do not know, but I believe that a member of a co-operative society who is not indebted to the society is not a member. In fact, I have reason to believe that members join co-operative societies in order that they may get cheaper credit, and I will not be surprised if out of the 2,00,000 and odd small holders in the Bombay Province as now constituted, a large section is as much indebted to the co-operative societies as outside. If we are out to protect any man against distress during the next 12 months, if we are out to give him protection and prevent his lands from being sold, what does it matter what kind of turban the creditor puts on? Whatever mask the creditor puts on, for the debtor he is the same. As a creditor he wants his money and wants to sell the agriculturist's lands. I see no particular reason for giving exemption to co-operative societies when they are going to proceed against the small-holder, as defined in this Bill, for the sale of his lands.

6-00 p.m.

About the second, I am even more emphatic that the amendment should be accepted; look at this Government. It says that the need for preventing the creditor from selling the lands of the agriculturists is so great that it will pass a legislation so that nobody will take advantage of the distress situation and sell his land. But while says the Government we have every sympathy for the small holder as against the sowcar, as far as we are concerned, we are of opinion that the means at the disposal of Government for the recovery of its dues which are far more drastic, far more sweeping and far more quick should continue. Chapter XI of the Land Revenue Code deals with the realisation of land revenue and other demands. The Chapter begins with section 136 and ends with section 187. There are 52 sections in that Chapter. As I said, the manner and method provided for the realisation of the Government revenue dues and demands are so drastic, so quick and so sweeping that no court of law is required.

First of all, in section 136, we are told about the liability for the payment of land revenue. Then, under the next session, the claim of Government will have precedence over all others. So, a sowcar may wait and whistle but Government can proceed to recover its dues, whatever the condition of the occupant is. No; they can begin at the beginning. Government have the right not only to the occupant's land but his crop also is liable to be sold for the land revenue assessment of the land for the current year. So, it is not land only. Even before they go to land, they can attach the crop. The removal of the crop which has been sold may be prevented until revenue is paid. The chowkidar is posted so that the man may not remove his crop. In order to secure the land revenue, the Collector may prevent even the reaping of the crop, and in order to do so, he may place a watchman over it. The Collector's order can only be disobeyed under a severe penalty. That penalty is laid down in section 142. Then, reaping and other

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processes should not be unduly deferred. They should be expedited, so that the Government land revenue may be paid. The crop will not be released until this money is paid. I can go on taking the House through the whole labyrinth from section 136 to section 187. They are exhaustive; they are most comprehensive both in their intent and in their purpose and also in their general effect on the economic condition of the worker.

In brief, Sir, the effect of all the sections to which I have referred would be that while Government profess to protect the man in times of distress, they will be free to use every conceivable device, from stopping the crop right down to the forfeiture of the land itself. It does not stop with the crop itself. Under the later sections they may declare the land to be forfeited. They can sell the land. They can do almost anything with the crop, with the land, and with its tenure. While they profess to protect the man against money-lenders, they can do all these things. This is a kind of very vicarious protection which, I think, this House will not permit Government to adopt. If they want any real protection to be given to the occupant and to the tenant, they must themselves set the example. Charity may not begin at home, but honesty may; and at least those who are out to protect others against the depredations of creditors might themselves begin to protect those unfortunate people against their own depredations. And the condition of the poor man who is in arrears can only be known to those who have some experience. A call from Death himself may wait, but the Collector does not. He is even quicker than the Angel of Death; and the Government know more than perhaps some of us how perfect he can be.

Therefore, I wish to submit that the whole machinery of Chapter XI of the Code should be stopped until the new Bill is before the House and we have passed it. In the meantime, Government cannot lose much.

The Honourable Mr. MORARJI R. DESAI: No?

Mr. JAMNADAS M. MEHTA: They cannot lose much. If they lose much, they can try to make it up by the largess that they will perhaps receive from the Central Government. At any rate, I wish that even if they have to suffer, they do not merely join in vicarious punishment to the money-lender and themselves stand aloof. Otherwise, all their professions about giving relief to the occupant, the debtor and the small holder from poverty and misery will have to be considerably discounted in practice. I know that they do not care whether we discount them or not—

The Honourable Mr. MORARJI R. DESAI: Absolutely!

Mr. JAMNADAS M. MEHTA: I know that whoever differs from them they are willing to charge with prejudice and ignorance and worse. I know that whatever they say will be passed in this House. If they want to prove that it is Friday today, this House will carry it; I have no doubt about that. But they are not right: it is not Friday today; but the

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votes will show that it is. That is their strength, but that is also, I am sure, the measure of their irresponsibility. While they are professing to protect the tenants and occupants against others, where they themselves are concerned they are not prepared to take the same measures which this Bill wants to be taken so far as the creditor is concerned.

Sir, I do not know whether this amendment will be allowed to be carried to a division, on account of the threat of my honourable friend Rao Bahadur Chitale; but I will certainly request my honourable friend Mr. Phadake to ask for it if the Government are not pleased—which, I am afraid, they will not be—if they are not pleased to accept it. It is so thoroughly just, so thoroughly reasonable, that co-operative societies should halt, that Government themselves should halt, if real, true protection is to be given to the distressed small holder.

Mr. G. K. PHADAKE (Thana South): Sir, I am glad to find that the Honourable the Revenue Minister has accepted my amendment in principle. He says that he has issued orders not to sell the lands on account of the awards of the Co-operative Societies, but prestige prevents him from accepting my amendment. Sir, these awards take more interest than even the moneylender. Penalty interest amounts to 20 per cent. and a moneylender is never allowed to take more than 12 per cent. Such are the awards which will deprive the small holders of their land. What the Revenue Minister is doing by executive orders, I am suggesting to him to be done by this Bill? Practically there is no difference. If he wants to do by an executive order, I suggest him that it should be inserted in the Bill. So, if there is any change of policy afterwards, it will be prevented.

Then, the main object of my amendment is prevention of loss of land and, as the Leader of my Party said, there should be made no differentiation between creditors.

As regards the other point, the Honourable Minister has said that it will be impossible for the Government to run the administration if land is not sold for land revenue. Sir, I quote the figures. There were 708 forfeitures. Is it suggested that if these 708 forfeitures were not made, it would have been impossible for the Government to run the administration? There are forfeitures from 700 to 800 on an average from 1928 to 1933? Sir, I do not understand how it is said that Government will find it impossible to run the administration if Government do not get land revenue from such a small number of small holders.

Then there is another point also. It will be said that it is on account of the fear of forfeiture that land revenue is paid, and that had there been no penalty of that kind it would have been very difficult to collect land revenue. Sir, that means, if land revenue is not collected easily the small holders find it very difficult to pay. On account of the enhanced and revised assessment the small holders are actually finding

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it impossible to pay land revenue. We are demanding remissions of the enhanced assessment because we find it difficult to pay and Government should not be so cruel as to make small holders lose their lands for paying the land revenue. What will Government lose by this? Where will the small holder go if his land is auctioned for paying land revenue? He will have to resort to the moneylender. No co-operative society will give him any money; Government is not going to give him any money. So, ultimately, in order to pay land revenue which is very excessive the small holder will have to go to the moneylender and his land will go into the hands of the moneylender, a thing which Government do not want, a thing which Government propose to prevent by this Bill.

With all these considerations, Sir, I request that my amendment should be accepted. No prestige of Government should come in the way of accepting this amendment. If the real object of this Bill is to prevent the loss of land, then this amendment must be accepted. But, as some people fear, if the real object of this Bill is to deprive the moneylender of his dues, to deprive him from recovering what he has lent, then it is quite natural that it is only he who is asked to suffer and not the administration. That is the fear of the moneylender and it will prove true if Government do not accept my amendment.

The Honourable Mr. K. M. MUNSHI: The position under the Bill is this: In respect of decrees the execution will be stayed subject to the control of the Collector who has got certain powers to allow the execution, in extraordinary cases, to proceed. Those form part of the subsequent provisions of this Act. Therefore, the object of this Bill is that Civil Court decrees which are transferred to the Collector should be stayed subject to certain exceptional cases. Now, the position with regard to the co-operative societies is that the Collector has got a similar control over their decrees and awards. Under section 59 of the Co-operative Societies Act, the award is either taken to a civil court to be executed as a decree or is taken to the Collector. Whenever it goes to the civil court it will naturally, under the proposed notification, be transferred to the Collector and this Act will immediately apply to it. In cases where the award goes directly to the Collector without the intervention of the Civil Court, as has been already stated by my honourable colleague, orders will be issued to the Collector that execution in favour of the co-operative societies should not proceed except in certain exceptional cases. Therefore, the position of an award of a co-operative society is legally the same as under the provisions of this Act. The Collector will have control over both sets of executions.

Mr. S. V. PARULEKAR: What are the exceptional cases in which the land is likely to be sold?

The Honourable Mr. K. M. MUNSHI: No definite rules have been laid down, but when the Collector sits to execute two sets of decrees he will make a report to Government of exceptional cases and Government

[Mr. K. M. Munshi]

will see to it that in exceptional cases only is recovery made. Therefore, there is no reason to believe that Government will allow the moneylenders to be defrauded for the benefit of the co-operative societies. After all, in many cases a co-operative society is controlled by a majority of small holders themselves. The difficulties which one finds with the moneylender do not exist in the case of the co-operative societies; and wherever there are difficulties, it is the policy of this Government to see—and this Bill is an embodiment of it—that the land does not change hands. And therefore there is no need to fear that co-operative societies will go on executing their decree irrespective of the principles which are laid down in this Bill.

Then, Sir, the other part of the amendment deals with arrears of land revenue. Now, if you look at the whole scheme of the Act, the principal amount cannot be recovered in execution except under certain circumstances, but interest for one year has to be paid. Therefore, even a needy moneylender, except under exceptional circumstances, would be entitled to recover the interest on the monies advanced for the year for which the stay is granted. Therefore, he is duly protected. With regard to the tenant against whom the decree for eviction is stayed, the stay is made conditional on his paying the rent for one year. Therefore, to that extent, the landlord is also protected. Similarly, as regards Government, the land revenue recovered is not the principal amount lent to the agriculturist; it is the annual revenue and therefore stands on the same footing as the interest of moneylenders and the rent of the tenant. That is why I would like to draw the attention of the House to a clause, that is, clause 10 which puts the recovery of interest by the moneylenders, recovery of rent by the landlord and recovery of land revenue by Government on the same footing. That clause says this :

“In the case of any land in respect of which, on account of famine, drought, scarcity or other causes, the collection of land revenue for the current year is wholly suspended at any time during the period for which this Act remains in force under the general or special orders of the Provincial Government, a small holder to whom such land belongs shall not under section 3, or a tenant who is in possession of such land shall not under section 9, be liable to pay any interest or rent, as the case may be.

If in the case of such land the collection of such land revenue is partially suspended, the amount of interest or rent payable by him under section 3 or section 9 shall be reduced in the same proportion.”

Therefore, the Government, the moneylender and the landlord, all are placed on the same footing. When the Government recovers 16 annas, the moneylenders would recover 16 annas. If there is drought or famine and Government is not recovering anything, the small holder will not have to pay any interest for the monies due. Therefore it is not correct to say that the Government are treating themselves more favourably at the cost of the moneylenders. They will get the same advantages or be under the same disadvantages as the Government. Ultimately the argument comes to this; why should not the arrears of land revenue be suspended for a whole year? My honourable friend Rao Bahadur Chitale said, and I submit rightly, that land revenue stands on a different

[Mr. K. M. Munshi]

footing altogether. I really admire the belated solicitude of my honourable friend for remitting land revenue; but I may remind him that it was only after the Interim Ministry, of which he was such a shining light, was carried to its grave "unwept, unhonoured and unsung", that this Government issued orders for the stay of all coercive processes even under the Land Revenue Code. That is what the Government have done in this Province. Now, does it show a callousness on the part of this Government towards the agriculturist? Sir, the whole point is, whom are you going to protect by this Bill? Usually the small holder pays land revenue, the moneylender and co-operative societies out of his agricultural produce. Therefore to his moneylender he will pay the interest, to the landlord rent, and to Government revenue, and retain to himself the whole of the agricultural produce, which would otherwise have gone in liquidation of his debts. That is the relief which is intended, and I submit it is perfectly fair and equitable that in order to obtain a stay for a year he should make the annual payment but not pay the principal.

With these words, I oppose the amendment.

Sir ALI MAHOMED KHAN DEHLAVI: On a point of information. In view of the position explained by the Honourable Minister as far as co-operative societies are concerned, what objection has he to accept the first part of the amendment to clarify the position?

The Honourable Mr. K. M. MUNSHI: The position is that the provisions which apply to ordinary moneylenders would not apply to co-operative societies. In some cases the co-operative societies are constituted of small holders and agriculturists themselves. It may therefore become necessary to protect them. The debtors are themselves members of the co-operative societies and they differ from the ordinary moneylenders who have got other business and other capital. That is why they cannot be grouped in the same category.

Mr. G. K. PHADAKE: On a point of information. Are not liquidating officers appointed by the co-operative societies for the sale of land for recovery of their debts?

The Honourable Mr. MORARJI R. DESAI: No.

Mr. G. K. PHADAKE: On a second point of information. Are not other debts collected as land revenue like charges for repairing boundaries and tagavi loans?

The Honourable Mr. K. M. MUNSHI: Who says they are not recovered?

Mr. JAMNADAS M. MEHTA: What are the months for land revenue collections?

The Honourable Mr. MORARJI R. DESAI: All the months.

Mr. JAMNADAS M. MEHTA: January to March?

The Honourable Mr. MORARJI R. DESAI: All the months. They differ in different areas.

Mr. JAMNADAS M. MEHTA : No. To the best of my information—

The Honourable the SPEAKER : That is no point of information.

Now, when I put this amendment to the House, it is about 6-25 and I am afraid that the progress made and the rate of progress that we are making is slow. If the House is agreeable, I would suggest that we sit up to the time when we finish clause 3. In all, there are about 65 amendments, some of which are repeated no doubt, some of them may fall through and some of them are beyond the scope of the Bill. Considering all that, if clause 3 is taken through, amendments up to the amendment No. 37 will have been disposed of, but it will be seen that amendments Nos. 14, 15 and 16 are the same, amendment No. 17 is the same as Nos. 19 and 20. Then, the further amendments 23, 24, 25 and 26 are the same, Nos. 29, 30 and 31 are the same, and Nos. 33 to 37 are the same. So, though the number of amendments appears to be large, the points involved are about three or four, and a further thing is that if amendments Nos. 17 and 18 are disposed of, amendments Nos. 14, 15 and 16 also fall through. That practically means that there are for discussion and disposal—

Mr. R. R. BHOLE : I did not catch the last few words.

The Honourable the SPEAKER : If amendments Nos. 17 and 18 are disposed of, it will not be necessary to move amendments Nos. 14, 15 and 16. That is the order in which I propose to take them. Why I propose this order is that it will be seen that there are four or five points now mostly of details and if those points are disposed of, clause 3 of the Bill will have been disposed of. That is what I would suggest to the House. Otherwise, it is impossible to finish by tomorrow evening.

An Honourable MEMBER : Why not finish on Friday ?

The Honourable the SPEAKER : As I stated in the beginning, it is not my personal convenience at all that I am seeking.
 6-30 p.m. On Friday the Legislative Council is sitting for considering its agenda. It is likely that they may think of some amendments in this Bill—not that I know that they will, but that is a possibility which this House has to take into consideration. This Bill, it will be conceded, of all the three Bills that the House has passed, is the most important, as it gives temporary relief which is so badly needed, as I find from the discussion in the House. If, therefore, the Legislative Council is not able to take up this Bill and finish it on Friday, this House will be in a state of uncertainty and will have to sit even on Monday or Tuesday. So that, in case any amendments are made by that House, they will be considered here as to whether this House agrees to them or not. As I said in the beginning, the session has taken a much longer time than was originally anticipated. I am told that many members are anxious to go to their places, particularly in view of the fact that the budget session will be coming soon. The mofussil members can be persuaded to stay till Saturday, Sunday or Monday, if it is desired that the business should be finished in a businesslike

[The Speaker]

manner, without inconvenience. The question of inconvenience does not arise in the case of members staying in Bombay. The House does not consist only of members staying in Bombay. As this is the most urgent measure, if the House finishes it by tomorrow, this Bill will probably be put as the first item and the Council will be asked to consider it. If the Council finishes the consideration of this Bill on Friday, this House will be free to consider the Bill as passed by the Council on Saturday and the members from the mofussil will be able to leave on Saturday evening. That is the idea in arranging the work in this manner. Whether this arrangement will suit the convenience of a large number of honourable members will have to be considered. I have only placed before the House what passes in my mind. I should not be misunderstood to suggest that this measure should be passed through in a hurry. It is therefore that I am saying that, instead of getting through this Bill in a hurry, the House should sit longer, even if it will be inconvenient to some, in order that it may meet with the convenience of a large number of members.

Mr. S. L. KARANDIKAR : This suggestion is springing a surprise on us. I have no objection to sitting late, but we should have been given sufficient intimation. If we are given intimation now that we should sit for a long time tomorrow, it will be convenient for us. Today, many of us have got appointments outside. As no previous intimation has been given to us, it will cause inconvenience.

The Honourable the SPEAKER : I would be willing, if the House is agreeable.

An Honourable MEMBER : We want to sit longer and finish clause 6.

The Honourable Mr. K. M. MUNSHI : I may express the view on this side of the House. The course you suggested appears to be the only course. Unless the Bill is finished tomorrow, it will not be possible to take it before the Council. It will not be Monday as you suggested, because, if this Bill is not finished tomorrow, it will be carried over to Friday and the result will be that the Upper House may not be able to sit before Saturday. Perhaps, it may happen that, even if this Bill is taken first by the Council, it may take a little over a day. If they take up till Monday, then this House will have to meet on Tuesday. If we finish this Bill tomorrow, the Council will take it into consideration on Friday and dispose of it. Then, this House may meet a little earlier on Saturday and consider any small amendments made by the Upper House and finish it by about 2 o'clock, with the result that the members from the mofussil will be able to leave on Saturday night. Most of the members here are from the mofussil and they want to leave for their places as early as possible. I would suggest that we may sit till 9 o'clock and finish whatever we can. We are disposing of clause 3 now.

The Honourable the SPEAKER : I am to be guided by the wish of the House. In view of the difficulty raised by the honourable member Mr. Karandikar, I would suggest an alternative that we should meet

[The Speaker]

early tomorrow and sit till we finish this Bill whether it is 10 o'clock, 11 o'clock or 12 o'clock. In any case, the mofussil members will have to wait till Saturday; and the convenience they ask for will be given on this understanding that, tomorrow, this Bill has to be finished irrespective of the time it may take. This will also meet the objection raised by the honourable member Mr. Karandikar.

The Honourable Mr. K. M. MUNSHI: There is only this point. Tomorrow we may have to meet early at 10-30 or 11. If we sit for two or three hours now, it may not require the strenuous effort of sitting for 12 hours tomorrow. It would be easy to adjust. We entirely leave it to the House to decide, whether they would be willing to sit for two hours more now or for 8 hours tomorrow.

Mr. JAMNADAS M. MEHTA: Tomorrow we will sit till the Bill is over.

Khan Saheb FAIZ MAHOMED KHAN: We have not made any previous arrangement to sit now. It was a sudden surprise to many of us. Many of us have engagements after 6-30.

The Honourable the SPEAKER: Suppose we meet at 11 o'clock and sit till we finish this Bill with one or two intervals? I am in the hands of the House.

Mr. JAMNADAS M. MEHTA: If you like, you can take a division on this amendment.

The Honourable the SPEAKER: Nobody has claimed a division.

Mr. JAMNADAS M. MEHTA: Take votes on the amendment.

The Honourable the SPEAKER: I will put it and take votes.

Rao Bahadur G. K. CHITALE: This amendment should be put in two parts—the first is co-operative societies' dues and then the Government dues.

The Honourable the SPEAKER: I will split the amendment into two parts. I will put the first part:

"In clause 3 (1), after the words 1908, in line nine, add the following words 'or an award obtained by any co-operative society'."

Question put. The House divided: Ayes, 28; Noes, 69.

Division No. 9.

Ayes.

BHATNAGAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITALE, Rao Bahadur G. K.
CHITRE, Mr. A. V.
CHUNDRIGAR, Mr. ISMAIL I.
DEHLAVI, Sir ALI MAHOMED KHAN
FAIZ MOHAMED KHAN, Khan Saheb

GAVIT, Mr. D. P.
HAKHEEM, Khan Saheb A. B.
ILKAL, Mr. A. N.
JADHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KARANDIKAR, Mr. S. L.

Ayes—contd.

KAZI, Mr. AZIZ GAFUR
KHEDOIKAR, Mr. R. A.
MANDLIK, Mr. R. N.
MEHTA, Mr. JAMNADAS M.
MOHAMEDALLY ALLABUX, Mr.
PARULEKAR, Mr. S. V.
PATEL, Mr. MAHOMEDBAWA M.
PHADAKE, Mr. G. K.

RAIS, K.B. Sardar HAJI AMIRSAHEB
MOHIDDIN SAHEB
RANE, Rao Saheb B. N.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.

Tellers for the Ayes : Mr. S. L. KARANDIKAR and Mr. MAHOMEDBAWA M. PATEL.

Noes.

ANTROLIKAR, Dr. K. B.
ARADHYE, Mr. D. T.
BHARTIYA, Mr. S. R.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINJI B.
DANDEKAR, Mr. V. V.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIB P.
DESHMUKH, Mrs. ANNA PURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FIRODEA, Mr. K. S.
GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUPTE, Mr. B. M.
HALLIKERI, Mr. N. F.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI
KARAVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KESHWAIN, Mr. S. N.
KHER, the Honourable Mr. B. G.
KHMJI, Mr. BHAWANJI A.
LALA, Mr. BHOGILAL D.
LATHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MASTER, Mr. NAGINDAS T.
MEHTA, Mr. H. P.
MORARBHAI KASANJI, Mr.
MUKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NALAVADI, Mr. G. R.
NESVI, Mr. T. R.
NIMANEE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PATASKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MANGESH B.
PATIL, Mr. ATMARAM N.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGOURA S.
PATIL, the Honourable Mr. L. M.
PATIL, Mr. MALGOUDA P.
PATIL, Mrs. NAGAMMA
PATIL, Mr. S. K.
PURANI, Mr. C. B.
RAJMAL LAKHICHAND, Mr.
SATHE, Mr. S. H.
SHINDE, Mr. BAJIRAO *alias* BABASAHEB
JAGDEORAO
SHIRALKAR, Mr. P. K.
SHRIKANT, Mr. L. M.
SONGAVKAR, Mr. S. G.
SUGANDHI, Mr. M. S.
TALKAR, Mr. K. R.
THAKOR, Mr. B. P.
TRUSE, Mrs. LAXMIBAI GANESH
TULPULE, Mr. H. V.
VAGHELA, Mr. B. U.
VYAS, Mr. ISHVARLAL K.
WADEKAR, Mr. R. B.
WALVEKAR, Mr. B. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes : Mr. V. V. DANDEKAR and Mr. V. N. NAIK.

The Honourable the SPEAKER : I will now put to the House the second part of the amendment :—

In clause 3 (1), after the words "1908" in line 9, add the following words :—

"or for the recovery of any sum due to Government under any law."

Question put. The House divided. Ayes, 15; Noes, 72.

Division No. 10.

Ayes.

BHATANKAR, Mr. R. G.
BOLE, Mr. R. R.
CHITRE, Mr. A. V.
JADRAY, Mr. D. G.

JHABVALA, Mr. S. H.
KARANDIKAR, Mr. S. L.
KHEDGIKAR, Mr. R. A.
MANDLIK, Mr. R. N.

Ayes—contd.

MEHTA, Mr. JAMNADAS M.
 PARULEKAR, Mr. S. V.
 PATEL, Mr. MAHOMEDBAWA M.
 PRADAKE, Mr. G. K.

RANE, Rao Saheb B. N.
 ROHAM, Mr. P. J.
 SAVANT, Mr. K. S.

Tellers for the Ayes: Messrs. R. N. MANDLIK and M. M. PATEL.

Noes.

ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BHARTIYA, Mr. S. R.
 CHITALE, Rao Bahadur G. K.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 DABHI, Mr. FULSINEJI B.
 DANDEKAR, Mr. V. V.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mrs. ANNAFURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FIBODEA, Mr. K. S.
 GANDHI, Mr. M. M.
 GHIA, Dr. C. J.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HALIKERI, Mr. N. F.
 JADHAV, Mr. T. S.
 JOSHI, Mr. JINABHAI P.
 JOG, Mr. V. N.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KESHWAIN, Mr. S. N.
 KHER, the Honourable Mr. B. G.
 KHMJI, Mr. BHAWANJI A.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
 NALAVADI, Mr. G. R.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUADA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. S. K.
 PURANI, Mr. C. B.
 RAJMAL LAKHICHAND, Mr.
 SATHE, Mr. S. H.
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB
 JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SONGAVKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 VAGHELA, Mr. B. U.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

Tellers for the Noes: Messrs. V. V. DANDEKAR and V. N. NAIK.

The Honourable the SPEAKER: As expressed by the House, we would adjourn at this stage and sit tomorrow till we finish. There is only one change which I am going to suggest, and that is, instead of meeting at 11, we might meet at 11-30 a.m.

The House then adjourned till 11-30 a.m. on Thursday, the 3rd February 1938.

Thursday, the 3rd February 1938.

The House re-assembled at the Assembly Hall, Bombay, on Thursday, the 3rd February 1938, at 11-30 a.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ALI BAHADUR BAHADUR KHAN, Mr.
 ANTROLIKAR, Dr. K. B.
 ARADHYE, Mr. D. T.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAJI, Mr. M. M. A.
 BHARTIYA, Mr. S. R.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 COOPER, Sir DHANJISHAH B.
 CURRION, Mr. FRED J.
 DABHI, Mr. FULSINHJI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. GURASHIDDAPPA K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNA PURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 FIRODEA, Mr. K. S.
 FRENCH, Mr. F. H.
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GREWALE, Mr. A. A.
 GHIA, Dr. C. J.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GOKHALE, Mr. K. G.

GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.
 JADHAV, Mr. T. S.
 JAGTAP, Mr. D. K.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KACHHI, Khan Saheb HAJI AHMAD KASAM
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAUURI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KATHALE, Mr. B. S.
 KAZI, Mr. AZIZ GAFUR.
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MITHA, Mr. MAHOMED S. C.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NALAVADI, Mr. G. R.
 NANDA, Mr. GULZARI LAL
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.,

NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. ISMAIL MUSA.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. NARHAR R.
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PURANI, Mr. C. B.
 RAIS, K.B. Sardar HAJI AMIRSAHEB MOHIDDIN SAHEB
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Saheb B. N.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SATHE, Mr. S. H.
 SAVANT, Mr. K. S.
 SHAIKH JAN MAHOMED, Khan Bahadur
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAVKAR, Mr. S. G.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 TYABJI, Mrs. FAIZ B.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

SHORT NOTICE QUESTIONS AND ANSWERS.

Mr. S. H. JHABVALA : Sir,—

The Honourable the SPEAKER: I am sorry to interrupt the honourable member. I suppose the honourable member is referring to his short notice question.

Mr. S. H. JHABVALA : Yes, Sir.

The Honourable the SPEAKER: There are more short notice questions than one. Mr. Begmahomed.

OPENING OF A PUBLIC PASSAGE THROUGH A MUHAMMADAN GRAVEYARD AT VERSOWA IN BOMBAY SUBURBAN DISTRICT.

Mr. HUSEIN ABOOBAKER BEGMAHOMED : Sir, my question No. 1.

The Honourable Mr. MORARJI R. DESAI : Sir, the question is :

“ Will the Honourable Minister for Revenue be pleased to state :

(a) whether Government are aware that there is a century old Mahomedan graveyard on the seashore at Versowa in Bombay Suburban District ; ”

The reply is :

“ (a) There is a Mahomedan graveyard on the seashore at Versowa measuring $5\frac{3}{4}$ acres in extent. Actual assignment of this land (survey No. 93) as ‘ Masanvate ’ was made comparatively recently by the Collector of Thana in 1918, and before that the land stood in the Government records as grazing land. Government are aware that many of the Mahomedan graves on this land are old, and no doubt Mahomedan burials have been going on here for many years past, but it cannot be said exactly how long.”

Part (b) is :

“ (b) whether Government are aware that the Collector, Bombay Suburban District, has recently decided to have a public passage through the said graveyard in spite of the protests of the Muslims of that place ; ”

The reply is :

“ (b) No. What happened was that the Mahomedans of Versowa fenced in the land for the first time in June 1937. The Christian and Hindu population of Versowa immediately raised an outcry, as they had been in the habit of passing to and fro, and taking carts across the land up till June of 1937. The land had been left open even after the Collector’s order of 1918, and access to it had been still

available. The need that the village people had and still have for some sort of passage across the land in question arises from the fact that the land is situated between the metalled road on the seaward side, and a sandy lane on the landward side, which two ways both lead down into the village, and, towards the south, join up at the tank. Opposite the south-east corner of the "Masanvate" an important access leads off to oarts and rice fields on the east, and if there is no way across the 'Masanvate', people and carts, instead of being able to get quickly on the good road surface, have to go a long way north or south through thick sand. Moreover, it was found that through the complete enclosing of the 'Masanvate' all access to one survey number, a private property, on the north of the 'Masanvate' was completely cut off, while one customary access to a survey number on the south also, which had had a gate opening on to the 'Masanvate' was also obstructed. Finally, there exists, in the south-east corner of the land in question, an old stone construction, for resting head loads, dating from Portuguese times, and this stone also was enclosed by the barbed fence put up on the east of the 'Masanvate'. The Collector has, therefore, been taking the necessary steps to exclude formally from the assignment as 'Masanvate' as much land as is necessary to provide one passage across it from east to west, and to arrange for access also to his property for the individual who at present, save for any accommodation which neighbours may give, is completely cut off; and to take out from the 'Masanvate' also the old stone for resting head loads.

"The Collector has power to make and to revoke assignments under section 38 of the Land Revenue Code, and, in the exercise of this power in the case in question, care is being taken to avoid disturbing Mahomedan graves and inconvenience to the Mahomedan population as little as is possible consistent with restoring to the other communities in the village that facility for passing to and fro, which for many years past had been exercised by them without question, prior to June 1937; and for which the orders of 1918, either through oversight, or through failure to foresee an eventuality as the present, had not provided."

Part (c) of the question is:—

"(c) if so, whether Government have considered the advisability of taking immediate steps to stop the opening of the said passage?"
The reply to that is:

"(c) Does not arise."

Mr. HUSEIN ABOOBAKER BEGMAHOMED: With reference to (b), I say that the registration of this land was done in 1928 by the then Collector, Mr. Jayakar.

The Honourable the SPEAKER: What is the question of the honourable member?

Mr. HUSEIN ABOUBAKER BEGMAHOMED : Whether it is a fact that the registration of the land was done in 1927 or 1928 ?

The Honourable the SPEAKER : What the honourable Member means is assignment of the land ?

Mr. HUSEIN ABOUBAKER BEGMAHOMED : Yes.

The Honourable Mr. MORARJI R. DESAI : It was made in 1918.

Khan Saheb FAIZ MOHAMED KHAN : I think the honourable member's question was whether this piece of land, which is called a "Masanyate", was registered as a Mahomedan graveyard in 1927 or 1928.

The Honourable the SPEAKER : A reply to that is included in the reply given by the Honourable Minister.

OPENING OF A NEW SHARE MARKET IN BOMBAY CITY.

Mr. S. H. JHABVALA : Sir, will the Honourable Minister for Finance be pleased to state whether Government are aware that the opening of a new share market in the City of Bombay—

The Honourable the SPEAKER : The Honourable Minister will read both the question and the reply.

Mr. S. H. JHABVALA : I thought I might save him the trouble.

The Honourable Mr. A. B. LATTHE : Sir, the question is :

"Will the Honourable Minister for Finance be pleased to state :

(a) whether Government are aware that the opening of a new share market in the City of Bombay is being contemplated by certain persons ;"

The reply is :

"(a) Government are aware that a company has been registered with the object of dealing in stocks and shares."

Part (b) of the question is :

"Whether any application has been received by Government asking for permission to open the new share market ; and, if so, from whom ?"

The reply to that is :

"No such application has been received."

Part (c) of the question is :

"Who are the promoters of this new share market ?"

The reply is :

"The question really does not arise, because we are not aware of it officially."

Part (d) of the question :

"Whether the promoters are connected in any way with the existing share market ?"

The reply is :

"This question also does not arise."

Part (e) of the question is :

“What are the aims and object of the promoters in opening the new share market ?”

The reply is :

“Apparently to deal in stocks and shares.”

Part (f) of the question is :

“Whether it is a fact that Government had officially informed me” [that is to say, the questioner] “that no such market would be opened in Bombay.”

The reply is :

“As far as I am aware, the Government never informed the honourable member like this, and the honourable member must be in possession of the reply which he must have received from Government.”

Part (g) of the question :

“Whether Government have considered the advisability of not granting the permission in view of the increasing speculation in Bombay.”

The reply is :

“Does not arise till the application for recognition is received by Government.”

Mr. S. H. JHABVALA : Supplementary to (c). In reply to my question (a) Government say that they are aware that it is contemplated by certain persons ; and yet the answer to (c) avoids the question. If Government are aware that certain persons contemplate starting the company, are they not aware who those promoters are ?

The Honourable Mr. A. B. LATTHE : What I said was that Government are aware that a company has been registered. Government have not enquired as to who the members of that company are.

Mr. S. H. JHABVALA : Supplementary. May I know if the transactions—

The Honourable Mr. A. B. LATTHE : Supplementary to which clause ?

Mr. S. H. JHABVALA : The whole question. (*Laughter.*) Because Government say—

The Honourable the SPEAKER : Order, order. No arguments.

Mr. S. H. JHABVALA : Supplementary to (a). Will Government be pleased to state whether the transactions carried on by this new share market will be recognised officially by Government in a court of law ?

The Honourable the SPEAKER : I do not think that question is in order. It is a hypothetical matter for the future.

Mr. S. D. SAKLATVALA : Is it not a fact that this new stock exchange is going to confine its transactions only to cash transactions ?

The Honourable Mr. A. B. LATTHE : From the newspaper reports that seems to be the case.

Khan Saheb FAIZ MAHOMED KHAN : Can you rely on newspaper reports ?

The Honourable Mr. A. B. LATTHE : I do not know anything officially.

Mr. S. D. SAKLATVALA : Is it not necessary to ask for Government recognition if they are going to transact business also in futures ?

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

Mr. K. F. NARIMAN : Will the new stock exchange be controlled by the same rules and regulations as the existing share market ?

The Honourable Mr. A. B. LATTHE : This new company has not been recognised at all, and so there is no question of its being governed by any particular rules.

Mr. S. H. JHABVALA : Will the transactions be private ?

The Honourable Mr. A. B. LATTHE : A company without recognition can carry on trade for ready delivery ; but so far as forward transactions are concerned, they must have recognition from Government if they are to be recognised in courts of law.

Mr. S. H. JHABVALA : Will it not give further impetus to speculation in Bombay ?

The Honourable the SPEAKER : Order, order.

DRAFT RULES OF PROCEDURE.

The Honourable the SPEAKER : Before we proceed with the business of the day, in view of the fact that the attendance at the next sitting may perhaps be thinner,—(*Khan Saheb Faiz Mohamed Khan* : Why, Sir ?)—I should like to invite the attention of the House to one important matter, and that is about the draft rules of procedure which have been placed before the House. They will come up for discussion at the next session. It is desirable that honourable members should carefully study the rules, scrutinise them and table whatever amendments they wish to table sufficiently long before they come up for discussion, so that there may be time enough to consider all the proposed amendments and place them in the hands of the members. I am just inviting the attention of the House to this aspect, because there may be no scope then, if I disallow any last-moment amendments, for any complaint that members had had no sufficient notice or no idea that notice of particular length of period was required and so on. It is for this reason that I am specially inviting the attention of the House to this aspect.

**BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE
TEMPORARY RELIEF OF SMALL HOLDERS
IN THE PROVINCE OF BOMBAY).**

Question again proposed, "That clause 3 do stand part of the Bill."

The Honourable the SPEAKER: As I said last evening, I would take amendment No. 18 first. Honourable members will see that amendments Nos. 14, 15 and 16 deal with the deletion of all the words beginning from "On the application of the small holder" in line 10 up to the words "be stayed" in line 14. Amendment No. 18 proposes the deletion of the words "on the application of the small holder". Amendment No. 17 proposes the deletion of the words just following those words, namely, "and on the amount of the interest..." up to the words "be stayed." So, in order to avoid possible difficulty in case amendment No. 14 is taken first and it is rejected,— in which case there will be no scope for the other amendments to be considered,— and as amendment No. 18 considers one part of the clause and amendment No. 17 the other part of it, I am taking No. 18 first; if Nos. 17 and 18 are disposed of first, then automatically Nos. 14, 15 and 16 will also have been disposed of.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move:

In clause 3 (1) omit the words "on the application of the small holder and."

Question proposed.

Mr. S. V. PARULEKAR: Mr. Speaker, Sir, my object in moving this amendment is very simple. The Bill tries to protect the land of the small holder from attachment during the course of next year. That in itself is a small benefit to the small holder. But, Sir, that benefit has been made conditional on factors which it is difficult for him to satisfy. Before the debtor can get relief under this Bill, he shall have to apply to the Collector; unless he does that, the sale of land will not be stopped. Sir, the object of moving this amendment is that the protection under the Act should automatically come into operation and it should not be necessary for the debtor to apply to the Collector.

If the words the deletion of which I have suggested are not omitted, they will vitiate the whole Bill. If those words are allowed to remain in the clause, I would then say that the Bill deserves to be thrown into the waste-paper basket. Government know that the debtors whom they intend to protect are all illiterate people. Before they become aware of the existence of this Act a year will have passed. They are so illiterate that they are not even today aware of many of the beneficent sections in the Acts which have been in operation since several years. They have not been able to take advantage of those

[Mr. S. V. Parulekar]

beneficent provisions. This Bill is a temporary measure and is going to be in operation only for a year. By the time all these unfortunate people, the debtors, become aware of its existence, the Act will cease to be in operation. The single fact that they are all illiterate ought to make us hesitate to impose on them a condition by which it will be obligatory on them to apply to the Collector.

Besides illiteracy, there are several other difficulties with which the debtor is faced. If he wants to apply, he has to take the help of some one who will draft his application. He will have to consult a pleader. He will have to get his application drafted and written, if not typed, by some one. That will involve him in expense. It has been universally admitted that the agriculturist is the weaker party in the contract. Is it then just, I ask, that Government should throw an additional burden on the weaker party in this transaction? It would be thoroughly unjust if you compelled the debtor to apply to the Collector instead of making it obligatory for the creditor to apply to that officer. If at all the burden is to be thrown, it ought to be thrown on the creditor. He is a literate man; he is a shrewd man; and the Deccan Ryots Commission has described the money-lender as nothing short of a rogue. Most of them are. They will know when to apply and how to apply. They have also the resources at their disposal. It would be therefore perfectly unjust, under these circumstances, to throw on the debtor the burden of applying to the Collector.

Sir, I would further ask whether the land of the small holder ought not to be sold during the course of the next year is not the underlying principle of this Bill. If that principle is once conceded by Government, I see no reason why they should insist that the debtor should apply to the Collector. If once it is admitted that to allow the land of a small holder to be sold is a great evil, there is no logic in insisting that the debtor should apply to the Collector. He ought to be automatically protected. So far as I can see, I can find no justification for the inclusion of this condition in this clause, except perhaps one. This is a specimen of what a party which wants to satisfy the aspirations of all classes having opposite interests can do. Sir, they hope to please all the parties with the help of this measure; they can go to the money lenders who may worry them a little for passing this Bill and say, "Where is the harm in passing such a Bill? You are not at all affected. A year will pass before the illiterate peasants will know about the existence of this Bill. We have only tried to make the peasants believe that we have done something for them though in fact we have done nothing. You need not, therefore, be alarmed". That is the reply they will give to the money lenders because they do not want to offend them. To the peasants they can say, "Well, we did something for you, but you are illiterate; you did not apply to the Collector; you did not take advantage of the Act. What can we do?" In this way the blame will be thrown on the peasants if the peasants fail to take the benefit of this measure. Sir, this measure will compel all the debtors

[Mr. S. V. Parulekar]

to approach the pleaders and thus it creates a new source of income to the pleaders. Thus this measure tries to satisfy the aspirations of the pleaders too. I hope Government will realise that, if they really desire that the peasant should be benefited under this Act, they should not make it compulsory for the debtor to apply to the Collector because this condition will defeat the whole object of this Bill.

With these words, I request Government to accept my amendment.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, this amendment is very important and useful from the point of view of the agriculturist or the small holder. As we know, there are many Acts in this land which are beneficial to the peasants, but they cannot take advantage of them because of their ignorance. So also, if this amendment is not accepted and if they are asked to make an application to the Collector, I am sure not more than 10 or 15 per cent. of small holders against whom decrees have been passed will take advantage of this Act.

Further, to make an application to the Collector involves some expenditure. They will have to get the application drafted by a pleader; when the application goes to the Collector they will be referred to the Talathi and roughly speaking the small holder will have to spend about Rs. 10 for making such an application. We know that the decrees against the small holder will not be for more than Rs. 200 or Rs. 300, and only to get execution of such a decree stayed, the man will have to spend at least Rs. 10. Therefore, this provision about making an application to the Collector to get the execution of the decree stayed will not help the poor peasant.

With these words, I support the amendment moved by my honourable friend Mr. Parulekar.

The Honourable Mr. K. M. MUNSHI: Sir, the necessity of a small holder applying to the Collector is patent on the face of the Act itself. In the first instance, most of the execution proceedings against agriculturists go to the Collector. How is the Collector to know that a particular decree pertains to a small holder? He must know which execution proceedings he should stay. Therefore, the small holder must apply to the Collector and say, "I am a small holder and therefore stay the execution proceedings against me." The burden is upon the small holder to prove that he is a small holder. How is the Collector to know this unless the attention of the Collector is drawn to this fact? The applicant can easily produce a copy of the Record of Rights to satisfy the Collector that he has got only 18 acres of land. Therefore, an application is an absolute necessity. Then it is suggested here that he would not know how to apply. Those who have known agriculturists know very well that where their interests are concerned, they are shrewd and not likely to forget to get a copy of the Record of Rights and submit their applications. In all districts, Collectors have been receiving applications from all and sundry. It would not impose any hardship upon them at all. The pleaders also are unnecessary; this

12 noon.

[Mr. K. M. Munshi]

is not a matter of law; the stay is automatic. All that he has to say is: There is a decree against me; I am a small holder; I possess 18 acres in a particular district; here is the interest; and the stay will go. Therefore the application does not require the assistance of a pleader. It is also made clear in clause 8 that the Collector is the final judge in this connection; there is no question of appeal; and therefore no pleader is required at all. There is no hardship involved in this case.

Mr. R. R. BHOLE (Poona West): Mr. Speaker, Sir, in spite of the fact that the Honourable the Minister for Law and Order has explained away the difficulties which had been raised by my honourable friends, Messrs. Parulekar and Raut, I feel, I am not convinced of the fact, simply because of the bare fact that the burden is laid on the weak shoulders of the small holder to prove that he is really a small holder. My submission is why it should not be laid on the Collector himself to find that he is a small holder. If a small holder applies for a copy of the Record of Rights to the Talathi, if he is in a village or to the Collector, if he is outside, then there are so many practical difficulties which he has to undergo. It is well known that the time taken in the ordinary routine work of the Revenue Department is really, if I may use the word, scandalous. This is because of the ignorance of the villagers and the peasants. If an ordinary villager applies for a copy of the Record of Rights to a Talathi, it at least takes a week or more with, if I may mention, the little money and influence if he has any, if he is not in the good books of the Talathi or Patil. So the difficulty is that the villager will not get the copy as easily as the Honourable the Minister or Government would think. On the other hand, it would be very easy for the Collector to say that he is a small holder, because all the documents are in fact in his office.

With these words, Sir, I support the amendment.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, the Government with a little more indulgence might very well satisfy the objection. All that is needed is that the decree-holder himself might prove that the man is not a small holder. He has taken the proceedings, he has taken the decree, he wants the execution and if this element of proof were thrown on him, that the judgment-debtor was not a small holder, the whole trouble will end. Between the poor debtor and the judgment-creditor, the latter is more likely to afford the facilities to get this simple proof. If it is such an easy thing, why should not the man who wants this land to be sold and the stay not to be given, prove the whole thing and what is it that the Government will lose if they impose this little additional responsibility on the judgment-creditor? There is no other point except on whom the burden of proof about the man being a small holder or otherwise is going to be imposed and I think, Sir, that the Government need not fight the Opposition on such small matters where the judgment-creditor does not lose much, the facility given to the judgment-creditor comes to a lot and the Government will escape the charge of being irresponsible by agreeing to this amendment.

[Mr. Jamnadas M. Mehta]

The wholesale slaughter of the amendments on the basis of "Izzat" is not necessary. The Bill is not being mutilated by Mr. Parulekar asking them to substitute "judgment-creditor" instead of the "judgment-debtor" proving that he is not a small holder. The Record of Rights is there. I fail to see this adamant attitude of the Government that no commas shall be changed from that Bill, that no "ifs" and "buts" shall be introduced. They may have the giant's strength, but let them not use it.

Sir, I support.

Rao Sahab B. N. RANE (Ratnagiri North) (*Addressed the House in Marathi*): Sir, the Bill which has been brought—

The Honourable the SPEAKER (*In Marathi*): Do you want to speak on the Bill generally or on this particular clause?

Rao Sahab B. N. RANE: I want to speak on the clause.

The Honourable the SPEAKER: I am not interested in explaining the thing either way. (*In Marathi*) It is said in the third clause that if a decree is to be kept in abeyance, the small holder should apply to the Collector and then the Collector should stay the proceedings. Mr. Parulekar has given an amendment to omit the words about the application to the Collector. He wants that the Collector should do it of his own accord. The Honourable Minister has replied that it is not possible for the Collector to know whether a particular debtor is a small holder. The proceedings have come so far, and, therefore, the honourable member cannot speak generally on the Bill except at the time of the third reading.

Rao Sahab B. N. RANE (*In Marathi*): Sir, I wish to say a few words in order to show how the lands come to be sold in auction.

The Honourable the SPEAKER (*In Marathi*): That is not the subject of discussion just now. Even if we were to suppose that what the honourable member is going to say is important, it would be out of place at this moment and therefore that cannot be permitted. The only question now before the House is whether the stay order should be passed on the application of the small holder or *suo motu*.

Rao Sahab B. N. RANE: Very well, Sir, in that case I do not wish to proceed.

The Honourable the SPEAKER: The honourable member Mr. Parulekar.

Mr. S. V. PARULEKAR (Ratnagiri South): Mr. Speaker, Sir, the Honourable the Home Minister raised a difficulty in accepting my amendment. The difficulty as stated by him was "how is the Collector to know whether the debtor is a small holder?" Sir, the Collector has got the means at his disposal to satisfy himself whether the debtor

[Mr. S. V. Parulekar]

is a small holder or not. But, Sir, the Honourable the Home Minister seems to be in a mood now to sympathise with the difficulties of the Collectors. He is, therefore, of the view that the burden of proving that the debtor is a small holder must be thrown on the debtor. He said that there was no other way of ascertaining whether a debtor was a small holder. Can it not be provided in the Bill that no decree for the sale of land will be executed unless the creditor applies to the Collector and proves that the debtor is not a small holder? That is possible. The burden to show that the debtor is not a small holder can be thrown on the creditor, but the Honourable the Home Minister does not approve of this course and he wants to throw the burden on the weaker party. Therefore, Sir, I press this amendment.

The Honourable Mr. K. M. MUNSHI: Sir, it is not a question of appreciating the difficulty; it is a question of the procedure. The procedure is this: a suit has been filed; a summons has already been served upon the small holder; he has possibly defended the suit; a decree is passed, he knows all about it, he knows that the decree is going to be transferred to the Collector. Surely, it is part of the same proceeding for him to say, "Here is my record of right and therefore stay the execution." It is really a part of the proceedings. It would not cause him the least difficulty or cost him the least trouble or expense.

With regard to the argument of the honourable member Mr. Bhole, Government are going to issue instructions that whenever copies of record of rights are required for this purpose, they should be given with all convenient dispatch. If there is any harassment, Government will certainly look into it. It would be simply impossible to work the Act if the burden was thrown either on the moneylender or on the Collector. How can a judgment-creditor know that the person to whom he has advanced Rs. 100 or Rs. 200 has 15, 18 or 20 acres of land? Is he to go to all districts and trace the lands of the judgment-debtor? It is the small holder who gets the benefit of this Act; the land he owns is within his knowledge and it would be very easy for him to prove it. How is the Collector to do it? Is the Collector to get the record in respect of every one? Suppose a small holder has come to a certain arrangement with his own creditor and does not want to have the decree stayed but wants to pay four annas in the rupee and get rid of it, why should the decree be stayed? Should not the initiative remain with the small holder who wants to get benefit of this legislation? For various reasons he may not want the benefit of this Act. Why should he not be permitted to do it? Therefore, to leave the initiative in this matter is the most equitable arrangement under the circumstances. Government, Sir, is not adamant; it is as soft and as docile as my honourable friend Mr. Jamnadas would like it to be if he knows how to evoke mildness in the proper spirit.

Mr. JAMNADAS MEHTA: This is the mildness!

Amendment, that "in clause 3 (1) omit the words 'on the application of the small holder and', put.

The House divided: Ayes, 17; Noes, 72.

Division No. 11.

Ayes.

BHATANKAR, Mr. R. G.
BROLE, Mr. R. R.
CHITRE, Mr. A. V.
JADHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KARANDIKAR, Mr. S. L.
KREDOIKAR, Mr. R. A.
MANDLIK, Mr. R. N.

MEHTA, Mr. JAMNADAS M.
PABULEKAR, Mr. S. V.
PHADAKE, Mr. G. K.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.
WAGH, Mr. P. W.

Tellers for the Ayes: Mr. P. J. ROHAM and Mr. K. S. SAVANT.

Noes.

ANTROLIKAR, Dr. K. B.
ARADHYE, Mr. D. T.
BHARTIYA, Mr. S. R.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHJI B.
DANDERAR, Mr. V. V.
DESAL, the Honourable Mr. MORARJI R.
DESAL, Mr. RANDHIR P.
DESHMUKH, Mrs. ANNAPURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
GANDHI, Mr. M. M.
GHIL, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GUPTA, Mr. B. M.
HALLIKERI, Mr. N. F.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGOURI BALVANTRAI
KARAVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KATHALE, Mr. B. S.
KESHWAIN, Mr. S. N.
KHEER, the Honourable Mr. B. G.
KHMJI, Mr. BHAWANJI A.
LALA, Mr. BHOGILAL D.
LATTHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MASTER, Mr. NAGINDAS T.
MEHTA, Mr. H. P.
MORARBHAI KASANJI, Mr.
MUCKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NALAVADI, Mr. G. R.
NESVI, Mr. T. R.
NIMANEE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PATASKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MANGESH B.
PATIL, Mr. ATMARAM N.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGUDA S.
PATIL, Mr. LAXMAN G.
PATIL, the Honourable Mr. L. M.
PATIL, Mr. MALGOUDA P.
PATIL, Mrs. NAGAMMA
PATIL, Mr. S. K.
PURANI, Mr. C. B.
RAJMAL LAKHICHAND, Mr.
RANE, Rao Saheb B. N.
SARLATVALA, Mr. S. D.
SATHE, Mr. S. H.
SHINDE, Mr. BAJIRAO *alias* BABASAHEB
JAGDEORAO
SHIRALKAR, Mr. P. K.
SHRIKANT, Mr. L. M.
SUGANDHI, Mr. M. S.
TALKAR, Mr. K. R.
THAKOR, Mr. B. P.
THUSE, Mrs. LAXMIBAI GANESH
TULPULE, Mr. H. V.
VAGHELA, Mr. B. U.
VINCHOORAKAR, Sardar N. G.
WADREKAR, Mr. R. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes: Mr. BABUBHAI J. PATEL and Mr. H. P. MEHTA.

Mr. S. H. JHABVALA (Railway Unions) : Mr. Speaker, Sir, I beg to
12-30 p.m. move :

"In clause 3, sub-clause (1), line 10, delete the words beginning from 'and on' ending with 'Collector's'."

Question proposed.

Mr. S. H. JHABVALA : In moving this amendment, I desire to offer a few observations. The agrarian problem is an immense one. If one realises the vastness of the problem, one will find that it is very difficult of solution; no one can surely realise the fact of its immensity; Government have undertaken to bring in a generous piece of legislation in the direction of solving the problem of the economic condition of the small holder. Our question is whether that approach has been right or not. Here, while trying to understand the expression "small holder," we are not to forget one fact that the fragmentation of holdings has been going on in such a way that even small holders who were once possessing 5 or 6 acres are now possessing 3 or 4 acres. Whether it is uneconomic holding or economic holding is not the question now. Certainly, I am one of those who are opposed to small holdings. I want collectivisation and socialisation of agriculture. It has got to be once brought forward in the right spirit of absolute necessity. Therefore, I desire that the expression "decree-holder" etc. should be omitted up to the word "Collector". As the small holdings he has got have been becoming smaller and smaller, he is not in a position to earn as much as to enable him to keep body and soul together from the yield of his holdings. In addition, if he is asked to deposit one year's interest, it will be very hard on him. Government have admitted that they are giving relief by this Bill to the small holder; but I am surprised that still they have given a large amount of protection to the decree-holder. Therefore, I suggest that this provision to deposit interest should be deleted and that Government should, in this way, give positive proof of their assertion that they are going to bring in a very generous scheme for the relief of agricultural indebtedness. What is the condition of the agriculturist here today? He is holding two or three acres, barely sufficient for his maintenance. To add to his misery to ask him to deposit interest will be a great burden on him. This is certainly undesirable and uncalled for at this stage. Therefore, I request the Government to accept this amendment.

Mr. D. W. RAUT (*In Marathi*) : On a point of information. Am I right in saying that my amendment No. 20 is in substance the same as the one moved just now by the honourable member Mr. Jhabvala?

The Honourable the SPEAKER : Amendments Nos. 19 and 20 are the same as No. 17. The fate of this will decide the fate of the other two.

Mr. R. R. BHOLE (Poona West) : Sir, I rise to support the amendment of my honourable friend Mr. Jhabvala. This Bill is, as it is stated in the Statement of Objects and Reasons, to free the agricultural classes from their debts. If, Sir, in this Bill they want—

The Honourable the SPEAKER: I am afraid it is too wide a statement. The object of the Bill is, as stated, to give temporary relief with the further object to do something more—

Mr. R. R. BHOLE: I was going to say the same thing.

The Honourable Mr. K. M. MUNSHI: The honourable member did not say that.

Mr. R. R. BHOLE: The Bill is trying to give relief for a year and during that time they will prepare an exhaustive scheme for the relief of agricultural indebtedness.

The Honourable the SPEAKER: That too is not correct. The object of the present Bill is to maintain *status quo*, till that legislation comes in. That is the object.

Mr. JAMNADAS M. MEHTA: It is something more.

The Honourable the SPEAKER: To maintain *status quo* is the substantial object of this Bill. All these interim provisions are incidental.

Mr. R. R. BHOLE: If this Bill provides, as you say, for the interim period to maintain the *status quo* my direct question to Government is why they should not provide for this interest also. I really cannot understand why they should not relieve the agriculturists from this one year's interest at all. If there is any particular cogent reason, we might, perhaps, be able to understand it. Looking from every point of view and from all aspects, we really are at a loss to know why this indebted class should pay the interest for one year as it is provided in this relief Bill. I am sure the Congress party will agree with me when I say that the present agricultural classes are heavily indebted. It has been investigated by various people, by various authorities and has been admitted that the agricultural classes are indebted beyond what they could bear. I would not give figures because the House is in a mood to hurry up the whole legislation. But, Sir, I would like to say that the present sowkars from whom the agriculturists borrow money charge very heavy interest. I would not discriminate between a real sowkar and a widow or an old lady who might try to maintain herself by money-lending. I understand this little clause of the payment of interest for a year is meant for that old lady; but may I bring to the Government's notice that the number of such old ladies would be 1 per cent. or even less? So, we should exclude those old ladies from our purview and save the other starving peasants. Sir, the sowkars usually charge beyond 12 per cent. interest. In almost every case the heavy interest which they charge to the poor agriculturist is more than 12 per cent. There are certain practices which are in vogue here in our Province. One is called *sawai* by which these sowkars charge 25 per cent., and the other is called *didi* by which they charge 50 per cent. Sir, it would not be out of place if I mentioned a system which is prevalent in West Khandesh. That is the "Talap" system. By this system a person has to pay a rate of interest which will work out to 300 to 400 per cent. In addition, the produce which is generally given to the

[Mr. R. R. Bhole]

sowkar after the harvest is thrice or four times the quantity which he would ordinarily get for his loan. This is the state of affairs of the present peasant. I will read for the information of the House what the Royal Commission on Agriculture has to say regarding the poverty of the present agriculturist.

Mr. G. K. PHADAKE : On a point of order, Sir. We are dealing with interest given in a decree and in a decree never more than 6 per cent. interest is allowed. There is no question of excessive interest here.

The Honourable Mr. K. M. MUNSHI : That is right. Thank you.

Mr. R. R. BHOLE : Even 6 per cent. they cannot pay.

The Honourable Mr. K. M. MUNSHI : There is no question of more than 6 per cent. interest.

An Honourable MEMBER : They are unable to pay anything.

Mr. R. R. BHOLE : Sir, they are unable to pay even less than 6 per cent. interest. This is what the Royal Commission says :

"For generations he has been accustomed to a ceaseless struggle to extort a bare livelihood from an insufficient holding, and has been subject to disaster from drought, flood or epidemic. Causes which he seldom understands and cannot influence have endowed him with credit which he did not formerly possess, and he has found it difficult to resist the temptation to relieve present necessities by mortgaging his future income and even his capital.

"There are other factors. Amongst the comparatively poor, where the habit of saving is not strong, the longer the interval between the successive receipts of the return for labour, the more difficult it becomes to avoid borrowing. If wages were paid monthly instead of weekly, only a very small proportion of the working classes in the world could exist without credit; but the cultivator has to wait for half a year before he receives the return of his labour, and in far too large an area, where there is only one crop a year, the interval between successive receipts may be full twelve months."

In another place it says :

"To a very great extent, the cultivator in India labours not for profit nor for a net return, but for subsistence. The crowding of the people on the land, the lack of alternative means of securing a living, the difficulty of finding any avenue of escape and the early age at which a man is burdened with dependents, combine to force the cultivator to grow food wherever he can and on whatever terms he can."

This is the state of affairs of our present agriculturist. This is the picture of our agriculturist that is depicted here. The Congress Government knows perfectly well the poverty of the peasant. Sir, the peasants are really unable to pay a single pie. They have no huts to live in and they are often required to sleep under trees for want of shelter. This is the economic state of our agriculturists; I really cannot understand why the Government should at all insist upon the peasant to pay the interest which may be less than 12 or 6 per cent. This would be like asking for a pound of flesh. With these words, I support the amendment.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, this amendment is very important. Now, we are in the month of February—I do not know what the practice in Gujarat is—and the small holders in Maharashtra, for whose benefit the Bill is introduced, will not be able to pay anything before November or December. Generally, in November or December they take out the crop and pay off their outstandings. After that they are more or less without any money; they have no money even to pay the interest. The decrees that are ready will be executed unless they pay the interest, which they have not got and for this money for interest also they will have to go to money-lenders and borrow some money. Therefore, I support the amendment, and hope that the House will accept it.

Mr. R. A. KHEDGIKAR (Sholapur City): Sir, I rise to support the amendment moved by my honourable friend Mr. Jhabvala. The amendment is very important. If the amendment is thrown out, the very object of the Bill will be defeated. You have stated that the object of the Bill is to maintain the *status quo*, and it is also admitted that our peasants are not able to pay interest. If the peasant is not able to pay interest—when he has not got a single pie to pay it—then his land will be sold. It does not mean that it is to maintain the *status quo*, that the Bill aims at. If you compel him to pay the interest, he has no other way but to go to another money-lender, and what a money lender is has been described by the Honourable the Home Minister when he moved his Bill on money-lenders. If the object of the Bill is to give temporary relief, suppose a peasant is not able to pay interest for the year, is he to be deprived of a small holding? Do you want to compel him to pay interest at any rate? This is a very important amendment, and I request Government, if they really want to give relief to the small holders, to accept this amendment. With these words, I support the amendment.

Mr. S. V. PARULEKAR (Ratnagiri South): Mr. Speaker, Government have stated that the object of this Bill is to protect the debtors who are small holders. But, Sir, I find that in drafting this Bill more scrupulous care has been devoted to protect the interests of the creditors than to protect the interests of the debtors. In support of this contention, I will only present what Government have provided for in this Bill. Before the debtor can have any relief, he must pay the amount of interest for the year if it is due. Sir, I assume that Government are aware that most of the money-lenders who carry on their business in the villages and in the mofussil areas are intent more on getting the interest than the loan. Sir, that is the conclusion at which the Deccan Riots Commission arrived. That is also the conclusion of Reports of the Famine Commissions of 1901 and 1910. Sir, the Honourable the Home Minister wanted to say that more than 6 per cent. interest is not allowed by the civil courts. But it is so only in the section of the Act. When bonds are passed for an amount which is double of what is actually paid to the debtor, the Home Minister will realise that the creditor realises more than 6 per cent. interest on the loan. Sir, the money-lenders are anxious to see that the capital is not returned. They are satisfied if interest is paid

[Mr. S. V. Parulekar]

regularly. They do not like to take possession of the land, because they are not themselves cultivators and they are afraid that when they are in possession of the land the amount which they may be able to secure as rent may be less than the interest they would get on the loan. It will, therefore, be clear that the purpose of most of the money-lenders in the mofussil area in carrying on the money-lending business is to get only the interest. And this Bill guarantees to them the interest that they want. Now, I will ask whether this is not a Bill in the interest of the money-lender? The whole object of the money-lending business is to collect interest, and that interest is guaranteed by this Bill.

Sir, the Bill goes further. It saves the money-lender of the worry for collecting interest which he would otherwise have to suffer. In normal circumstances he would be required to go to the Court to collect the interest. This Bill collects the interest for the creditor without involving him in any expenditure. That being so, I ask, whose interests does this Bill protect—the interests of money-lenders or the interests of debtors? Sir, only in appearance this Bill protects the debtors; in reality it has taken good care to see that the money-lender does not suffer any loss.

Sir, if the amendment is not accepted, we will be landed in a very ludicrous position. Suppose there is a small holder who is not able to pay interest. Do Government maintain that the land of a man who is unable even to pay interest ought to be sold? Do they maintain that he deserves to lose the land which is the only source of maintenance to him? Between the man who is likely to lose his land which is his only source of maintenance, and the money-lender who can afford to lose interest for a year, whom do Government prefer to help? Government have chosen the money-lender. Therefore, I ask whether this Bill is not in the interest of the money-lender. If my amendment is not accepted, it will be clear that Government are taking more scrupulous care to safeguard the interests of the money-lenders, whom they represent, than to safeguard the interests of the debtors. Sir, the Home Minister wants to tell us that he knows everything. That has been the one thing that he has been repeating since the Poona session. I hope he has realised by this time that he has yet to learn many things. If he is going to guarantee the interest to the money-lender, the debtor who is not in a position to pay back the interest is sure to lose his only means of maintenance which he has with him. If he has really the interests of the debtor at heart, he ought to accept this amendment. Otherwise, the implications are clear and clear as daylight.

The Honourable Mr. K. M. MUNSHI: Sir, the Government is very humble. It wants to learn, like god Dattatreya, from everybody who wants to impart knowledge,—from the bee, the ant, from any conceivable person or thing that can impart knowledge. But even god Dattatreya had to draw a line: he would not learn from a scorpion or a clod of earth. It may become impossible for Government to learn from speeches which remind me of the story of the Brahmin and the three thieves. Sir, a Brahmin was carrying a sheep for sacrifice;

[Mr. K. M. Munshi]

and three thieves wanted to take it for themselves. So, when he was on his way, one of them came and said : " Where are you carrying this dog ?" The second thief came along and said : " Sir, it is a dog that you are carrying." The third thief came and said the same. And the Brahmin now fully convinced that it was a dog dropped the sheep, and the thieves took it away with them. I have been hearing for the last two days that every little clause, if retained, would frustrate the object of the Bill ; that every little clause is intended to benefit the money-lender. These words, like the words of the thieves in the tale, are only intended to mislead the poor, ignorant, illiterate peasant, so that he might drop the Bill and the esteem and respect in which he holds the present Government. But, Sir, the small holder, illiterate though he is, knows this Bill, and unlike the Brahmin of the tale, is not going either to drop the Bill or give up the esteem and respect in which he holds the present Government.

Sir ALI MAHOMED KHAN DEHLAVI : You are not dropping the sheep.

The Honourable Mr. K. M. MUNSHI : Neither the sheep nor the dog will be dropped so far as this Government is concerned.

Sir, so far as the Bill is concerned, if members will look at the different clauses relating to payment of interest, the position will become clear to them. Under clause 3, interest will be paid as specified in sub-clause (2). Under sub-clause (2) of clause 3, the interest payable will be worked out in this way. In many cases decrees are now before the Collector ; they run into several thousands, probably about 21,000. In most of these cases, interest is due not for one year, but for three or four years, because at the instance of the agriculturists, Collectors have been giving them time and not bringing their properties into sale. Therefore, it is not true to say that all interest is to be paid under this Bill. All that is expected to be paid is one year's interest, although interest may be in arrears for three or four years. If a decree is passed after the passing of the Bill and an application is made immediately, no interest will be required to be paid, because the interest to be paid is for one year or for a lesser period which may elapse between the date of the passing of the decree and the date of the application.

1 p.m. Really speaking, it is not correct to say that in all cases interest for one year would be required to be paid. In case of decrees under which interest has been running for some years the judgment-creditor will get the benefit of one year's interest ; and that also, as I pointed out, provided the condition of the crop in the district is such as would entitle Government to recover 16 annas in the rupee of the revenue. If the crop has failed either wholly or partially, the revenue will be suspended wholly or partially, and the interest also will be reduced either wholly or partially. The interest is to be recovered in proportion to the position of the agriculturist. As I pointed out before, under this Bill and under the notification which

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Government propose to issue, the agricultural produce for the whole year is not going to be attachable at all; with the result that all that is required is that if the interest for the decree has been outstanding for more than a year, interest for one year will have to be paid if the crop has not failed during the year. If the crop has not failed, and if the agricultural produce is going to be retained by the agriculturist—which ordinarily would have been attached and sold in execution of the decree—why should the agriculturist not pay interest for one year—not interest accruing after the Bill comes into force, but towards old arrears of interest?

It is not correct to argue that the moneys which are advanced to the agriculturist and in respect of which decrees have been taken are advanced by prosperous money-lenders who have got large capital at their disposal. In the case of small holders, those who lend money are also very small lenders. Very often, not necessarily an old woman but an old man advances money; a retired village officer or an inferior village servant also advances a hundred or two hundred rupees—perhaps the saving of his life—and lives partly on the income of that investment. All these will be subjected to great hardship if during the stay period they do not get even the interest for one year, when there is a good crop in the district and when the debtor is retaining the whole of the agricultural produce for himself. The object of this provision is to make it equitable for hard cases on both sides. Otherwise, what will happen is that poor persons who have invested money, not as a matter of business, but for investment, will suffer. It is when there is failure to pay interest or when the claim is denied or payment deferred for a long time that such men go to a court of law. People do not go to a court of law the day the money becomes due. If after numerous demands the interest still remains in arrears, the creditor will seek a decree. He has to spend money for taking out a decree. If the decree is to be stayed, why should he not receive one year's interest out of the agricultural produce which the debtor is entitled to keep for himself? It is just and equitable that the man who is going to get the benefit of the stay should pay to the person who holds the decree, if he is able to do so but not otherwise, one year's interest towards arrears of interest for one year and above.

Therefore, Sir, this is a perfectly equitable clause. It does not frustrate the object of the Bill. Nor is it beneficial to the money-lenders as against the debtors. It keeps the equitable position intact between the small investor and the agriculturist who gets all the benefits under this Bill. I therefore oppose the amendment.

Mr. S. V. PARULEKAR: He gets starvation!

Mr. S. H. JHABVALA: Sir, the whole Bill is a marvellous masterpiece of agrarian jugglery and the present clause which I have tried to amend is a part of that agrarian jugglery devised by Government. The Honourable Minister, like the proverbial Bania, sits with a balance in his

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hand. In one pan he puts the small holder, and in the other he puts the creditor decree-holder. One has to judge between the two. According to this scheme, the pan in which the small holder sits goes up and that which contains the decree-holder comes down in the estimation of the Minister. Is this situation acceptable to the Minister in charge? [*An Honourable Member* : No]. If that is not so, then why does he not accept this amendment? Why does he defend the money-lender and the decree-holder to such an extent of partisan favouritism?

It is stated that he has to pay not more than 6 per cent. interest. The question of questions is this,—and this has been laid down even in the election manifesto,—that the peasant is unable to stand any more onslaught of indebtedness in any shape any longer. But here is a provision for fleecing the pocket of the poor small holder in the name of this Bill, and this clause is a clear proof of the inadequacy of application for benefit. I may remind the Congress Government of one particular event that happened in Russia. In Russia, when the agrarian problem was being solved, a class of people called the Social Solidarians had arisen in the post-revolution days and, after a time, those Social Solidarians had collapsed. The same thing is going to happen to the Congress Government. They are just in the same stage as the Social Solidarians were before they collapsed totally in their agrarian policy. I would request them kindly to modulate their principles on correct lines so as to avoid the threatening contingency of a fall, and to accept a modest amendment of this character.

At the time when we were discussing the deletion of the words “on the application of the small holder”, the principal point I attacked was the one about the ignorance of the holder. But here the principal point that is being attacked is his own personal economic condition, which is nothing but verging on absolute starvation. That is one of the reasons why there has been consistent fragmentation. If the Congress Government are not prepared to open their eyes to what has happened, I do not know how they can ever realise the actual situation in the villages and how by a Bill like this they will ever be able to give the complete protection that is contemplated within one year.

With these words, I submit that this amendment should be accepted by the House, or else, as usual, we shall go to a division.

The Honourable Mr. K. M. MUNSHI : I have nothing to add to what I have stated. I oppose the amendment.

Question put. The House divided. Ayes, 14 ; Noes, 70.

Division No. 12.

Ayes.

BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
JADHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.

KHEDGIKAR, Mr. R. A.
MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. V.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.

Tellers for the Ayes : Messrs. P. J. ROHAM and K. S. SAVANT.

Noes.

ANFOLIKAR, Dr. K. B.	MUNSHI, the Honourable Mr. K. M.
ARADHYE, Mr. D. T.	MUNSHI, Mrs. LILAVATI K.
BHARTIYA, Mr. S. R.	NAIK, Mr. V. N.
CHAWDHARI, Mr. D. N.	NIMANBE, Mr. P. A.
CHAWHAN, Mr. P. L.	NURIE, the Honourable Mr. M. Y.
DABHI, Mr. FULSINHI B.	PATASKAR, Mr. H. V.
DANDKAR, Mr. V. V.	PATEL, Mr. BABUBHAI J.
DESAI, the Honourable Mr. MORARJI R.	PATEL, Mr. BHAILALBHAI B.
DESAI, Mr. RANDHIR P.	PATEL, Mr. MANGESH B.
DESHMUKH, Mr. K. B.	PATIL, Mr. ATMARAM N.
DESHMUKH, Mrs. ANNAPURNA GOPAL	PATIL, Mr. GAMBHIRRAO A.
DESHPANDE, Mr. G. H.	PATIL, Mr. KALLANGOU DA S.
DODMETI, Mr. A. D.	PATIL, Mr. LAXMAN G.
GANDHI, Mr. M. M.	PATIL, the Honourable Mr. L. M.
GHA, Dr. C. J.	PATIL, Mrs. NAGAMMA
GHA, Mr. M. C.	PATIL, Mr. S. K.
GILDER, the Honourable Dr. M. D. D.	PURANI, Mr. C. B.
GOKHALE, Mr. K. G.	RAJMAL LAKHICHAND, Mr.
GOPI, Mr. M. G.	RUSSELL, Mr. W. W.
GUPTA, Mr. B. M.	SAKLATYALA, Mr. S. D.
HALLIKERI, Mr. N. F.	SATHE, Mr. S. H.
HIRAY, Mr. B. S.	SHINDE, Mr. BAJIRAO <i>alias</i> BABASAHEB
JADHAV, Mr. T. S.	JAGDEORAO
JAKATY, Mr. P. C.	SHIRALKAR, Mr. P. K.
JOSHI, Mr. JINABHAI P.	SHRIKANT, Mr. L. M.
JOG, Mr. V. N.	SUGANDHI, Mr. M. S.
KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI	TALKAR, Mr. K. R.
KARAVADE, Mr. R. K.	THAKOR, Mr. B. P.
KARGUDRI, Mr. S. S.	THUSE, Mrs. LAXMIBAI GANESH
KESHWAIN, Mr. S. N.	TULPULE, Mr. H. V.
KHIMJI, Mr. BHAWANJI A.	VAGHELA, Mr. B. U.
LALA, Mr. BHOGILAL D.	VINCHOORKAR, Sardar N. G.
MAGANLAL NAGINDAS, Mr.	WADEKAR, Mr. R. B.
MEHTA, Mr. H. P.	WALVEKAR, Mr. B. B.
MORARBHAI KASANJI, Mr.	WANDREKAR, Mr. D. N.
MUKADAM, Mr. W. S.	

Tellers for the Noes : Messrs. H. V. PATASKAR and V. N. JOG.

The Honourable the SPEAKER: This means that amendments Nos. 14, 15 and 16 fall through and amendments Nos. 19 and 20 also fall through.

Mr. D. W. RAUT (Thana North) (*In Marathi*): Sir, as regards 19 and 20, we say that the words about the application only should remain.

The Honourable the SPEAKER: Therefore, I took the two sets of amendments independently. No. 17 deals with the question of deletion of all words except the words "on the application of" and No. 18 deals with all the other words. The two having been put to the House separately and both these sets having been rejected, there is no scope for the other amendments coming up. Does the honourable member wish to say anything?

Mr. D. W. RAUT: No, Sir.

The Honourable the SPEAKER: Amendment No. 21.

Mr. G. K. PHADAKE (Thana South): Sir, I beg to move :

In clause 3 (1) after the word " amount " in line 11, add the following words :

" 'Interest' if it has been given in an instalment decree, as specified under sub-section (2) otherwise at least one instalment being paid to the decree-holder or deposited with the Collector be stayed."

The Honourable the SPEAKER: Before I put it to the House, I should like to say that the meaning of the amendment is not quite clear. I cannot follow as to how the words proposed to be added fit in in the clause. The honourable member will see that he proposes to delete the words—

Mr. G. K. PHADAKE: After the word 'amount', add the following words.

The Honourable the SPEAKER: That is exactly my difficulty. If we add these words, let us see how the clause reads :

"and on the amount 'Interest' if it has been given in an instalment decree, as specified under sub-section (2) otherwise at least one instalment being paid to the decree-holder or deposited with the Collector be stayed of the interest, as specified under sub-section (2), subject to the provisions of section 10, being paid to the decree-holder or deposited with the Collector, be stayed:"

That is how it reads. I believe there is some mistake and I want to have a clear idea of the intention of the mover. Does he wish to delete the latter provision? Is that the idea?

Mr. G. K. PHADAKE: It is only that 'amount of interest' should be added after 'amount'. 'On the amount of interest, if any, if it is given in an instalment decree, subject to the provisions of sub-section (2) otherwise at least one instalment is conceded'. That is my amendment.

The Honourable the SPEAKER: Sub-section 2 does not refer to any instalment decree :

"The interest under sub-section (1) shall be the amount of interest, if any, due under the decree on the sum etc."

So I have not been able to clearly follow what the idea is.

Mr. G. K. PHADAKE: The sub-section refers to interest also. Interest has been qualified by the special provision of section 10, interest as specified under sub-section (2), that sub-section is subject to the provision of section 10.

The Honourable the SPEAKER: My point was, it does not refer to any instalment decree, while the wording of the amendment seems to be :

'Interest' if it has been given in an instalment decree, as specified under sub-section (2).

Mr. G. K. PHADAKE : That is not the amendment. My point is that either interest or instalment should be given. If you allow me, I shall add :

“The amount of interest, as specified under sub-section (2) being paid to the decree-holder or deposited with the Collector be stayed and at least one instalment being paid to the decree-holder or deposited with the Collector, be stayed.”

The Honourable the SPEAKER : I am afraid it will require some alteration, otherwise this becomes unintelligible as it stands.

Mr. G. K. PHADAKE : Sir, I will take some time.

The Honourable Mr. K. M. MUNSHI : Sir, the intention appears to be this, if I have correctly followed it. Where interest is not awarded by the decree, then one instalment should be paid as a condition precedent to the stay. To make it clear this should be the position :

“on the amount of interest as specified in sub-section (2), subject to the provisions of section 10 or where no such interest has been awarded by the decree, one instalment, if under the decree the decretal amount is payable by instalments.”

That would be the correct way. It cannot be just after section 10.

Mr. G. K. PHADAKE : [*Inaudible.*] [*Interruption.*]

The Honourable the SPEAKER : Will it be something like
1-30 p.m. this ?

After the words ‘section 10’ occurring in line 12 add the following :—

“or where no interest is awarded by the decree, one instalment in the case of an instalment decree.”

The Honourable Mr. K. M. MUNSHI : Sir, the intention of the honourable member appears to be that where the decree does not award interest and awards instalments, one instalment should be paid. That is how I understand it.

The Honourable the SPEAKER : I believe it may be in some such form again :

After the words ‘section 10’, add “or where no interest is awarded and the decree is an instalment decree, one instalment”.

That would serve the purpose of the honourable member.

Mr. G. K. PHADAKE *rose*.

Sir ALI MAHOMED KHAN DEHLAVI : The best suggestion I can make is not to move the amendment at all.

Mr. G. K. PHADAKE : Sir, I move my amendment as suggested by you.

The Honourable the SPEAKER : The amendment is :—

After the words ‘section 10’ occurring in line 12, clause 3, add the following :—

“or where no interest is awarded and the decree is an instalment decree, one instalment”.

Mr. G. K. PHADAKE : Sir, I am very thankful to you for the help you have given me in moving this amendment.

Sir, there are two kinds of decrees. In some decrees interest is allowed on the decretal amount while there are others in which only the instalments are given and no interest is allowed. By this section a discrimination is made between the two decree-holders and one will get interest and the other one will not get any interest, and since it has been accepted by the Government that something should be paid to the decree-holder, it is just and equitable that the other man should also get something. Otherwise, he will get nothing. Interest is allowed in a decree when generally the amount of a decree is not small, say where it is more than 200 or 300 rupees, while instalments only are allowed and no interest is allowed on a decree when the amount is small. So, in order that the other decree-holder may have something to live on, he must have at least one instalment. That is my amendment and I think much of my task has been made simpler on account of the Honourable Minister's defence for giving interest to the decree-holder. He has given reasons to the House why interest should be paid to a decree-holder. I only add that he should make no discrimination between the decree-holders. If he is going to allow interest to one decree-holder, he should allow one instalment to another decree-holder. The instalment may be small. In some cases, it would not amount to even the interest allowed in other decrees. So, I think my amendment should be accepted.

The Honourable Mr. K. M. MUNSHI : Sir, as the honourable member has stated, there are two classes of decrees, one for principal amount or a part thereof and the other for the principal plus interest after the date of the decree. What is intended is that the interest on the decree should be paid, but the principal amount of the decree should not be paid till the next year. If an instalment is paid, it would really mean paying a part of the principal amount to the creditor and therefore it is not possible for me to accept this amendment though he very temptingly told me that he was following up my own suggestion, which he did not.

Mr. G. K. PHADAKE : Sir, in view of the explanation given, I beg leave to withdraw my amendment.

Amendment, by leave, withdrawn.

The Honourable the SPEAKER : Amendment No. 20 falls through in view of the decision on No. 18. I refer to the honourable member Mr. Parulekar.

Mr. S. V. PARULEKAR : Yes, Sir.

The Honourable the SPEAKER : Amendment No. 22 also falls through.

Now, I wish to state to the House the hours of recess as I propose for today. I propose that we should retire for half an hour every

[The Speaker]

2½ hours of our sitting. So, the first time for retirement will be 2 p.m. and we re-assemble at 2-30. Then we retire again at 5 and re-assemble at 5-30 and so on till we finish.

Amendment No. 23, the honourable member Mr. Jhabvala.

Mr. S. H. JHABVALA (Railway Unions): Sir, my amendment is a small one, namely :—

“Delete the proviso to clause 3.”

Question proposed.

Mr. S. V. PARULEKAR: What about amendment No. 25?

The Honourable the SPEAKER: Amendments Nos. 23, 24, 25 and 26 are practically the same. Honourable members wishing to speak in respect of their amendments Nos. 24, 25 and 26 may do so on this amendment now.

Mr. S. H. JHABVALA: Sir, the proviso states that such proceedings cannot be stayed if in the opinion of the Collector the interests of the decree-holder are damaged. This is the proviso and my amendment requires the House to delete that proviso totally. This is to give a finishing touch to the amount of protection that has so far been given to the decree-holder by this beneficent Government. In the first place the decree-holder has been fully provided with powers to hold the debtor within his clutches and that has been done in the clause in the lines that are at the end over which we had a discussion just now. But here they go one step further, and the Collector is further given a power by which the decree-holder could get further relief. The intention underlying the Bill being to give relief in the matter of indebtedness to the small holder, one is at a loss to understand why such protective provisions for the decree-holder should be incorporated one after the other. Therefore, my point is that at least in this connection Government will be sufficiently generous to the interests of the small holder which it says it is so generously and charitably going to protect. If the decree-holder is found to be suffering substantial loss, even there the Collector intervenes. Now it should be remembered that it is the duty of the decree-holder to make a particular submission, and whenever a submission is made for the consideration of the Collector, naturally he will always say that his loss is substantial. At the time when two parties contest before the Collector, it will be to the interest of either party to say that his interests suffer. If the Collector watches the interests of the agriculturist, well, it is something to his advantage. But here the proviso expressly lays down that the interests of the decree-holder are to be watched. That means that every time a Collector has a case of this kind before him, he will always see to it that the decree-holder's interests are not vitiated. Under such circumstances, I do not think that this is a proviso that gives some kind of protection, even of a very distant and shadowy character to the debtor, and for that reason it should be deleted.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, under clause 3 (1) if the small holder against whom there is a decree applies to the Collector after paying interest, then the execution of the decree is stayed. That being the case, I do not understand why there should be a further proviso that if the creditor says that he suffers substantial loss, the Collector should not give protection to the small holder. Sir, in the course of the first reading of the Bill it was stated that the Bill is intended for the protection of the poor holders, to see that they do not suffer loss. Why have not Government provided that if there is no purchaser for the land in the village, then Government should pay for it and assist the decree holder? If there is no purchaser for the land, then substantial loss is suffered by the creditor. It is possible that some substantial loss might be suffered in a small number of cases. But why should the majority suffer on that account? It may be taken for granted that whenever an agriculturist applies to the Collector, the creditor will also apply to him saying that substantial loss is caused to him. Then the small holder will have to engage the services of a pleader in order to prove that that will not be the case, with the result that he will be put to more expense. This will happen in a large number of cases. Of course, it will depend on the decision of the Collector. I therefore think that the proviso should be deleted, and I support the amendment.

Mr. R. A. KHEDGIKAR (Sholapur City): Sir, I rise to support the amendment. From the proviso it appears that Government want to give relief with one hand and take it away with the other. Sir, from this proviso it seems to me as if the Bill is meant to give relief to the decree holder and not to the small holder. Where is the necessity of having this proviso for the benefit of the decree-holder? In every case the decree holder will claim that he is suffering substantial loss. Why should he say that he is not suffering any substantial loss? The sooner he says that he suffers a substantial loss the earlier the object of the Bill will be negated; the decree holder will get the interest and the decree will stand good. It is stated by my honourable friend Comrade Parulekar that the Bill in fact is meant to give relief to the decree holder rather than to the small holder. If the proviso remains, the Act will really give relief to the decree holder rather than to the small holder. Sir, by the removal of this proviso we will be subject to the displeasure of the decree holder, but if the intention is really to give some temporary relief to the small holder, I request the House to accept this amendment and thus give the real relief that is needed by the small holder.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, in clause 3 there are three safeguards for the protection of the interests of the money-lenders. The first safeguard is that instead of compelling the creditor to apply to the Collector, the debtor has been made to apply to the Collector. The second safeguard is that the debtor must pay the interest on the decretal amount. But Government do not seem to be satisfied with these two safeguards which are clearly in the interests of

[Mr. S. V. Parulekar]

the money-lenders. They want to go further and safeguard the interests of the money-lender. The third safeguard is to be found in the proviso to clause 3 (1). It says that the proceedings for the sale of land shall not be stayed when substantial loss is likely to be caused to the decree holder. The small holder may be willing to apply to the Collector; he may be willing to pay the interest; and yet the land is likely to be sold if the creditor can prove to the Collector that substantial loss will be caused to him if the land is not sold. Therefore, it is evident that Government entertain a more intense desire to protect the creditors against substantial loss than they do to protect the debtors in similar circumstances. Sir, the Home Minister the other day said that this proviso was inserted in the Bill in order that a widow money-lender whose only means of maintenance is the interest which she gets on the petty capital which she may have, may be protected. Sir, I ask whether this proviso protects only such widow money-lenders. Is it not vague enough to protect other money-lenders too? It is open to any money-lender to say that if the land is sold, substantial loss will be caused to him. Suppose that there are two sets of persons, one a widow money-lender who, if the land is not sold, is likely to incur substantial loss, and another a small holder who possesses only 18 acres of dry land. There is a fundamental distinction between these two sets of persons. The small holder wants to live on the fruit of his labour. He says to Government: "Let my land be protected, I will work on the land; I will work hard; let me have the fruit of my labour so that I may live." That is the demand of one category of persons. There is the other category of the widow money-lender who says: "I only give loan; let me live on the interest I get." If it is a question of choosing between the two sets of persons, those who respect labour, who know what it is to labour hard, will of course sympathise with the small holder and not with the widow money-lender. Not that I do not want to sympathise with that unfortunate lady. There will be very few money-lenders of this type. Even assuming that they deserve to be protected, that is not the way to protect them. It is not mentioned specifically in this clause that, if a widow who is a petty money-lender wants to sell the land of a small holder for recovering her debts, the proceedings for sale should not be stayed. If that was so provided, I could have understood it. (*An Honourable Member*: What is a petty widow?) We find here a phrase which gives a clear indication of the fact that the Ministry is wedded to the protection of the interests of the money-lenders. Though the Honourable Home Minister resented my remarks which I made while speaking on a previous amendment, I am sure he will not resent them now. Here he says: "If substantial loss is likely to be caused to the creditor class, I rather stand for the protection of the creditor than for the protection of the debtor."

The Honourable the SPEAKER: Does the honourable member Mr. Jhabvala wish to reply?

Mr. S. H. JHABVALA : If we know something about the views of Government, it would be better.

The Honourable Mr. K. M. MUNSHI : Sir, the attention of the House evidently has not been concentrated on the words "substantial loss." In the ordinary course a money-lender, whose interest is not paid for a year or whose decree has been stayed, does not suffer loss; he may suffer inconvenience. He may suffer hardship, but he does not suffer a loss. Therefore, this would not apply to them at all.

Mr. S. V. PARULEKAR : Is "substantial loss" defined anywhere in this Bill ?

The Honourable Mr. K. M. MUNSHI : The word "loss" is a well-known term in English Law and need not be defined in the Act.

Merely staying the execution of a decree by itself does not mean loss, much less substantial loss. The clause is intended to cover a case like this. Assuming a worker in a mill in Sholapur has Rs. 300 or Rs. 400 which he lends on interest to a small holder and he has also got a house worth Rs. 200. A money-lender gets a decree against the worker and the worker in turn gets a decree against the small holder and attaches his land. If the decree against the agriculturist is stayed, the house of the worker will be subject to sale in execution of the decree against him by the money-lender. In this case, it will not be a hardship, it will be a loss. In such an event the man can go to the Collector and tell him "If you stay the execution of the decree against the small holder, my property will be sold and I would suffer a loss." If his house is sold, he may not realise its full value. So, the Collector would look into the merits of the case and, if he finds that the man would suffer a loss, he would not stay the sale of the land of the small holder. If the creditor is a professional money-lender, he will never be put to any loss which this proviso is intended to cover. This provision is absolutely necessary in the interest of those people who would really collapse, whose financial position would be affected, who will suffer substantial loss, if the decree against a small holder is stayed. Therefore, it should be retained.

Mr. S. H. JHABVALA (Railway Unions) : Sir, the stand I have taken is on the basis of socialism. (*Laughter.*) Socialism has got a literature of its own. We do not find there any term like lending of money or getting interest. The Government are clearly out to give protection to the money-lenders under the name of small holder's Bill. There is no escaping that fact. It seems to me that they have introduced this Bill not for the purpose of utilising money-lenders for a particular purpose but for giving them comparatively greater protection than the small holders. These money-lenders are a set of blockheads as we call them who live by purchase and sale of the means of exchange. We are wedded to a particular policy and under that policy this proviso cannot exist. Provisions like this will perhaps last until our Government comes into existence. What we see is that this Bill is hedged in by safeguards; and three of them have been brought out very prominently in this clause.

[Mr. S. H. Jhabvala]

The last one—even if there is a substantial loss—means the same, so far as I understand according to Government's mentality. Even if that loss is caused to the creditor, the Collector has power to tell the small holder that if there is such a decree pending against his name his lands will be sold. When the Bill went into the hands of the select committee, I do not know what they did and why they should not have felt prompted to delete that proviso. The agrarian problem cannot be solved in this way under the policy enunciated by Government. For that reason we shall go on opposing clause after clause. Let Government also go on passing each clause. Our struggle is not at an end and for that reason we shall go on consistently opposing such kind of clauses. For that reason I have moved my amendment for the consideration of the House.

The Honourable the SPEAKER: It is time to adjourn for tea. If the Honourable Minister wishes to reply, he may do so when we re-assemble.

(The House re-assembled after tea at 2-30 p.m.)

The Honourable Mr. K. M. MUNSHI: Sir, I remain unconvinced even by the eloquence of my honourable friend Mr. Jhabvala. There may arise a case of a creditor who may be of such limited means, who may find himself in such difficult circumstances that, if some relief is not given to him, it would mean substantial loss to him. Cases of such nature cannot be ignored by any legislation or by any Government, be it socialist, democratic, or of any other character. I therefore hope that the honourable member Mr. Jhabvala will withdraw it.

Mr. S. H. JHABVALA: No.

Question put. The House divided: Ayes, 14; Noes, 66.

Division No. 13.

Ayes.

BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
JAGT P, Mr. D. K.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KHEDGIKAR, Mr. R. A.

MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. V.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
SINGAPORI, Mr. A. E.
VARALE, Mr. B. H.

Tellers for the Ayes: Mr. K. S. SAVANT and Mr. H. V. PATASKAR,

Noes.

ANTROLIKAR, Dr. K. B.
ARADHYE, Mr. T.
BHARTIYA, Mr. S. R.
CHAWDHARI, Mr. D. N.
DABRI, Mr. FULSINJI B.

DANDEKAR, Mr. V. V.
DESAI, Mr. GURASHIDDAPPA K.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIR P.
DESHMUKH, Mr. K. B.

Names—contd.

DESHMUKH, MRS. ANNAPURNA GOPAL	NAIK, Mr. V. N.
DESHPANDR, Mr. G. H.	NANDA, Mr. GULLARI LAL
FIRODKA, Mr. K. S.	NESVI, Mr. T. R.
GANDHI, Mr. M. M.	NIMANEE, Mr. P. A.
GHA, Dr. C. J.	PATEL, Mr. BABUBHAI J.
GILDER, the Honourable Dr. M. D. D.	PATEL, Mr. BHAILALBHAI B.
GOKHALE, Mr. K. G.	PATIL, Mr. ATMARAM N.
GOP, Mr. M. G.	PATIL, Mr. GAMBHIRRAO A.
GUPTA, Mr. B. M.	PATIL, Mr. LAXMAN G.
HALLIKERI, Mr. N. F.	PATIL, the Honourable Mr. L. M.
HIRAY, Mr. B. S.	PATIL, Mr. MALGOUDA P.
JADHAV, Mr. T. S.	PATIL, Mrs. NAGAMMA
JAKATT, Mr. P. C.	PATIL, Mr. S. K.
JOSHI, Mr. JINABHAI P.	PURANI, Mr. C. B.
JOO, Mr. V. N.	RAJMAL LAKHICHAND, Mr.
KANUGA, Mrs. VIJAYAGAURI BALVANTRAI	RANE, Rao Saheb B. N.
KARAVADE, Mr. R. K.	SATHE, Mr. S. H.
KAROUDEI, Mr. S. S.	SHIRALKAR, Mr. P. K.
KESHWANI, Mr. S. N.	SHRIKANT, Mr. L. M.
KHIMJI, Mr. BHAWANJI A.	SUGANDHI, Mr. M. S.
LALA, Mr. BHOGILAL D.	TRAKOR, Mr. B. P.
LATTHE, the Honourable Mr. A. R.	THUSE, Mrs. LAXMIBAI GANESH
MAGANLAL NAGINDAS, Mr.	TULPULE, Mr. H. V.
MASTER, Mr. NAGINDAS T.	VARTAK, Mr. G. D.
MEHTA, Mr. H. P.	VYAS, Mr. ISHVARLAL K.
MORARBHAI KASANJI, Mr.	WADEKAR, Mr. R. B.
MUKADAM, Mr. W. S.	WALVEKAR, Mr. B. B.
MUNSHI, the Honourable Mr. K. M.	WANDEKAR, Mr. D. N.

Tellers for the Noces : Mr. P. J. ROHAM and Mr. V. N. JOO.

The Honourable the SPEAKER: This means that amendments Nos. 24, 25 and 26 fall through, all of them being identical. Coming to No. 27, I have already expressed my view yesterday that it is out of order being out of the scope of the Bill. No. 28.

Mr. G. K. PHADAKE (Thana South): Sir, I beg to move :

In clause 3, add the following proviso :

"Provided further that the execution of proceedings which have begun before 1st of January 1937 shall not be stayed."

Question proposed.

Mr. K. M. MUNSHI: Sir, may I rise to a point of order? The intention of this amendment appears to be to exclude execution proceedings which have begun before the 1st of January 1937 from the operation of this Bill. Now, in sub-clause (1), the House has already passed these words: "all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force." Therefore, Sir, practically the House has come to the decision that the Act must apply to all proceedings begun even prior to the 1st of January 1937.

The Honourable the SPEAKER: Clause 3 as a whole has not yet been adopted by the House.

Mr. G. K. PHADAKE: Sir, while moving the first reading of this Bill, the Honourable Minister told us why this Bill was brought in; he told us that because of Government's intention to bring in some relief measures for the small holders, money-lenders and decree-holders got frightened and were hastening execution proceedings, and that in order that those execution proceedings might be stayed, this Bill was brought in. The position at present is that in some districts of this province, four sections of the Deccan Agriculturists' Relief Act do not apply; the Collector never takes possession of the land in those districts, and the land is always sold. So, the concession given in clause 4 of this Bill does not apply to those districts. Generally, five years are required to complete the execution proceedings for the sale of property. One year is required for deciding a suit. Then, the property can be auctioned only if there are two yearly defaults. Generally, five years pass before a property is auctioned. I shall quote an instance. I know of a case in which a decree-holder began execution proceedings in 1934. Even in 1938 those execution proceedings have not been completed. He has gone through all the difficulties that could possibly be put in his way. Even God intervened: the judgment-debtor died in the meanwhile. So, the names of the heirs had to be substituted and all the formalities had to be gone through again. Even after these four years it is not possible for him to realise his money. The land has been actually auctioned; the man has deposited the money with the Collector; but on a technical ground an attempt is now made to set aside this sale. The proceedings have come to this stage, and after this Bill is passed, that man will have to wait for one year more. He did not begin his execution proceedings out of any fear of relief measures. He did it in the ordinary course. There was no question of relief to the small holders when he began his proceedings. Some others with him also began execution proceedings in 1934. Those proceedings were completed before 1937. It is only on account of the misfortune of this man that his execution proceedings have not been completed. Government cannot touch those men whose proceedings have been completed; but this man, because, I think, he obeyed the law sincerely, has to suffer.

I have put in the year 1937, because before that time there was no talk of relief to small holders. All those who began their execution proceedings before 1937 did it in the ordinary course. In 1937, at the time of the election, it was given out in the manifesto that there would be some relief measures for the agriculturists. It is possible that some shrewd men may have begun execution proceedings out of fear of what might come when the Congress assumed power. But those who began their execution proceedings before that year did not do it out of any such fear, as I have pointed out. I know of another case in which the execution proceedings begun in 1932 have not yet been completed. It is sheer injustice that these people should suffer again. They have already suffered much, and under this Bill they will have to suffer for one year more. I move this amendment, in order that their interests may be protected, as they did not act out of any fear.

Mr. B. H. VARALE (Belgaum North) (*Addressed the House in Marathi*): Mr. Speaker, Sir, I rise to oppose the amendment of my honourable friend Mr. Phadake. It seeks to impose a further burden on the already heavily indebted community which is the subject matter of the present Bill. It was the duty of the Congress Government to take measures, immediately after they assumed power, for the stay of all suits and decrees irrespective of the years in which they had been passed. That would have gone some way in relieving the load of debt on the agriculturists. But, as I see from this Bill, they have not thought it fit to do so. We are sorry that the Congress Government intend to apply the provisions of this Bill only to decrees passed after March 1938. That will not help the agriculturists very much. During the election they promised that they would undertake the responsibility of relieving the indebtedness of the agriculturists and secured their votes. Now that they are in power, it was their duty to carry out that promise.

The Honourable the SPEAKER (*in Marathi*): What is the basis of the honourable member for saying that the provisions of this Bill will apply only to decrees passed after 31st March 1938?

Mr. B. H. VARALE: From what the Honourable Minister said.

The Honourable the SPEAKER: Is that provision contained in this clause?

Mr. B. H. VARALE: If the date I have mentioned is wrong, and if it is the intention of Government to apply the provisions of this Bill to all suits and decrees, it is indeed very satisfactory.

The Honourable the SPEAKER: Has the honourable member read clause 3?

Mr. B. H. VARALE: Yes, Sir.

As the honourable member Mr. Phadake's amendment is against the interests of agriculturists, I think it my duty to oppose it.

The Honourable Mr. K. M. MUNSHI: Sir, this amendment, if accepted, would take away from the purview of the Act a very substantial number of decrees which really require to be stayed. There are a large number of decree-holders whose decrees are outstanding, and those decrees were passed before the 1st of January 1937. Therefore, if they are taken out of the operation of the Act, the result will be that persons who have taken decrees after them, will have their decrees stayed, while old creditors would go and take away the land. That will be the effect. Therefore, it is not possible to accept the amendment.

Mr. S. V. PARULEKAR: On a point of information, Sir. When the Honourable Minister rose a few minutes back, he seemed to accept this amendment, saying that the Act would come into operation on some date in March. Therefore, only those decrees—

The Honourable Mr. K. M. MUNSHI : Who said that ? I never said anything of the kind.

The Honourable the SPEAKER : He never said that. That is my recollection also. I do not know whence the honourable member introduced this statement. However, that is irrelevant now.

Mr. G. K. PHADAKE : Sir, I will only say this much, that we now know that this Bill has not been brought forward for the reason that money-lenders have become frightened and have begun execution proceedings. That was the reason given first. Now it seems that that is not the reason. My point mainly depended upon that reason. Since that is not the reason, I do not want to press my amendment.

Amendment, by leave, withdrawn.

The Honourable the SPEAKER : Amendments Nos. 29, 30 and 31
 3 p.m. fall through. They refer to the deletion of clause
 3 (2), and the House, by rejecting amendment
 No. 17, has rejected the proposal to delete the words "and on the amount
 of the interest as specified under sub-section (2)", etc. In this view,
 these three amendments which are the same fall through.

Amendment No. 32 is out of order being beyond the scope of the present Bill.

Amendments Nos. 33, 34, 35, 36 and 37 are identical. Amendment No. 33 may, therefore, be moved.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, I beg to move :

Delete clause 3 (3).

Question proposed.

Mr. S. V. PARULEKAR : Sir, I must confess that I have not understood the clause which I want to be deleted. I would therefore like to be enlightened what exactly it means before I can make up my mind on this amendment. What led me to move this amendment was that there were already three safeguards to protect the interests of the money-lenders, and here was the fourth which says that even after the Collector has given his orders for the stay of the sale of the land of the debtor, he can reconsider the position under certain circumstances described in clause 3 (3). As there are already enough safeguards to protect the interests of the money-lenders, I want this to be deleted.

With these words, I move my amendment.

Mr. D. W. RAUT (*Addressed the House in Marathi*) : On a point of information, Sir, not particularly with regard to this amendment but

[Mr. D. W. Raut]

with regard to amendment No. 32. You just now stated that the amendment was out of order being beyond the scope of the present Bill. We were under the impression that amendments of principle can be moved at the time of the first reading—

The Honourable the SPEAKER: Because an amendment is not an amendment of principle it does not necessarily follow that it is within the scope of the Bill. The two things are not identical. An amendment may not be one of principle and yet may be outside the scope of the Bill.

Mr. S. H. JHABVALA (Railway Unions): Sir, I have also tabled a similar amendment and therefore I rise to support the amendment moved by my honourable friend comrade Parulekar. The Congress wrested power from the British Government with a view to weakening—

The Honourable the SPEAKER: General statements about the attitude of the Congress this way or that way or as to what it has stated in its Election Manifesto have been made on the floor of this House times out of number, almost *ad nauseam* if I am permitted to say so. Therefore, I would request the honourable members to restrict themselves to the merits of the amendment without referring to any general statements of that type.

Mr. S. H. JHABVALA: Sir, if you had allowed me a little latitude in the matter of completing my sentence—

The Honourable the SPEAKER: Order, order.

Mr. S. H. JHABVALA: The power vested in the hands of the Collector is very large. What I wanted to say was that it was intended by the Congress Government to weaken, to lessen the power of the Collectors and the Commissioners and other village Supremes, but in actual practice that is not done. What is done here is that the Collector is actually made the Czar among the villagers. Not only is he permitted to stay the prosecution orders when the decree-holder applies, but he is also permitted under this clause 3, if he commits a mistake in the matter of the stay order, to cancel the stay order and order that the proceedings shall continue. Now, to invest an officer with such a power is simply to go a step further in the opposite direction, that is to say, nullify the practical benefit and the practical purpose of this Bill. The practical purpose of this Bill, every one in this House agrees, is laudable. But our consistent objection is that the benefit is being nullified and the aim becomes misplaced, so much so that taking clauses 2 and 3, we find that in addition to what ill already has been done, clause 3 weakens the position of the debtor further. For the mistake of the Collector if the debtor can possibly get some kind of relief, the debtor must enjoy the relief, and surely, relief of indebtedness is the prime object of the Government under this Bill. But if we look to this clause 3 we would find that there is some kind of loophole for protection being left open to the decree-holder. That nullifies the object of this Bill which is to give relief to the small holder against whom a decree is passed.

[Mr. S. H. Jhabvala]

Therefore, I support the amendment of the honourable member comrade Parulekar.

The Honourable Mr. K. M. MUNSHI : Sir, I am not surprised that this clause has led to a certain amount of misapprehension in the minds of some of the members of this House. This clause is only intended to provide for cases where the small holder wants to prefer one creditor to another or wants to commit a fraud. I will explain one or two cases in which it may become necessary to invoke the assistance of this clause.

Take the case of a small holder who has got, say, 5 acres of land in Kolaba, 5 acres of land in Ratnagiri and 8 acres of land in Satara. He has got a decree-holder in Kolaba. He applies to the Collector of Kolaba saying, "I want you to stay the decree against me in Kolaba".

The result is that the decree of the decree-holder in Kolaba is stayed. Then there is another favoured creditor in Satara who files a suit and obtains a decree against him in the Satara Court. There in order to prefer the creditor in Satara, the small holder either goes and admits that he has got not 18 acres but 20 acres or he keeps quiet and does not apply to the Collector. The result is that the decree of the Kolaba creditor will be stayed in Kolaba while the Satara creditor will be able to sell the land. If such a case happens, there is no power in the Kolaba creditor to go to the Collector of Kolaba and say, "the Satara creditor is being favoured; he is going to sell the land. Why don't you raise the stay of execution of my decree to enable me to share with him?"

This is the object of this clause. I will read the section to satisfy the member that that is what it means. Take the other case; a similar instance. Suppose the man is actually a member of a joint family or he has got another brother having 20 other acres. In Kolaba he applies, saying, "I have got 18 acres, have the decree stayed". He goes to Satara, gets somebody to file a suit against him and his brother saying they form a joint family owning not 18 acres, but 18 *plus* 20, that is, 38 acres. Suppose the creditor in those proceedings sells the property and the sale proceeds are in the hands of the Court at Satara. Would it then not be necessary for this man, the Kolaba creditor, to say, you have stayed execution of my decree, the land is actually being sold in the Satara Court and unless the stay is vacated, I will not be able to claim rateable distribution of the sale proceeds of the land in Satara? This sub-clause is intended not to cover the cases of a stay granted under clause 3, but it is only intended to raise the stay in those cases where there are other proceedings taken by other people which may have an adverse effect on the first creditor. I realise the difficulties of my honourable friends here and I think they would be met if the word "other" is added between "any" and "proceedings". The clause will then read as follows :

"If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land....."

[Mr. K. M. Munshi]

His rights to the said land cannot be affected in Kolaba, but it may be in another district, and in other proceedings,—

“.....or to the proceeds of the sale of such land are likely to be prejudiced by reason of any proceedings.....”

This relates to the right to share in the sale proceeds. The sale is stayed in one district; but when other proceedings have been started and an actual sale has been effected therein and sale proceeds realised by the Court, the first creditor can say, “What is the use of telling me not to bring the property on sale when the sale proceeds are in the hands of another Court? I want rateable distribution of it”. It reads:—

“taken under any law for the time being in force relating to the said land, the Collector may direct.....”

It is not “shall”; the Collector “may” look into the matter, to see whether the steps taken in the proceedings are such as to defeat the first creditor, and if he thinks fit, then only he will grant the stay. Therefore, if the word “other” is introduced, the meaning will be perfectly obvious.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, in brief, the sub-clause (3) amounts to a stay order on a stay order. It means that the stay order which was granted is being dissolved for the reason which the Honourable the Home Minister mentioned and he thinks that it is intended to prevent fraud against one decree-holder in favour of another which the judgment-debtor might be perpetrating and he also thinks that this is possible because of the land being in Satara or Kolaba or Ratnagiri. But as I read sub-clause (3), there is nothing to warrant that this relates to lands in different districts and his amendment will not help the matter. I shall read:

“If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land.....”

At this stage, there is no question of staying any rights of the decree-holder to the said land; it is general.

“.....or to the proceeds of the sale of such land.”

It is again the same land,

“.....are likely to be prejudiced by reason of any proceedings taken under any law for the time being in force relating to the said land.....”

In all these three cases, the reference is to the same land and no other, and how is the honourable gentleman going to justify it, this staying of a stay order according to the phraseology, I shall be very happy to be enlightened. If he means that within the heart of his heart, I give him compliments, but if language is an indication of what we intend to say, the language of this sub-section, as it stands, is not, in my

[Mr. Jamnadas M. Mehta]

opinion, capable of any interpretation of the kind which the Honourable the Home Minister has tried to put, because in each case the land is the same land. Therefore, adding the words "of any other proceedings" will not make it a different land and would constitute another difficulty in understanding the sub-clause which my honourable friend Mr. Parulekar finds in understanding the original clause, as it stands. The fact is that it does amount to a stay order to a stay order and the reasons are left to be decided by the Collector. No reasons are given. One more restriction is removed from the path of the money lender which we thought was being imposed under the original clause. I, therefore, think that if Government means what the honourable member just now said, it may provide some justification for the maintenance of the clause, but as it stands, I do not think there is any foundation for the hope that the judgment-debtor is likely to be benefited, because it refers to the same land at each of the three stages to which reference is made.

For these reasons, Sir, I support.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, if the sub-clause is likely to be modified as suggested by my honourable friend, I would be tempted to withdraw the amendment, but if it is to remain in the same form with the same wording as it is—

The Honourable Mr. K. M. MUNSHI: I am willing to have "any other proceedings".

Mr. JAMNADAS M. MEHTA: That makes no difference.

Mr. S. V. PARULEKAR: If the Honourable Minister is willing to modify in the light of the remarks of Mr. Mehta—

The Honourable Mr. K. M. MUNSHI: That I am going to explain later.

The Honourable the SPEAKER: At present all that the Honourable Home Minister says is that he is willing to put the word "other" before the word "proceedings". That is how I understand the position.

Mr. S. V. PARULEKAR: I have nothing to add.

The Honourable the SPEAKER: He does not wish to say anything further.

The Honourable Mr. K. M. MUNSHI: Sir, I think my honourable friend Mr. Jamnadas Mehta will see that there might be proceedings in respect of the same land in the instance that I gave. The instance that I gave was that these five acres may be in Kolaba, five in Ratnagiri and eight in Satara, when the decree-holder applies for execution in the Kolaba Court. The small holder applies for a stay saying "I have got 18 acres, 5 here, 5 in Ratnagiri and the rest in Satara; by reason of these 18 acres I am a small holder; give me a default". Another

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creditor of his, files a suit in Satara. He says, "The land is the same. The holder has 5 acres in Kolaba, 5 in Ratnagiri and 8 in Satara. Therefore, I seek execution against them". Here, the holder does not apply for stay at all, and the execution will proceed automatically. A sale, in fact, will follow. It is for the holder to apply, and if he does not apply, the execution proceedings will continue. Therefore, the Satara Court will proceed to sell the lands. If the Satara Court sells the lands, the Kolaba creditor will suffer because his execution has been stayed. Then he will rely on this sub-clause saying "in other proceedings steps are being taken which are likely to prejudice me, because there the same property is being sold and so I should have the stay vacated". Therefore, it is the same land, it is not different. The proceedings only are two.

The whole object of this clause is that where a fraud is sought to be committed by a small holder who holds the same lands by reason of two proceedings, the two judgment creditors should be placed on the same footing, one should not be prejudiced for the benefit of the other. Of course, if the judgment debtor is honest, he will get both proceedings stayed.

Mr. JAMNADAS M. MEHTA: When a stay is granted, it will be granted in the original court and the debtor will have to show that he is a small holder.

The Honourable Mr. K. M. MUNSHI: And therefore a stay granted in the suit in the Kolaba Court will not affect a suit in another Court filed by another creditor against the small holder.

Mr. JAMNADAS M. MEHTA: On a point of information, only to clarify the situation. Will the Chair kindly solve the difficulty for us?

The Honourable the SPEAKER: It appears that the difficulty arises because of the words "relating to the said land" appearing in line 43, viz. "any proceedings taken under any law for the time being in force relating to the said land". So, the difficulty is "what is the meaning of the expression 'said land'"? Does it mean land which is the subject matter of execution proceedings in a particular district or land or the totality of lands which the small holder holds in different districts? The expression "said land" does not lend support to the argument, *prima facie*, that the "said land" refers to the lands in all the districts taken together. That seems to be the practical difficulty, and I do not know whether it would be proper for me to suggest—I do not want to suggest—anything, but it appeared to me when I read this clause that perhaps insolvency proceedings were in contemplation.

The Honourable Mr. K. M. MUNSHI: Not insolvency proceedings but execution proceedings taken in another district in respect of the same small holding.

Mr. JAMNADAS M. MEHTA : My fear is that once I apply as judgment debtor that the application should be stayed I mention why I am a small holder, and if I indicate that I have got this land and that land and the other land in other districts and I apply for protection, I will have to show how I am a small holder.

The Honourable Mr. K. M. MUNSHI : What happens if you do not show ?

Mr. JAMNADAS M. MEHTA : I am bound to show.

The Honourable the SPEAKER : The point is whether the clause brings out the intention. It should be seen from that point of view. May I suggest, instead of "said", put the word "his" ?

The Honourable Mr. K. M. MUNSHI : It may perhaps be "lands of the small holder concerned". I will have the sub-clause properly drafted. It is merely a matter of words. In the third reading, if you permit me, it will be made clear. The intention is to prevent fraud.

Mr. JAMNADAS M. MEHTA : If it is satisfied by any change in language without imposing any fresh liability against the small holder, we are quite willing.

The Honourable Mr. K. M. MUNSHI : Except in the case of fraud, there is no intention to impose fresh liability.

Mr. JAMNADAS M. MEHTA : I agree, but it goes beyond that ; if you can devise a phraseology—

The Honourable the SPEAKER : The matter may be left for alteration at the third reading. After all, it is to clarify the intention and therefore it is only verbal.

Mr. JAMNADAS M. MEHTA : I am quite willing to withdraw opposition if the language will be so modified as to prevent fraud and not to impose any fresh liability on the small holder.

The Honourable Mr. K. M. MUNSHI : Yes, that will be looked into.

The Honourable the SPEAKER : The Honourable Minister will see as to how to achieve that object.

The Honourable Mr. K. M. MUNSHI : I am trying to make the wording clear so that there may not be any difficulty hereafter for construction.

The Honourable the SPEAKER : I should be inclined to think that the insertion of the word "other" and the deletion of the word "said" appearing before the word "land" and the addition of the words "of the small holder" will satisfy.

Mr. JAMNADAS M. MEHTA : "Any other land" or some such wording will perhaps do.

The Honourable the SPEAKER : It is going to be examined and set right in the third reading.

Mr. S. V. PARULEKAR : In view of the explanation and assurance given by the Honourable Minister, I beg leave of the House to withdraw my amendment at present.

The Honourable Mr. K. M. MUNSHI : I will have it properly drafted.

The Honourable the SPEAKER : The same amendment, I find, is tabled by four other members, Mr. Bhole, Mr. Khedgikar, Mr. Jhabvala and Mr. Raut. So, before I put the proposition for leave of the House, I should like to know whether each one of those honourable members gives his consent to withdraw the amendment.

Mr. R. R. BHOLE : Sir, in view of the explanation and the assurance given by the Honourable Minister, I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. D. W. RAUT : Sir, I too beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. R. A. KHEDGIKAR : Sir, I am quite willing to withdraw my amendment and beg leave of the House to do so.

Amendment, by leave, withdrawn.

Mr. S. H. JHABVALA : Sir, as my honourable friends have landed me in trouble, and left me, I also beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. S. V. PARULEKAR : Sir, as I said before, I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

The Honourable the SPEAKER : I now put clause 3 to the House. I believe all amendments to clause 3 are exhausted. There are none with me now.

Clause 3 ordered to stand part of the Bill.

Clause 4 (*Possession of property under section 22 of the Dekkhan Agriculturists' Relief Act, 1879*).

(1) Notwithstanding anything in section 22 of the Dekkhan Agriculturists' Relief Act, 1879, every order under the said section directing the Collector to take possession of land belonging to a small holder passed before or after the commencement of this Act shall not take effect before 31st day of March 1939.

(2) Nothing in this section shall affect the power of the Collector to deal under the said section with any land, the possession of which has been taken before the commencement of this Act.

Mr. S. H. JHABVALA (Railway Unions) : Sir, in view of the fact that in the initial stage of the debate on the second reading the Honourable the Revenue Minister made a statement, in fact, that it was intended that within a short period of time sufficiently healthy tenancy legislation would be brought on the anvil and that there would be an effort made towards the right direction in the matter of relief and also a solution

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of the various problems involved in the question, I do not desire to extend the period from 1939 to 1942. The Honourable Minister in charge of Revenue assured the House that he was very keen on the introduction of some necessary measure of relief which should be given and that also within a very short period of time and also that his future measure would definitely shape the agrarian policy of the Province. Therefore, I do not think I should like to extend the period. I give him six months and I hope he will not disappoint us.

The Honourable the SPEAKER: I take it that the honourable member does not move his amendment No. 38.

Mr. S. H. JHABVALA: No, Sir. I do not move.

The Honourable the SPEAKER: Then there is the amendment No. 39 tabled by the honourable member Mr. Raut.

Mr. D. W. RAUT: I do not wish to move it, Sir.

The Honourable the SPEAKER: Amendments Nos. 38 and 39 are not moved.

Clause 4 ordered to stand part of the Bill.

Clause 5 (*Serving of decrees for maintenance*) ordered to stand part of
3-30 p.m. the Bill.

Clause 6 (*Stay of attachment and sale of dwelling houses, milch cattle and standing crop*).

Notwithstanding anything in any law for the time being in force, all proceedings in execution of decrees pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the attachment or sale of the following property belonging to a small holder, shall, on the application of such holder, be stayed, namely:—

(1) milch cattle, not exceeding two in number,

(2) one dwelling house (with the materials and the sites hereof and the land immediately appurtenant thereto and necessary for its enjoyment, occupied by him, or

(3) standing crop.

Mr. B. D. LALA (Ahmedabad North): Sir, I have tabled a verbal amendment to this clause, which I now move. It is as follows:—

In clause 6, for the portion beginning with the words "for the attachment and ending with the word "namely," the following shall be substituted, namely:—

"shall, on an application of a small holder, be stayed in so far as they relate to the attachment or sale of the following property belonging to such holder, namely."

In sub-clause (2) of clause 6, change the last word "or" into "and."

Mr. S. V. PARULEKAR: Sir, that amendment is not in the list which has been distributed to us.

The Honourable the SPEAKER: This was received yesterday, and could not be circulated to the members.

Mr. S. V. PARULEKAR : Is he allowed to move it ?

The Honourable the SPEAKER : It is only a change of language, as will be seen when the amendment is read out. It does not change the substance.

Question proposed.

Mr. B. D. LALA : Sir, this amendment brings out the meaning of the clause more clearly. As it stands it is capable of a different interpretation. It may be argued that in execution proceedings milch cattle not exceeding two in number shall not be attached, but if they exceed two in number all may be attached. In order to remove that doubt the language is changed and it makes the meaning clear. The amendment says that in no case two milch cattle should be attached in execution or sold. It is simply a verbal alteration, and that is made in order to bring out the meaning of the clause more clearly. It does not make any change in the substance or in the spirit of the whole clause. I therefore hope that the amendment will be accepted.

Mr. JAMNADAS M. MEHTA : I simply wanted to know how far this extends or detracts from the protection given under the Civil Procedure Code, where the words are "exempting the cattle, implements and produce of the agriculturist from sale." Does this extend it or does it bring it down ? I want to be quite clear about it.

The Honourable the SPEAKER : After all the amendments to this clause are disposed of, that question may be gone into.

Question put, and agreed to.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, the amendment which I move is as follows :—

After clause 6 (3) add the following :

- (4) grain,
- (5) pots and pans.

This clause 6 was added to the Bill in the Select Committee. The object of the Bill before it was sent to the select committee was that the land of the small holder should not be sold. The whole object of the Bill then was that the means of production of a small holder should be protected. But after it was sent to the select committee, the select committee improved the Bill and inserted this new clause. But unfortunately it does not go far enough to protect the small holder from starvation. The hardship which is likely to be inflicted upon him by the money-lender will continue to be there, so long as everything that belongs to the debtor is not protected. Sir, the clause as it stands does not allow two milch cattle to be attached. It also protects the dwelling house. Further, it does not allow the standing crop to be attached. But, Sir, though the standing crop may not be attached, it can be attached as soon as it is cut. Though the standing crop is protected, grain is not. But there are other things also in the small dwelling of

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a small holder which can be attached. Pots and pans which are not cooking vessels, are liable to be attached. Section 60 of the Civil Procedure Code protects cooking vessels, but not brass or copper pots, a *gungal* or a *ghagar*. We often see that these articles are attached whenever there is an attachment. Sir, I want that the property of the small holder should not be attached for a year. This is only a temporary measure. The creditor is not going to lose if you do not allow him to attach copper or brass vessels, or the little quantity of grain that may be in his dwelling. I know what the reply of the Honourable Minister will be. He is going to say that under section 61 of the Civil Procedure Code, he proposes to issue orders for not allowing the grain to be attached. So far, we are not told that Government have already issued such orders. May I ask where was the necessity for protecting the dwelling house in this clause which is already covered by section 60 of the Civil Procedure Code? It was superfluous to add the dwelling house in this Bill. Since you have added that, why do you fight shy of adding his grains in this Bill? Section 61 of the Civil Procedure Code does give you discretion. That discretion was with the Government for the last 30 years. But Government have never used it. We do not want this Government to use discretion and do us a favour. If the grain of the small holder is to be protected, we want it to be included in the list of things protected in this clause. The grain is the main article of food on which he lives. If it is left unprotected, in spite of other protections given under this Bill, the small holder is bound to starve. I do not know why the Honourable the Home Minister should insist that he would protect grain under discretionary powers. It is not always justifiable for the opposition to rely upon what Government intend to do. There is the Payment of Wages Act under which Government were given discretionary powers. But this Government did not use those discretionary powers but abused them. I quote that as an instance to show why we cannot rely upon what Government intend to do. If Government have already issued orders under section 61 of the Civil Procedure Code, it would be another matter. If they have not already issued orders, there is no reason why they should not be prepared to include in this clause grain also as one of the items to be protected.

As regards pots and pans, they may be petty belongings of the small holder in the view of the Honourable Minister but their value to the small holder is very great. If protection is not extended to them what will happen is that all his pots and pans would be sold and he will be compelled to purchase earthen ones in their place. Even if all these things are protected for the small holder, the money-lender is not likely to starve. The *ghagar*, the *ghungal* and grain are needed by the small holder. Unless these things are protected by Government, they cannot protect the small holder from starvation. The piece of land may be left with him. But he must have the crops to live upon. I hope the Honourable Minister will be inclined to accept my amendment.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, this is one of those clauses in which, if we come to the conclusion that certain things should be added we can easily do so and the clause modified accordingly. I looked into what things are protected under the Civil Procedure Code. I want to know whether, in addition to what has been provided here in this clause, the provision of the Civil Procedure Code protecting certain items will apply to the small holder. What my honourable friend Mr. Parulekar wants by his amendment is that the moveable property of the small holder should not be attached and taken away.

I think there is some difficulty in sub-clause (1) as it is drafted. It is mentioned there "milch cattle not exceeding two in number". Now, milch cattle cannot be separated from agricultural cattle, because the dung of the milch cattle is used for manure. It is not merely bullock that is agricultural cattle. I cannot say whether the number of milch cattle allowed should be two or three or four, but it is a fact that the agriculturist depends upon a large number of such cattle. We are now definitely restricting our endeavour to the small holder and we do not wish to cover the man who like Gavalis lead a herd of cattle from one place to another for pasture. To me, it appears that the restriction in the Civil Procedure Code would be adequate, because it is not likely that the small holder can keep more than what he really needs. Under the Civil Procedure Code, the agricultural cattle, implements, tools and produce of agriculture are protected. If along with this, his other moveable property also is included, the problem will have been solved. I want to know what Government mean to protect in addition to the protection given under the Civil Procedure Code. If protection is given to the items mentioned by my honourable friend Mr. Parulekar in his amendment, there is no difficulty.

The Honourable Mr. K. M. MUNSHI: Sir, under section 60 of the Civil Procedure Code the cattle is protected, if they are necessary to enable him to earn his livelihood. It does not protect milch cattle; and it will not be possible to save a buffalo or a cow, unless these words "milch cattle" are mentioned there. To that extent, it extends the scope of section 60. The dwelling house is mentioned under section 60, but if the house is mortgaged, that section will not apply. So, dwelling house has to be mentioned irrespective of the provisions of the Civil Procedure Code. Whether mortgaged or not, therefore, the dwelling house will be protected. Standing crop is put in because under section 61 of the Civil Procedure Code only such portion of the crop as may be necessary for the purpose of providing until the next harvest for the due cultivation of the land is to be protected. In order to escape from the argument that a particular portion of the crop is not necessary for him, those words have been put in. Under this clause the question does not arise whether the crops are sufficient for him or are in excess. All these three things extend the scope of the provisions in the Civil Procedure Code. The pots and pans are covered by section 60 of the Civil Procedure Code. What more can there be which—

Mr. S. V. PARULEKAR: The ghagar and ghantal are not put in.

The Honourable Mr. K. M. MUNSHI: Has a small holder got all these pots and pans of that character? I have no objection so far as these are concerned. Suppose he is trading in pots and pans. If it is qualified—

Mr. JAMNADAS M. MEHTA: We may add "and other household utensils".

The Honourable Mr. K. M. MUNSHI: I have no objection to accept that part of it.

Mr. S. V. PARULEKAR: Grains?

The Honourable Mr. K. M. MUNSHI: I have no objection if the word is qualified by some such words "for the purpose of use in the family". I am quite willing to add that.

The Honourable the SPEAKER: I may suggest one course so that we may not have to wait. On the understanding of the parties as to the inclusion of the expressions "pots and pans" and "grain" as they are understood now, the present amendment may be accepted at this reading, and any verbal change that may be necessary to fit in may be introduced at the third reading.

The Honourable Mr. K. M. MUNSHI: Sir, I want to make one point clear. In the beginning I made it clear that Government proposed to issue a notification under section 60, but if the words grain necessary for the support of the judgment-debtor and his family are used, then there would be no need to issue a notification. If they satisfy the honourable members, I would accept the amendment in that form i.e., "pots and pans required for household purposes of the small holder." The intention is, whatever pots and pans are used for the small holder and his family should be retained.

The Honourable the SPEAKER: Do I take it then that the amendment is accepted in substance and that the form of it would be decided at the third reading? At the third reading, when this amendment is redrafted in consultation with all the parties concerned and it is seen that the whole thing fits in properly, I take it that there will be no debate absolutely on what the House understood this way or that way, and the amendment will be treated as a purely verbal one. So, I put the amendment to the House now.

Amendment put, and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 (*Restriction on private transfer by small holder*).

Notwithstanding anything contained in any law for the time being in force, no private transfer of any land or dwelling house belonging to a small holder, the proceedings for the sale of which have been stayed under this Act or of any interest therein made

by him after this Act comes into force, shall be valid except with the previous sanction of the Collector of the district in which such land is situate :

Provided that no such sanction shall be given unless the Collector is of opinion—

(a) that such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors ; or

(b) (i) that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned, and

(ii) that such transfer does not adversely affect the interests of any creditor of the small holder.

The Honourable the SPEAKER : Mr. Phadake's amendment—

Mr. G. K. PHADAKE : Sir, this amendment of mine refers to clause 9. It is through a mistake that it has been put to clause 7.

The Honourable the SPEAKER : I was just going to enquire as to what the mover meant by the amendment as I could not make anything out of it.

Now, amendment No. 43 falls through and No. 44 is beyond scope and therefore out of order. So, Mr. Parulekar will move amendment No. 45.

Mr. S. V. PARULEKAR : Sir, I beg to move :

In clause 7 omit the words "except with the previous sanction of the Collector of the district in which such land is situate."

Question proposed.

Mr. S. V. PARULEKAR : This Bill is a temporary measure. The purpose of this amendment is to prevent during the course of the year any transfer of land of any character from the small holder. Sir, we are devising a measure to meet an emergency and therefore during this period of emergency neither sale nor transfer of any land or property should take place in the case of the small holder.

With these words, I propose my amendment.

The Honourable Mr. K. M. MUNSHI : Sir, it is not possible to accept this amendment in the interest of the small holder himself. Suppose he has got 18 acres of land and by selling 3 acres he is able to satisfy all his creditors and give them four annas in the rupee, why should he not be allowed to do so by getting the sanction of the Collector ? The words are :

"That such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors ;"

The other contingency is provided for in sub-clause (b) (i). The words are :

"that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned, and"

[Mr. K. M. Munshi]

The Collector will see whether there would be substantial loss to the small holder if the property is not conveyed. Therefore, the amendment is not in his interest. The only safeguard is that such a transfer must not adversely affect the interest of the creditors. Sir, this clause is really intended for the benefit of the small holder, and if you take away these powers, the small holder himself will find himself in difficulties within the year. He will not be able to come to any settlement with his creditor, or may suffer in ways which we cannot think of for the moment; therefore, a safety valve like this is absolutely necessary.

Mr. S. V. PARULEKAR: Sir, I cannot accept the view that the sale of land of a small holder can in any circumstances be in his interest. Sir, the right to mortgage and to sell land has landed him in precarious conditions.

Mrs. LILAVATI K. MUNSHI: Sir, with your permission, I want to ask the honourable member Mr. Parulekar one question; suppose a man wants to sell his land and purchase another piece of better land, then will it be in his interest to sell the land or will it be in somebody else's interest?

Mr. S. V. PARULEKAR: Sir, I did not follow what the honourable member said.

The Honourable the SPEAKER: The question put is: supposing a man wants to sell his land for the purpose of purchasing a better land, would it be in his interest to prevent him, or would it be against his interest? Of course, the honourable member may continue his reply.

4 p.m.

Mr. S. V. PARULEKAR: The reply is obvious: it would be in his interest to sell his land. But, Sir, it is not such kind of transfers that take place. Usually, in the case of a small holder, he cannot sell his land, which is only about 15 acres, and then purchase another piece of land which is better in quality. He has no saving, and he cannot buy land of a better quality unless he borrows. In these circumstances, all that I wish to say is that during this period of one year, no transfer of land should be allowed.

The Honourable Mr. K. M. MUNSHI: I have nothing to add, Sir. Amendment put, and negatived.

The Honourable the SPEAKER: No. 46 is in the name of Mr. Parulekar.

Mr. S. V. PARULEKAR: I do not wish to move it.

Clause 7 ordered to stand part of the Bill.

Clause 8 (*Collector's decision to be final in certain cases*) ordered to stand part of the Bill.

Clause 9 (*Bar against eviction of tenant*).

Notwithstanding any law for the time being in force or any contract between the parties, no tenant who has been in possession of land used for the purpose of agriculture uninterruptedly from the first day of January 1932 shall, in pursuance of any decree or order of any Court, be evicted from such land, if such tenant tenders subject to the provisions of section 10, to the landlord or any person acting on his behalf rent due in respect of the land for the year ending with the 30th day of June 1938, and is willing to hold the land thereafter as a tenant on the same terms and conditions on which he was holding the same at the date when the cause of action arose to the landlord for the purpose of evicting him.

The Honourable the SPEAKER: Now, the honourable member Mr. Phadake may move his amendment No. 42.

Mr. G. K. PHADAKE (Thana South): Sir, there is one alteration in this amendment: "six acres" should be substituted for the words "five acres" and "eighteen acres" should be substituted for "fifteen acres". I beg to move:

In clause 9, after the word "land" in line 3, add "not exceeding six acres of irrigated land or eighteen acres of other land".

Question proposed.

Mr. G. K. PHADAKE: Sir, I have moved this amendment simply for getting an explanation of the word "tenant". The word "tenant" is not defined in clause 2. Are all tenants covered by the word "tenant" or only tenants who cultivate irrigated land not exceeding six acres or other land not exceeding eighteen acres? There may be some tenants who are big holders, and not small holders, and they may cultivate as tenants land of others which is lesser in extent than six acres or eighteen acres. Will they be called tenants under this clause? That is my difficulty. I have moved this amendment in order to get the word "tenant" defined properly.

The Honourable Mr. K. M. MUNSHI: Sir, the intention of clause 9 is to protect a tenant whatever the extent of his holding, five acres or fifty acres, so long as he has been on the land since the 1st of January 1932. This amendment would have the effect of restricting the class of tenant to which the clause would apply.

Mr. G. K. PHADAKE: My other difficulty has not been solved. There may be a big landlord who cultivates as tenant the land of another landlord.

The Honourable Mr. K. M. MUNSHI: The landlord who wants to evict him can wait for another year.

Mr. G. K. PHADAKE: Is that person also to be considered a tenant?

The Honourable Mr. MORARJI R. DESAI: Yes.

Mr. G. K. PHADAKE: Sir, I beg to withdraw the amendment.

Amendment, by leave, withdrawn.

The Honourable the SPEAKER: Amendments Nos. 48, 49, 50, 51 and 52 practically refer to the same subject; and for the purpose of shortening the debate, I may put first the amendment dealing with the longest number of years. I take it that though it will be necessary to move each one, one after the other, until all of them are disposed of, it will not be necessary to repeat the same arguments over and over again in the case of succeeding amendments. So, whatever arguments may have to be advanced in the case of all these amendments may be advanced now at this stage, so that the other amendments, in case this one is not accepted, may be moved and the vote of the House taken without speeches.

Mr. S. V. PARULEKAR: Sir, which amendment is to be taken first?

The Honourable the SPEAKER: The honourable member was busy reading his papers and missed my remarks. What I said is that the first amendment to be put for consideration gives the longest period. That is No. 48. Its object is to substitute the figure "1932" by the figure "1937". The honourable member wants to extend it by a further period of five years. The succeeding amendments lessen this period by one year, two years and so on.

The Honourable Mr. K. M. MUNSHI: Sir, may I submit that if you take amendment No. 52 first, it would cover all the others? The period given in clause 9 is six years, that is from the 1st January 1932 up to date. The idea is that a tenant who has a standing of six years should get protection. Amendment No. 52 wants to lessen this standing to one of five years. If that amendment is rejected, the other amendments will drop out, for if the House does not want to give protection to a tenant of five years' standing, much less will it give protection to one of a lesser standing.

The Honourable the SPEAKER: I had thought of it, but it would not give the honourable mover the satisfaction of putting before the House each of his proposals individually. Therefore, I am starting the other way. What I mentioned just now was this, that all the arguments that have to be advanced in respect of limitation of the period of tenancy may be advanced first, and then the other amendments may be moved formally and without any further debate they will be put to the House. It comes to the same thing, as the Honourable Minister has suggested, but it gives the honourable mover a chance of having each one of his amendments moved.

Mr. S. V. PARULEKAR: The difficulty will be this. The arguments which I would urge in the case of No. 48 are slightly different from those which I would urge in the case of No. 50. Here, my argument would be that because this is a temporary measure, *status quo* should be maintained. But in the case of those tenants who have tilled the soil for three years, I would urge that it would be unjust to evict them. If they are thrown out of employment, they cannot go anywhere else.

The Honourable the SPEAKER: Both sides may put forward their arguments once for all. Amendment No. 48.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move:

In clause 9, for the word "1932," substitute the word "1937".

Question proposed.

Mr. S. V. PARULEKAR: Mr. Speaker, Sir, Government had promised to bring forward tenancy legislation by February 1938. They have failed to do so. That is why they have brought forward a temporary measure, to give some protection to the tenants. Therefore, the conclusion is natural that the *status quo* ought to remain; the tenant who was in possession of a particular piece of land in January 1937 ought to continue to be in possession of it for another year more. By that time Government will be ready with their proposals for giving rights of permanent tenancy to certain classes of tenants. That is what they have promised. No harm is going to come if the tenant continues for another year. There are other provisions by which the interests of the landholders are protected. If the tenant agrees to pay rent, where is the harm if he is allowed to continue so long as he continues to pay rent to the landlord? Why should the tenants be penalised if Government have failed to discharge their duty and have not found themselves capable of preparing tenancy legislation within eight months?

Let us take the instance of a tenant who has cultivated a particular piece of land since 1935. A tenant cultivates land belonging to a landlord because he has no other means of subsistence to fall back upon. It is only by tilling the soil of a landlord that he can live. He has maintained himself in that fashion since 1935 up to January 1938. He has been in that occupation for three years. Would it be just, I ask, to turn him out now though he agrees to pay rent to the landlord? The principle which applies in the case of other professions ought to be made applicable here. If a man continues to work as a temporary hand for six months, he is considered to be fit to be made permanent at the end of that period. Why should not the same principle apply in the case of the tenants? One of my amendments says that a tenant who has tilled a particular piece of land for three years should continue to be in possession of it for another year if he pays the rent to the landlord. Is that principle not acceptable to Government? Is not Government prepared to admit that a man who has been engaged in a particular kind of work for a couple of years, cannot take to another mode of life? A tenant who has been tilling a piece of land belonging to a landlord for three years deserves to be made a permanent tenant. But, Sir, the present measure is not intended to confer upon tenants the right of permanent tenancy. This is an emergency measure; it is a temporary measure. They may take a conservative view when they bring forward a measure of permanent tenancy. But there is no justification why

[Mr. S. V. Parulekar]

in an emergency measure that is before us they should stick to a conservative view and say that only those tenants who have tilled a piece of land since 1932 should continue for a year more.

There is a large number of tenants in this Province. Did the Government ascertain what percentage of tenants would be benefited by this clause, before they made up their mind that only those tenants who had been tilling the soil uninterruptedly for six years should be allowed to continue for another year? Where was the necessity for bringing in legislation for the protection of such tenants? A tenant who has satisfied his landlord for six years continuously is not likely to be evicted at all. For such a tenant, no protection through legislation is necessary. The landlord would naturally prefer to have a tenant who has been on his land for six years uninterruptedly and has given him entire satisfaction. The tenant has pulled on with his landlord for six years. He must have tilled the soil uninterruptedly since 1932 before he can continue for another year. It means that he must have satisfied the landlord for six long years on every issue; otherwise the landlord would have driven him out. We find that the number of agricultural labourers is increasing continuously. The landlord would not lose any opportunity to drive away the tenant if he could find a better tenant from the ranks of agricultural labourers. There is no dearth of such labourers. There is keen competition among them to secure a piece of land which they can till for the purpose of earning a morsel of bread. In face of these circumstances, it will be realised that there was no need for protection to a tenant who has for six years satisfied his landlord.

The Honourable the SPEAKER: May I invite the attention of the honourable member to the wording "uninterruptedly from the first day of January 1932"?

Mr. S. V. PARULEKAR: Yes; it comes to six years.

The Honourable the SPEAKER: The effect of the amendment is that the wording will be "uninterruptedly from the first day of January 1937".

Mr. S. V. PARULEKAR: I am speaking on all the amendments. I have only one chance of speaking on all the amendments. My first submission was that the *status quo* ought to remain. This is a temporary measure; therefore, there is no need of disturbing the present position. That is my first submission. But if Government are not prepared to accept this amendment, I would urge that tenants who have tilled the soil for two or three years ought to be allowed to continue for another year.

The view of Government is that only those tenants who have uninterruptedly cultivated the land for six years should continue; provided they satisfy other conditions, which are harsher still. I was arguing that no protection from the Congress Government is necessary

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for a tenant who has satisfied his landlord for six years. He has been in possession of the land for the last six years continuously and he has satisfied his landlord during that period. Because of that, no protection is necessary for him at the hands of the Congress Ministry. If they really want to protect a larger class of tenants, they should make the period of tenancy as short as possible. The shortest possible period would be from January 1937 to January 1938. As this is a temporary measure, I would very much like the Government to accept my amendment No. 48, which will give some relief to the tenants. With these words, I commend my amendment for the acceptance of the House.

The Honourable Mr. K. M. MUNSHI : Sir, clause 9 is really intended to meet a case like this : Even if a tenant has been on the land for several years, it is open to the landlord to drive him out every season and get a new tenant in his place. Having been there for six years, he would be entitled, under this clause, to continue for one year more until the tenancy legislation becomes law. Ordinarily, in law, the landlord is entitled to eject him. We are taking away that right. Now, in whose favour should that right be taken away ? Is it to be taken away in favour of a man who has been on the land only for a year or two or is it to be taken away in favour of a man who has been on the land for six years and acquired some shadow of a claim to be there, if not a right ? The idea behind this clause is that the tenant must have satisfied the landlord with regard to the manner in which he is tilling the land. Suppose, for some reason the old tenant who has been on the land for 12 years is removed and a new man is brought in for trial. The new man proves utterly useless for the purpose of cultivation and the landlord wants to take back the old tenant. Should not the landlord have the power to eject this new man and take up the old man ? The point is, to whom is the protection to be given ? That protection should be given to a person who has got some claim to be there ; six years is perhaps a very small limit, and to reduce it further would be to extend the protection of this clause to cases which would be very undeserved. Therefore, it is not possible to accept the amendment of my honourable friend.

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, I do understand that the clause does take away the right of the landlord—the absolute right of the landlord—to drive away his tenant whenever he likes. But when that right is taken away you must also consider whether by taking away that right the tenants are likely to be benefited. I tried to point out to the Home Minister that a landlord, in 99 out of 100 cases, is not likely to drive away or evict a tenant who has satisfied him for six years. The tenant who really requires protection is one who may have had a piece of land for the last two years but with whom the landlord is not satisfied because he is not willing to pay more rent. It is really such tenants who require the protection of legislation. Sir, the

[Mr. S. V. Parulekar]

Honourable Home Minister said that before a tenant can be protected he must have some claim for protection. I will put to him a hypothetical case. Suppose he was a clerk serving in a private company; and he has served in that company for three years. Now, the company has the legal right to drive him away to the streets saying "you were only temporary for three years; we do not want you now and so you go away." Does the Home Minister consider this act as just? Will it not cause hardship to the unfortunate man? In the heart of his heart if he compares his case with that of the tenant he will realise that the tenant will also feel the same way. So long as the tenant agrees to pay rent to the landlord, it is unjust to evict him. The reply which the Home Minister has given evades the whole issue.

Sir, I will, therefore, urge my amendment for the acceptance of this House.

The Honourable the SPEAKER: Does the Honourable Minister wish to say anything?

The Honourable Mr. K. M. MUNSHI: Sir, I have nothing to add, except that it would be a great hardship on the landlords if tenants who come in for a year or two casually are allowed to continue. On the other hand, the honourable member opposite (Mr. Parulekar) is not quite correct in saying that landlords would not drive away tenants who have been on the land for six years. As a matter of fact, on account of the proposed tenancy legislation, landlords, whose tenants have been on the land for not only six years but even for 12 years, are either coercing them into new contracts or evicting them lest they may get the benefit of the tenancy legislation. The object of this clause is not whether it is equitable to discharge one year's tenant or not. The object is that tenants, who have been on the land for six years and who are being driven out by the landlords, should be protected. I oppose this amendment.

Amendment put, and negatived.

The Honourable the SPEAKER: Now, we will take up amendment No. 49.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move the following amendment:

In clause 9 for the word "1932" substitute the word "1936".

Amendment put, and negatived.

The Honourable the SPEAKER: Amendment No. 50.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move the following amendment:

In clause 9 for the word "1932" substitute the word "1935".

4-30 p.m. Question put. The House divided: Ayes, 17; Noes, 74.

Division No. 14.

Ayes.

BHATANKAR, Mr. R. G.
BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
JADHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KAZI, Mr. AZIZ GAFUR
KREDDGIKAR, Mr. R. A.

MITHA, Mr. MAHOMED S. C.
PARULEKAR, Mr. S. V.
PATEL, Mr. MAHOMEDBAWA M.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.
WAGH, Mr. P. W.

Tellers for the Ayes: Messrs. K. S. SAVANT and D. N. WANDREKAR.

Noes.

ANTROLIKAR, Dr. K. B.
BHARTIYA, Mr. S. R.
CHITALE, Rao Bahadur G. K.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHJI B.
DANDEKAR, Mr. V. V.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDHIR P.
DESHMUKH, Mrs. ANNAPURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FRODEA, Mr. K. S.
GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUPTA, Mr. B. M.
HALLIKERI, Mr. N. F.
HIRAY, Mr. B. S.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANGA, Mrs. VIJAYAGAURI BALVANTRAI
KARAVADE, Mr. R. K.
KARODRI, Mr. S. S.
KESHWAIN, Mr. S. N.
KHEER, the Honourable Mr. B. G.
KHMJI, Mr. BHAWANJI A.
KUNTE, Mr. D. K.
LALA, Mr. BHOOLAL D.
LATTHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MERTA, Mr. H. P.
MORARJIBHAI KASANJI, Mr.
MUKADAM, Mr. W. S.

MUNSHI, the Honourable Mr. K. M.
MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NARIMAN, Mr. K. F.
NESVI, Mr. T. R.
NEMANEE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PATASKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MANGESH B.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGOUDA S.
PATIL, Mr. LAXMAN G.
PATIL, the Honourable Mr. L. M.
PATIL, Mr. MALGOUDA P.
PATIL, Mrs. NAGAMMA
PATIL, Mr. S. K.
PIKE, Mr. G. O.
PURANI, Mr. C. B.
RAJMAL LAKRICHAND, Mr.
SATHE, Mr. S. H.
SHINDE, Mr. BAJIRAO *alias* BABASAHEB
JAGDEORAO
SHIRALEKAR, Mr. P. K.
SUGANDHI, Mr. M. S.
TALKAR, Mr. K. R.
THAKOR, Mr. B. P.
THUSE, Mrs. LAXMIBAI GANESH
TULPULE, Mr. H. V.
VAGHELA, Mr. B. U.
VARTAK, Mr. G. D.
VINCHORKEKAR, Sardar N. G.
VYAS, Mr. ISHVARLAL K.
WADEKAR, Mr. R. B.
WALVEKAR, Mr. B. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes: Messrs. P. J. ROHAM and S. K. PATIL.

The Honourable the SPEAKER: We will now proceed to the other amendment—Amendment No. 51.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I beg to move:

“In clause 9 for the word ‘1932’ substitute the word ‘1934’.”

Question put, and declared negatived.

Mr. A. V. CHITRE: Sir, I claim a division.

The Honourable the SPEAKER: The honourable member is perfectly entitled to call for a division, but I would prefer the other course with a view to curtail the time of discussion. I would not say anything further. If a division is called for, I am bound to give it. It is for the honourable members to consider whether, when the amendments are going to be moved in a particular manner for the purposes of achieving a certain object, it is proper to call for a division. It is his right to call for a division, but then in coming to understandings, I shall have to consider whether I should exercise my legal rights or not. I take it that the honourable member insists upon a division.

Mr. A. V. CHITRE: Yes, Sir.

Mr. S. V. PARULEKAR: Can my amendment No. 52 be taken along with this one?

The Honourable the SPEAKER: Each amendment is being taken one by one for the convenience of honourable members. Therefore, only No. 51 is being taken up now.

Question put. The House divided: Ayes, 14; Noes, 73.

Division No. 15.

Ayes.

BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
HAKEEM, Khan Sahab A. B.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.
KAZI, Mr. AZIZ GAFUR

KHEDGIKAR, Mr. R. A.
MITHA, Mr. MAHOMED S. C.
PARULEKAR, Mr. S. V.
PATEL, Mr. MAHOMEDBAWA M.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
VARALE, Mr. B. H.

Tellers for the Ayes: Messrs. B. H. VARALE and P. J. ROHAM.

Noes.

ANTROLIKAR, Dr. K. B.
BHARTIYA, Mr. S. R.
CHITALE, Rao Bahadur G. K.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINEJI B.
DANDEKAR, Mr. V. V.
DESAL, the Honourable Mr. MORAJI R.
DESAI, Mr. RANDHIE P.
DESHMUKH, Mrs. ANNAPURNA GOPAL
DESHPANDE, Mr. G. H.
FIRODRA, Mr. K. S.

GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUPTA, Mr. B. M.
HALLIKERI, Mr. N. F.
HIRAY, Mr. B. S.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.

Noes—contd.

KANUGA, Mrs. VIJAYAGOURI BALVANTRAI	PATIL, Mr. KALLANGOUDA S.
KARAVADE, Mr. R. K.	PATIL, Mr. LAXMAN G.
KARGUDEI, Mr. S. S.	PATIL, the Honourable Mr. L. M.
KESHWAIN, Mr. S. N.	PATIL, Mr. MALGOUDA P.
KREB, the Honourable Mr. B. G.	PATIL, Mrs. NAGAMMA
KHIMJI, Mr. BHAWANJI A.	PATIL, Mr. S. K.
KUNTE, Mr. D. K.	PURANI, Mr. C. B.
LALA, Mr. BHOGILAL D.	RAJMAL LAKHICHAND, Mr.
LATTHE, the Honourable Mr. A. B.	SATHE, Mr. S. H.
MAGANLAL NAGINDAS, Mr.	SHINDE, Mr. BAJIRAO alias BABASAHEB
MASTER, Mr. NAGINDAS T.	JAGDEORAO
MEHTA, Mr. H. P.	SHIRALKAR, Mr. P. K.
MORABHAI KASANJI, Mr.	SHRIKANT, Mr. L. M.
MUKADAM, Mr. W. S.	SUGANDHI, Mr. M. S.
MUNSHI, the Honourable Mr. K. M.	TALKAR, Mr. K. R.
MUNSHI, Mrs. LILAVATI K.	THAKOR, Mr. B. P.
NAIK, Mr. V. N.	THUSE, Mrs. LAXMIBAI GANESH
NARIMAN, Mr. K. F.	TULPULE, Mr. H. V.
NESVI, Mr. T. R.	VAGHELA, Mr. B. U.
NURIE, the Honourable Mr. M. Y.	VAHTAK, Mr. G. D.
PATASKAR, Mr. H. V.	VINCHOORAKAR, Sardar N. G.
PATEL, Mr. BABUBHAI J.	VYAS, Mr. ISHVARLAL K.
PATEL, Mr. BHAILALBHAI B.	WADEKAR, Mr. R. B.
PATEL, Mr. MANGESH B.	WALVEKAR, Mr. B. B.
PATIL, Mr. ATMARAM N.	WANDREKAR, Mr. D. N.
PATIL, Mr. GAMBHIRRAO A.	

Tellers for the Noes: Messrs. D. N. WANDREKAR and S. K. PATIL.

Mr. S. V. PARULEKAR: Sir, I beg to move:

In clause 9, for the word "1932" substitute the word "1933".

Question put. The House divided: Ayes, 14; Noes, 74.

Division No. 16.

Ayes.

BHOLE, Mr. R. R.	KHEDGIKAR, Mr. R. A.
CHITRE, Mr. A. V.	MITHA, Mr. MAHOMED S. C.
GAIKWAD, Mr. B. K.	PABULEKAR, Mr. S. V.
HAKREM, Khan Saheb A. B.	PATEL, Mr. MAHOMEDBAWA M.
JHABVALA, Mr. S. H.	RAUT, Mr. D. W.
KALE, Mr. R. S.	ROHAM, Mr. P. J.
KALU, Mr. AZIZ GAFUR	VARALE, Mr. B. H.

Tellers for the Ayes: Mr. A. V. CHITRE and Mr. P. J. ROHAM.

Noes.

ANTHOLIKAR, Dr. K. B.	GHA, Dr. C. J.
CHAWDHARI, Mr. D. N.	GILDER, the Honourable Dr. M. D. D.
CHAWHAN, Mr. P. L.	GOPI, Mr. M. G.
DABHI, Mr. FULSINJI B.	GUPTA, Mr. B. M.
DANDEKAR, Mr. V. V.	HALLIKERI, Mr. N. F.
DESAL, the Honourable Mr. MORARJI R.	HIRAY, Mr. B. S.
DESAL, Mr. RANDEH P.	JADEHAV, Mr. T. S.
DESHMUKH, Mr. K. B.	JAKATY, Mr. P. C.
DESHMUKH, Mrs. ANNAPURNA GOPAL	JOSHI, Mr. JINABHAI P.
DESHPANDE, Mr. G. H.	JOG, Mr. V. N.
FIRODRA, Mr. K. S.	KANUGA, Mrs. VIJAYAGOURI BALVANTRAI
GANDHI, Mr. M. M.	KARAVADE, Mr. R. K.

Noes—contd.

KARGUDRI, Mr. S. S.
 KATHALE, Mr. B. S.
 KESHWAIN, Mr. S. N.
 KHEB, the Honourable Mr. B. G.
 KHEMJI, Mr. BHAWANJI A.
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NARIMAN, Mr. K. F.
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PATASKAR, Mr. H. V.
 PATIL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.

PATIL, Mr. KALLANGOUDA S.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. S. K.
 PURANI, Mr. C. B.
 RAJMAL LAKHICHAND, Mr.
 SATHE, Mr. S. H.
 SHINDE, Mr. BAJIRAO *alias* BABASAHEB
 JAGDEORAO
 SHRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 VAGHELA, Mr. B. U.
 VARTAK, Mr. G. D.
 VINCHOORKEAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

Tellers for the Noes : Mr. D. N. WANDREKAR and Mr. S. K. PATIL.

Mr. S. V. PARULEKAR : The next amendment which I move is as follows :

In clause 9 delete the words from "such tenant tenders" up to "is willing".

Question proposed.

Mr. S. V. PARULEKAR : The clause in the Bill as reported by the select committee lays down as one of the conditions for the tenant to continue to till the soil for another year that he must pay one year's rent. The protection of the Bill does not extend to a tenant who may have cultivated the land even for the last six years uninterruptedly ; but he will not be allowed to continue to till the piece of land for another year unless he pays one year's rent. Government have admitted that the rents prevailing in the Bombay Presidency are very high.

The Honourable the SPEAKER : Is the honourable member likely to take some more time ?

Mr. S. V. PARULEKAR : Yes, Sir.

The Honourable the SPEAKER : Then it is time for a recess. The House will now re-assemble at 5-30 p.m.

(The House re-assembled at 5-30 p.m.)

Mr. S. V. PARULEKAR (Ratnagiri South) : Sir, I was saying that Government claim that this clause 9 is intended to benefit tenants.

■ [Mr. S. V. Parulekar]

We were also told that a large number of tenants were likely to be benefited if this clause was allowed to remain in the Bill in its present form. There are several conditions on the fulfilment of which alone certain classes of tenants will be benefited. The first condition which will have to be fulfilled by tenants is that they must be uninterruptedly in possession of a piece of land since 1st January 1932. This condition is very hard and it will be fulfilled by a very small percentage of tenants in the Presidency. But Government are not satisfied with laying down this one condition.

They go further and incorporate in the clause a much harder condition which can be hardly fulfilled by the tenants in this Presidency. That condition lays down—I will read the relevant part—that “if such tenant tenders subject to the provisions of section 10, to the landlord or any person acting on his behalf rent due in respect of the land for the year ending with the 30th June 1938....” The second condition which has got to be fulfilled before the tenant gets the benefit of the Act is that he must pay the whole rent due to the landlord for the last year. Government have admitted in the Poona session that the rents which are prevalent in this Presidency are exorbitant. The Maharashtra Provincial Congress Committee in their report have emphasised the fact that the rents are exorbitant, and have recommended that they ought to be controlled and reduced by legislation. Government went further and said that they would introduce legislation for controlling rents. Having made these two declarations, is it fair on the part of Government to compel the tenant to pay rent for a year, which they have admitted to be exorbitant? The clause in effect says that tenants cannot have protection under this Act, unless they pay exorbitant rents for the last year. Is it a fair clause? Is it in the interest of the tenants? Certainly not. The effect of the clause will be only to compel the tenants to pay exorbitant rents to the landlords for another year. If that is going to be the effect of this clause, I ask, is it in the interest of the tenant class to whom Government want to extend protection? Sir, no logic can lead us to the conclusion that the clause which compels the tenants to pay exorbitant rents can do any benefit to the tenants.

The clause does not stop there; it goes further and says that the tenants must be willing to hold the lands thereafter as tenants on the same term and condition on which it was held when the cause of action arose to the landlord for the purpose of evicting him. It means that, if a tenant is paying exorbitant rent, he must pay another year's exorbitant rent for getting the benefit under the Act. A clause which lays down these three conditions cannot benefit any class of tenants. Do Government seriously maintain that under this clause, even one per cent. of the tenants who are cultivating lands in the Bombay Presidency are likely to be benefited? Certainly not. If at all, it might benefit a very small section, say .001 per cent. of the tenants.

[Mr. S. V. Parulekar]

Ordinarily the landlord is found to be more liberal than this clause. Many a time it happens that the tenant is not in a position to pay the whole rent. The landlord appreciates the difficulty and allows him to pay a part of it next year. He often allows the rent to fall in arrears. Every landlord knows the condition of his tenant and he is never prepared to drive him to the extreme. If he drives him to the extreme, he is afraid that the tenant will leave him. In 75 per cent. of the cases it happens that the rent due from the tenant is not paid by him and the landlord allows him to pay it in the following years. The landlord is keen to suck the last drop of the tenant's blood. But this section is less liberal than the landlords who exploit their tenants. The clause says that the tenant must pay the full rent before he can have the benefit of this Act. I know the Honourable Minister will say that this clause does not compel him to pay the whole rent. But this clause does not allow protection, if protection is demanded under this Act by a tenant, unless he pays the whole rent. So, if we compare this clause with the landlord, we will find that the landlord is much more generous than this clause. It will therefore be evident that this clause is not for the benefit of the tenants but that it is for the benefit of the landlords. Suppose a tenant has agreed to pay 15 maunds of paddy and the produce is only 20 maunds. This clause says that, unless the tenant pays 15 maunds to the landlord and is willing to be satisfied with 5 maunds as a reward for his labour he cannot have the benefit of the Act. I am sure every one who is unbiased and unprejudiced will agree that such a clause cannot be in the interest of the tenants. I will take another case. Suppose a tenant has agreed to pay 15 maunds of paddy, but he has been able to reap only 10 maunds this year. Under this clause, he must starve. He must pay the 15 maunds of paddy, if he is to have the benefit of this Act. He may borrow money from the money-lender, purchase 5 maunds of rice, pay the landlord and have the benefit of the Act. Sir, I ask, if such conditions are laid by this clause, can it be seriously maintained that the tenants are likely to benefit to any considerable degree under this clause? Certainly not. I again ask whether a tenant who is in possession of land for the last six years uninterruptedly, and who pays rents to the landlord regularly, is likely to be evicted? All that the landlord wants is rent. If it has been paid for the last six years, if it is paid also for the last year, where is the necessity for the landlord to evict such a tenant? The difficulties which the Cabinet is assuming are only imaginary. They are not real. No landlord will evict a tenant who has been his tenant for the last six years, who has paid his rent which was due to him for the last year and who agrees to pay the same rent for the next year. Such cases would never arise, because the landlord knows that he cannot have a better tenant. A more dutiful tenant, a more faithful tenant, a more subservient tenant the landlord can hardly come across.

It will be clear that the conditions which the Government are imposing on the tenants for enabling them to claim benefit under this Act are so

[Mr. S. V. Parulekar]

severe that they can hardly be fulfilled. Sir, it is contended that the clause has been incorporated in this Bill in order to benefit the tenants. But, Sir, the tenant is not really going to benefit. The clause is going to benefit the landlord because it will secure him the rent that is due to him, and that is all that a landlord wants. The clause further binds the tenant for another year to pay the same exorbitant rent. Sir, Government assured us the other day that they are going to bring forward a legislation for the protection of tenants. They said that they proposed to do it within six months. Does it mean that in spite of that legislation the tenants would be required to pay the same exorbitant rents that they agree to pay today? Is not Government thinking of reducing these rents? If they are, it is unjust for the Government to compel the tenants to agree to pay next year the same rents which they are paying today. After all these conditions are taken into consideration, I would only say this, that this clause has been incorporated in the Bill in order to enable the Government to say to the tenants that they have tried to do something for them. But if the tenants scrutinise all the conditions which have been laid down in this clause, they are sure to realise that the clause has been so worded, and the conditions are such, that they are all to the benefit of the landlord. Sir, I would humbly urge on the Ministry to face the reality. If you are really desirous of doing some good to the tenants—you have been in office for the last 8 months and you have done nothing for them—you should allow them to continue to till the piece of land which they tilled last year though they may not pay the whole amount of rent due to the landlords. The landlords will ordinarily keep quiet. If you make this provision in this Bill, it will mean that you are strengthening the hands of the landlord. In 90 per cent. of the cases, the tenants will not be able to pay the whole rent due to the landlord. You say that you will bring forward a legislation for the protection of tenants after six months. It will not benefit the tenants who will be evicted now. You have failed in your duty to bring in a legislation which was most urgent. You must therefore atone for your mistake. Why do you penalise the poor tenant who is already starving? Why do you make him pay the price of your mistake? If you want to be just to the tenant, I hope you will accept my amendment which is the humblest possible amendment that I can place before the House.

With these words, I press this amendment for the acceptance of the House.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*): Sir, I rise to support the amendment, which, in my opinion, will do much good. Sir, if we study this clause carefully, we shall see that the so-called benefit to the tenant will not result in his real benefit. Sir, a tenant who is cultivating a piece of land uninterruptedly for the last six years, and who is paying rent regularly to his landlord, and who has agreed to pay this rent which is admittedly exorbitant for the next year, will not derive any benefit from this clause, because the landlord will not evict such a tenant. Sir, as Mr. Parulekar observed the landlords are more liberal than

[Mr. D. W. Raut]

this clause itself. Sir, saying that a tenant who has paid all arrears of rent, and who is willing to pay this year and also the next year should not be evicted does not result in giving any benefit to the tenant.

Sir, the Reports of the Royal Commission and the Banking Inquiry Committee urged that the land should pass and remain into the hands of those who actually till the soil, and the class of absentee landlords should vanish, while the effect of this clause would be that the condition of the tenant would be rendered worse. Sir, our country was known as "*Suwarn Bhumi*" because of the good condition of the agriculturists. Sir, when the landlords are themselves complaining that they are unable to pay the land revenue, it is a small wonder that the agriculturists are in this miserable plight. Sir, I say this from my personal experience.

Sir, it is true that Government have given remissions and suspensions in payment of land revenue. But, how many tenants have been benefited by this? I think very few. Nearly 99 per cent. of the tenants did not get any benefit. Therefore, I think this stipulation regarding the payment of rent, and arrears of rent, should not exist in the clause.

Sir, I am reminded of a story of a man who, in time of famine, went to his landlord. He told his landlord the woeful story of famine. The landlord said: "What is there? You eat sufficiently and have sound sleep", which was obviously impossible. Sir, in the case of payment of rent, no receipts are given by the landlord and he may at any moment come out and say that he has not received the rent for such and such year. Therefore, for all these reasons, I think the amendment should be accepted by the Government.

Mr. R. R. BHOLE (Poona West): Sir, as far as this clause goes, I consider it to be absolutely a non-entity clause. The two conditions imposed under it take away what is proposed by it. I will not be far from wrong if I say that this Bill does not in any way help the present tenants. Although in this part of India we live under what is called the rayatwari system, still I will be right if I say that there are many middlemen who, as under the zamindari system, oppress or suppress their tenants. Although it is stated by Baden-Powell that there is no middleman in the rayatwari system, yet under the system of contractual tenancy which has been in existence from pre-British times, there are middlemen in existence who are in most ways oppressive to the tenants. I really cannot understand, Sir, how a tenant in his ordinary course of life and his present economic circumstances can pay the rent even for a year. I would quote in short from a report of the Peasant Enquiry Committee of the Maharashtra Provincial Congress Committee, what the cost of cultivation to the tenant or the agriculturist is. Sir, in that report it is stated—after, of course, due investigation by their own committee—that in a village called Masur in Satara District, for the crop millet, the net income per year for one acre of land is Rs. 32. In another part of the same village—

The Honourable the SPEAKER: The question before the House, I think, is not as to what will be the proper rent for any piece of land; nor is it a question of fixity of tenure, as I believe it was misunderstood by the honourable member Mr. Parulekar when he based his argument on that. The question of rents being high is relevant only so far as it may be an argument to support the view that tenants should not be called upon to pay the full rent. But, beyond that, if members go into details as to whether the present rents are high or low, or whether economic rent is proper or not, then I believe it will be going beyond the proper limits of this debate. The honourable member may, therefore, shorten his remarks on that point, and proceed further.

Mr. R. R. BHOLE: Sir, I bow to your ruling.

Sir, the very fact that the peasant has to pay the rent means, naturally, that he must pay the prevailing rent; and
 6 p.m. I maintain that the actual rent as it exists today is more than half the cost of cultivation and more than what he could bear. I was only going to show by quoting from this book what the cost of cultivation is like, in order to prove that the cost of cultivation being more than 50 per cent. it is absolutely impossible for the starving peasant to pay the rent in view of the "ardheli" system prevailing here.

In the same village, Masur, the net loss is shown as Rs. 2-5-0. In another place in West Khandesh, Budhawal, the net loss is shown for 7½ acres as Rs. 51. In the district of Nasik, in village Legwadi, the net income per year is shown as Rs. 9-5-0.

The Honourable Mr. K. M. MUNSHI: What has that got to do with the amendment?

Mr. R. R. BHOLE: The cost of cultivation, as we see from this, is more or less unbearable. Let me tell here what the system of rent is like. At the present time the common system in vogue is what is called "Ardheli". The landlord has to give 50 per cent. of the gross value of the produce. Many a time it comes to between 50 and 90 per cent. of the gross value. If the cost of cultivation itself goes beyond 50 per cent., I ask a straight question to the Honourable Minister, how is it possible for such a peasant to pay, when he has nothing at all?

The Honourable Mr. K. M. MUNSHI: Sir, I have already explained at great length the reason why the annual payment has to be made by the tenants. I have nothing more to add.

Mr. S. V. PARULEKAR: Sir, I have nothing to add, since the Honourable Minister has added nothing.

Amendment put. The House divided : Ayes, 14 ; Noes, 71.

Division No. 17.

Ayes.

BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
JHARVALA, Mr. S. H.
KALE, Mr. R. S.
KAMBLI, Sir SIDDAPPA T.
KAZI, Mr. AZIZ GAFUR

KHEDGIKAR, Mr. R. A.
MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. V.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
VARALE, Mr. B. H.
WAGH, Mr. P. W.

Tellers for the Ayes : Mr. A. V. CHITRE and Mr. B. H. VARALE.

Noes.

ANTROLIKAR, Dr. K. B.
CHITALE, Rao Bahadur G. K.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHI B.
DANDEKAR, Mr. V. V.
DESAI, the Honourable Mr. MORARJI R.
DESAI, Mr. RANDEH P.
DESHMUKH, Mrs. ANNAPURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FIRODEA, Mr. K. S.
GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUPTA, Mr. B. M.
HALLIKERI, Mr. N. F.
HIRAY, Mr. B. S.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGAUDE BALVANTRAI
KARAVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KATHALE, Mr. B. S.
KESHWAIN, Mr. S. N.
KHMJI, Mr. BHAWANJI A.
LALA, Mr. BHOGILAL D.
LATTHE, the Honourable Mr. A. B.
MAGANLAL NAGINDAS, Mr.
MEHTA, Mr. H. P.
MORARBHAI KASANJI, Mr.
MURADAM, Mr. W. S.

MUNSHI, the Honourable Mr. K. M.
MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NARIMAN, Mr. K. F.
NESVI, Mr. T. R.
NIMANEE, Mr. P. A.
NURTE, the Honourable Mr. M. Y.
PATASEKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MANGESH B.
PATIL, Mr. ATMARAM N.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGOURA S.
PATIL, Mr. LAXMAN D.
PATIL, Mr. MALGOURA P.
PATIL, Mrs. NAGAMMA
PATIL, Mr. S. K.
PURANI, Mr. C. B.
RAJMAL LAKHICHAND, Mr.
SHINDE, Mr. BAJIRAO *alias* BABASAHEB
JAGDEORAO
SHIBALKAR, Mr. P. K.
SHRIKANT, Mr. L. M.
SUGANDHI, Mr. M. S.
TALKAR, Mr. K. R.
THAKOR, Mr. B. P.
THUSE, Mrs. LAXMIBAI GANESH
TULPULE, Mr. H. V.
VAGHELA, Mr. B. U.
VARTAK, Mr. G. D.
VINCHOOREKAR, Sardar N. G.
VIAS, Mr. ISHVARLAL K.
WADEKAR, Mr. R. B.
WALVEKAR, Mr. B. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes : Mr. S. H. SATHE and Mr. K. S. FIRODEA.

The Honourable the SPEAKER : Amendments Nos. 54 and 55, being identical, fall through.

Mr. B. S. HIRAY (Nasik East) : Sir, I beg to move :

In clause 9 after the words "on his behalf" insert the words "before the 15th day of May 1938."

Question proposed.

Mr. S. V. PARULEKAR : On a point of information, Sir. Can this amendment be taken at this stage ? We do not find this amendment in the list of amendments. This is a very important amendment.

The Honourable the SPEAKER : The amendment has undoubtedly come late, but it is within the discretion of the Chair to decide whether notice should be waived or not. I understand the amendment not to be one of substance, and that is why I have agreed to waive the notice ; otherwise, I would not have waived the notice.

The Honourable Mr. K. M. MUNSHI : May I explain, Sir ? The season which is described here—for the year ending with the 30th day of June 1938—is merely a formal description of the season, but the tenants are actually changed between March and May and the payments are made between that period when a new tenant goes out. Ordinarily, payment is made before the 15th day of May. If payment is not made by the 15th of May and if there is no date mentioned here, the result will be that somebody may argue that the clause says “for the year ending with the 30th day of June 1938 ” and so the rent is to be paid on the 30th day of June 1938. By that time rains will have commenced and if the tenant does not pay the rent, the landlord will not be able to find another tenant. It is really between March and May that the tenancy is changed, and the intention is that the tenant must pay his rent before lease for the next year is given to him or a new tenant is brought in. “Rent due in respect of the land for the year ending with the 30th day of June 1938 ”—this is official description of the year. But the tenant must pay his rent about the time his term would expire and a new tenant will be available to the landlord. That is why it is made explicit.

Mr. B. S. HIRAY : Sir, In view of the explanation given by the Honourable the Home Minister I have nothing to add.

Honourable MEMBERS : What is that, Sir ?

The Honourable the SPEAKER : The honourable member Mr. Hiray says that he has nothing more to add.

Mr. S. V. PARULEKAR : I oppose the amendment. The reason is that the clause, as it stands, gives the tenant a month more to pay the rent. Now Government seem to be worried over the fact that if the tenant does not pay his rent till the 30th of June the landlord will not be able to find out another tenant. This is one more addition to the safeguards. That is why I oppose it.

As this amendment is in the interests of the landlords and not in the interests of the tenants, I oppose it.

The Honourable Mr. K. M. MUNSHI : I have nothing to add, Sir. Amendment put, and agreed to.

The Honourable the SPEAKER : Amendment No. 56.

Mr. S. H. JHABVALA (Railway Unions) : Sir,—

The Honourable the SPEAKER : I am afraid it requires a little verbal alteration. The word "all" is already deleted by the Select Committee. Therefore, in place of the word "rent" substitute "one-fourth rent."

Mr. S. H. JHABVALA : Sir, I beg to move the following amendment :

"In clause 9, line 9, after the word 'behalf' put ' $\frac{1}{4}$ '."

Question proposed.

Mr. S. H. JHABVALA : In reality, Sir, as a socialist I should have opposed the question of giving a rent altogether, but looking to the nature of the tenacious opposition offered by Government in the matter of the payment of rent at any cost I have tremblingly attempted to come down to the next best thing, namely, ask Government to descend to $\frac{1}{4}$ at least considering the fact that the tenant is not at all able to pay rent. This point of inability to pay has been accepted by Government for at first they wrote down "all" rent. But in the Select Committee wiser counsels prevailed and they omitted the word "all" and kept merely "rent". Now they have kept "rent". That is still merely an eye-wash. The term should have clearly stated what rent Government desire—some rent or all rent. It means both. The deletion of the word "all" is highly prejudicial for it means all in reality though some evidently and superficially.

When the Deccan Agriculturists' Relief Act was brought into force after some time Government announced its conclusions and Government said that new debts had been prevented, that on account of the passage of the Act the indebtedness had been to a great extent relieved and so forth, but Government did maintain one fact that in spite of the good that it could do, if it was ever intended to do any good, in spite of all that, lands were passing away from the hands of the tenants to others avowedly creditors. That was a very important suggestion to which I want to draw the attention of the present Government. How was it that land was gradually passing away still in spite of the fact that the enactment Deccan Agriculturists' Relief Act was considered by Government to be a beneficent measure? In spite of all Government's efforts land was gradually passing away from the hands of the impoverished tenants. That was due to the fact that there was an acceptance on the part of Government of the device in the existing system, namely, that the tenant was to be considered as merely a tool for the exercise of agriculture, as a means of production, but that he was not to be directly given the benefit. Under the circumstances, he is extremely poor and embarrassed in misery; and if we exercise this alteration also, namely, that he is required to pay rent, then that poverty and that misery would be further enhanced. The peasant clings to his land for his life. The land-hungry peasant passionately holds his land dear to him. But the economic conditions require him gradually to drift more and more into the hands of the landlord and into the hands of the sowkar. Let us save him if some one can as soon as possible. I do desire, therefore, that before the word "rent"

[Mr. S. H. Jhabvala]

there should be " $\frac{1}{4}$ ", so that at least some measure of relief that is contemplated under the Act could be given to him. Humanitarianism is the fundamental of socialism and, therefore, I believe this measure of concession proposed not wholly as a socialist but only as a humanitarian will be accepted by Government.

The Honourable Mr. K. M. MUNSHI : Sir, I have nothing to say.

Mr. S. H. JHABVALA : So have I, Sir, nothing more to say.

Question put. The House divided : Ayes, 10 ; Noes, 74.

Division No. 18.

Ayes.

BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.

KHEDGIKAR, Mr. R. A.
MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. V.
ROHAM, Mr. P. J.
VARALE, Mr. B. H.

Tellers for the Ayes : Messrs. A. V. CHITRE and B. H. VARALE.

Noes.

ANTROLIKAR, Dr. K. B.
CHITALE, Rao Bahadur G. K.
CHAWDHARI, Mr. D. N.
CHAWHAN, Mr. P. L.
DABHI, Mr. FULSINHJI B.
DANDEKAR, Mr. V. V.
DESAL, the Honourable Mr. MORARJI R.
DESAL, Mr. RANDHIB P.
DESHMUKH, Mrs. ANNA PURNA GOPAL
DESHPANDE, Mr. G. H.
DODMETI, Mr. A. D.
FIRODKA, Mr. K. S.
GANDHI, Mr. M. M.
GHIA, Dr. C. J.
GILDER, the Honourable Dr. M. D. D.
GOKHALE, Mr. K. G.
GOPI, Mr. M. G.
GUTTE, Mr. B. M.
HALLIKERI, Mr. N. F.
HIRAY, Mr. B. S.
JADHAV, Mr. T. S.
JAKATY, Mr. P. C.
JOSHI, Mr. JINABHAI P.
JOG, Mr. V. N.
KANUGA, Mrs. VIJAYAGOURI BALVANTRAI
KARVADE, Mr. R. K.
KARGUDRI, Mr. S. S.
KATHALE, Mr. B. S.
KESHWAIN, Mr. S. N.
KHMJI, Mr. BHAWANJI A.
LALA, Mr. BHOGILAL D.
LATHE, the Honourable Mr. A. B.
MAGANTAL NAGINDAS, Mr.
MASTER, Mr. NAGINDAS T.
MEHTA, Mr. H. P.
MORABHAI KASANJI, Mr.
MUKADAM, Mr. W. S.
MUNSHI, the Honourable Mr. K. M.

MUNSHI, Mrs. LILAVATI K.
NAIK, Mr. V. N.
NARIMAN, Mr. K. F.
NESVI, Mr. T. R.
NIMANEE, Mr. P. A.
NURIE, the Honourable Mr. M. Y.
PATASKAR, Mr. H. V.
PATEL, Mr. BABUBHAI J.
PATEL, Mr. BHAILALBHAI B.
PATEL, Mr. MANGESH B.
PATIL, Mr. ATMARAM N.
PATIL, Mr. GAMBHIRRAO A.
PATIL, Mr. KALLANGOURA S.
PATIL, Mr. LAXMAN G.
PATIL, the Honourable Mr. L. M.
PATIL, Mr. MALGOURA P.
PATIL, Mrs. NAGAMMA
PATIL, Mr. S. K.
PURANI, Mr. C. B.
RAJMAL LAKHICHAND, Mr.
SATHE, Mr. S. H.
SHINDE, Mr. BAJIRAO *alias* BABASAHEB
JAGDEORAO
SHIRALKAR, Mr. P. K.
SHRIKANT, Mr. L. M.
SUGANDHI, Mr. M. S.
TALKE, Mr. K. R.
THAKOR, Mr. B. P.
THUSE, Mrs. LAKMIBAI GANESH
TULPULE, Mr. H. V.
VAGHELA, Mr. B. U.
VARTAK, Mr. G. D.
VINCHOORKAR, Sardar N. G.
VYAS, Mr. ISHVARLAL K.
WADEKAR, Mr. R. B.
WALVEKAR, Mr. B. B.
WANDREKAR, Mr. D. N.

Tellers for the Noes : Messrs. S. H. SATHE and K. S. FIRODKA.

The Honourable the SPEAKER: Amendment No. 57 falls through as being consequential.

6-30 p.m. Now amendment No. 58, the honourable member Mr. Bhole.

Mr. R. R. BHOLE (Poona West): Sir, I beg to move the following amendment:

In clause 9, after the words "for the purpose of evicting him", add "provided such rent is an economic rent".

Question proposed.

Mr. R. R. BHOLE: Sir, I will be brief. It is mentioned in the Bill "if such tenant is willing to hold the land thereafter as a tenant on the same terms and conditions on which he was holding the same at the date when the cause of action arose to the landlord for the purpose of evicting him". Now, Sir, the conditions that might have existed when he made the contract were certainly conditions which were more favourable to the landlord than to the tenant. The landlord always tries to take as much rent as possible and, as has been fully discussed here on the floor of this House, the tenant has to pay more than what he gets as income. The amount of rent which is at present paid is more than what I had told before, 50 per cent. of the gross value of his income. Such being the case, naturally it would be improper for the Government to bind the tenant to those terms and conditions by which he at a needy time bound himself by the contract. It is only because of that, Sir, that I want to put in this amendment. If the Government accepts the proposition that the tenant at present is quite unable to pay any rent, and, least of all, the present rent which in no sense of the word is an economic rent, then I do not see why the Government should not accept my amendment.

With these words, I commend the amendment for the acceptance of the Government and of this House.

The Honourable Mr. K. M. MUNSHI: Sir, my honourable friend has, as in his preceding speeches, made the same mistake. This is not a substantial Bill under which an economic rent has to be ascertained, but is only intended to keep the *status quo* just for one year. If you introduce these things, it will mean determining an economic rent. It will involve all kinds of enquiries in respect of every tenant, and instead of its being a measure for relief it would open up litigation. Who is to decide the economic rent? Where is the machinery in this Bill for doing it? What are the steps to be taken? In a measure like this, which merely aims at keeping the clock at a standstill for one year, you cannot introduce the element of economic rent as is attempted to be done by the amendment. Therefore, it is not possible to accept the present amendment.

Mr. R. R. BHOLE: I have nothing to say in reply.

Amendment put, and negatived.

Mr. G. K. PHADAKE (Thana South) : Sir, I beg to move :

In clause 9 add :

" Provided that if the owner of the land wants to cultivate the land himself, the tenant shall be evicted.

" Provided further that if, due to any agreement or contract regarding sale or transfer of land formed before the passing of this Act, the transfer of land is not possible without evicting the tenant, the tenant shall be evicted."

I want to know whether this would be treated as one or two amendments.

The Honourable the SPEAKER : It is one amendment.

Question proposed.

Mr. G. K. PHADAKE : Sir, while speaking on the first reading of this Bill I said that I did not accept these principles, namely, depriving one of the right of ownership, depriving one of the right of possession of one's own land, and depriving one of the right of self-cultivation. I am totally against the embodiment of these principles in the Bill. I have much to say against this, but as the Bill is for one year only, I shall confine myself to the points raised in my amendment. But I hope that Government will give serious consideration to this question when framing a permanent legislation.

I bring this amendment in the interest of small holders. These small holders will be affected very much by this clause. I shall illustrate this point by giving an example. A is a small holder. In 1932, on account of the abnormal fall in prices he left his village and went somewhere else for employment. In 1937 November he was suddenly discharged, as now generally happens on account of victimisation, retrenchment, etc. He returns to his village, he has no other means of livelihood and he therefore wants to cultivate his land himself. He gives a notice to his tenant, but after this Bill is passed he will find that he cannot evict his tenant. By this Bill this man is practically deprived of his livelihood. Government orders him to live on the rent only. But next year it will not be possible for him to get that rent also. That will be the effect of this section, for when the tenant knows that he is to be evicted next year, he will not pay his rent. That is what tenants generally do. In 1939 the tenant will not pay any rent. But this man will have to pay the assessment for his land, though he is not allowed to cultivate it, though he has not got his rent. Government however with all the resources in its armoury will force him to pay his assessment. If this man comes to such a state of misery, this clause 9 is responsible for it. Government must concede this principle of self-cultivation. Otherwise, many of the small holders will be put into great difficulty.

Then with regard to the second proviso, in some of the districts on account of the Deccan Agriculturists' Relief Act there are no big money-lenders. It is generally the agriculturists themselves that manage the

[Mr. G. K. Phadake]

money-lending among themselves. Sometimes it so happens that a man lends money to another cultivator and takes possession of his land for some years. Let us suppose that there are two small holders, A and B. In 1931 B goes to A and says "Advance me Rs. 100, take my land for seven years in lieu of interest; I shall take back my land in 1938". As A has got sufficient land for himself he gives this piece of land to a tenant D. In 1938, say on April 1st, B goes to A, pays him Rs. 100 and says that he should be given back his land; this Bill will prevent him from getting his land, because it has already been given to D. D cannot be evicted on account of this clause, and so B will be put into trouble. That is going to be the effect of this clause, and it is in order to avoid these difficulties that I have suggested the addition of these provisos. I do not think it will be difficult for the Government to accept these provisos. As I have said before, they are in the interest of the small holders. There is no question of rent here, there is no question of any other thing. It is simply a question of self-cultivation and transfer of property, and if it is not accepted many people will be put into difficulties. Therefore, I propose that this amendment should be accepted.

The Honourable Mr. K. M. MUNSHI: Sir, the object of the honourable member is, in the first instance, that when the owner of the land wants the land for cultivating it himself, he should be allowed to evict the tenant. Now the point is, if the owner allowed the tenant to remain in possession of the land for six years, why can he not allow him to continue for one year more? What has come over him so that he must needs drive out the tenant this year? Therefore, it is not possible to see the logic of this amendment.

As to the second proviso, there are very few cases—I am told no cases at all—where agreements are made for the purpose of giving vacant possession of the land. Even if it is not so, you will find that clause 11 would be sufficient protection, because it says that a liability the enforcement of which has been stayed by the provisions of this Act shall, immediately on the expiration of this Act, revive and be enforceable as if this Act had not been passed. Therefore, whatever rights the parties may have will revive after one year, and there is no reason to suppose that any rights would be lost if they are suspended for 12 months.

Mr. G. K. PHADAKE (Thana South): Sir, I am not satisfied with the answer given by the Honourable Minister. He has not answered my point. I specially pointed out to him my difficulty by giving him an illustration. If I lose my employment and if I want to cultivate my land, how is it possible for me to do it? That is my difficulty. Since my point has not been answered, I do not propose to withdraw my amendment.

Amendment put, and negatived.

Mr. BHOGILAL D. LALA (Ahmedabad North): Sir, the amendment which stands in my name runs as follows :

Clause 9 shall be renumbered as sub-clause (1) of that clause and after the sub-clause so renumbered, add the following new sub-clause :—

“(2) If any such land is alienated land or land held on Khoti or talukdari tenure, the tenant who is in occupation of a dwelling house as a tenant of such landlord shall not be evicted from such dwelling house (including the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment), if the requirements of sub-section (i) are complied with.”

Question proposed.

Mr. BHOGILAL D. LALA: Sir, I shall briefly give the reasons for the amendment I have proposed. The amendment applies only to talukdari and alienated villages. In these villages, the tenants are in possession of the lands since time immemorial and it is difficult to trace the origin of the tenancy of holders of such lands. As regards the dwelling houses also, the forefathers of the present tenants have lived in them. The talukdars, by holding out threats of eviction and by force, have taken annual rent-notes from these tenants and are trying to evict the tenants from their lands and from their dwelling houses. As a result of the rumours and reports which are published in newspapers that a tenancy legislation is to be introduced in the Assembly and that the lands will be permanently settled on the tenants, the talukdars are giving notices to evict the tenants both from their lands and their houses. You will see that this sub-section prevents the landlords from evicting their tenants both from their lands and dwelling houses because in such alienated and talukdari villages the possession of land and the possession of house are so correlated, that unless you protect them from being evicted from their houses, it is useless to protect them from being evicted from their lands. If you provide that such tenants should not be evicted from their lands only, but they can be evicted from their houses, it will be very difficult for the tenants to get houses to live in, because the other tenants will not allow them to live in their houses, the lands in the village being talukdari. We should give him land and a dwelling house both at the same time. So, it is absolutely necessary we should provide that he should be evicted neither from the land nor from the house. In order to make such a provision this sub-clause should be added.

I have been receiving numerous letters from talukdari villages where notices have been served on the tenants who have been asked to vacate their lands and their houses. I put all these things before the Honourable Minister. I therefore move this amendment and I hope with confidence that the House will accept it.

The Honourable Mr. K. M. MUNSHI: I accept the amendment.

Sardar N. G. VINCHOORKAR (Deccan Sardars and Inamdars): Sir, I am under a great handicap as an amendment of such an important

[Sardar N. G. Vinchoorkar]

nature is being moved just now. I claim no knowledge in details of the conditions existing in the Talukdari villages. I will reserve my remarks on clause 9 in general for a later stage. But I must at the present stage say that it is unfair that the rights and privileges of the Talukdars, Inamdars and Khots should be thus encroached upon indirectly. I very strongly protest and oppose the amendment.

Can I speak at this stage on clause 9 as a whole ?

The Honourable the SPEAKER : It will come at a later stage.

Mr. S. L. KARANDIKAR : May I know when this particular amendment was received by you ?

The Honourable the SPEAKER : Last evening.

Mr. G. K. PHADAKE : We were not supplied with this amendment up to now though it is a substantial amendment. It is a great surprise to us that this amendment has been introduced at this late hour.

The Honourable the SPEAKER : I will put the amendment.

Khan Saheb FAIZ MOHAMED KHAN : What is the answer to the honourable member Mr. Phadake's question ?

The Honourable the SPEAKER : The amendment having been received yesterday, a copy has not been distributed to honourable members ; and for the same reason it could not be included in the consolidated list of amendments.

Amendment put, and agreed to.

Sardar N. G. VINCHOORKAR (Deccan Sardars and Inamdars) :

7 p.m. Sir, the provisions of clause 9 will result in effecting a bar against eviction of tenants of six years' standing. It has unfortunately a very wide application and encroaches on the rights and privileges of the holders of both alienated and unalienated lands. It also comes in the way of exercising their rights even for a perfectly *bona fide* purpose though for a year. This is a clear modification of the rights of a holder of land. It also indirectly, it is clear, introduces a principle of a very undesirable character. This is a matter of great importance and should have been considered on its merits separately and very thoroughly.

On these grounds, I am not in agreement and oppose clause No. 9 as such. I would, however, appeal to Government that in their contemplated legislation for the regulation of tenancies they will give full and sufficient time as well as opportunity to the landlords and tenants to have their say in the matter.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I rise to oppose certain principles that Government have embodied in this clause—I will not say in a high-handed manner—by a backdoor method. This piece of legislation purports to give a kind of temporary relief to what are now called small holders. In this piece of legislation it was not necessary for Government to introduce any principles of tenancy law. In clause 9 of this Bill they have introduced principles which they perhaps meant to incorporate in their forthcoming legislation on tenancy principles. The way by which they have introduced this principle here reminds me of a drama by the Marathi artist Mr. Falke. The introductory part of that drama shows a scene in a dramatic company when the actors are not quite ready to appear on the stage, i.e., some of them have their faces partly coloured, some of them have worn their dresses in part and when the actors are in that state the curtain is drawn and the whole audience simply bubbles with laughter as they look at the actors in this pitiable plight. The Government is put in that very pitiable plight by putting in this Bill the principles of tenancy law, when this Bill merely purports to give a kind of temporary relief to what they now describe as small holders, and, in addition, this Government have set aside several principles of law that have been the accepted principles up till now. What is the provision that they have made in this section? Even if a tenant has left his dues unpaid for the years 1932-33, 1933-34, 1934-35 and all those years, and if he simply pays for the year ending June 1938 that tenant is to continue his tenancy right. Now, Sir, it is an accepted principle that when dues of several years have been left unpaid, what is first paid goes to the payment of the first item in arrears. Government have lost sight of this principle which has been the accepted principle both of law and of equity.

Now, another thing that they have disregarded in this clause is that they have set aside certain enactments that are in force in this Presidency. The first part of this clause says :

“Notwithstanding any law for the time being in force,” etc.

Now, so far as my district, the district of Ratnagiri, is concerned, I want to bring to the notice of the Honourable the Revenue Minister the fact that the Khoti Settlement Act of 1880 is in the form of a tripartite agreement among Government, Khots and tenants. In the year 1880 the Khots agreed to accept many tenants as permanent tenants on the express understanding that no more encroachments would be made on their rights by forcing them to accept more permanent tenants. Now, by this clause Government are trying to force other permanent tenants on the khots. Now, my request to the Honourable Minister in the select committee was that our part of the presidency should be made an exception to this clause. I shall not be surprised if Government find themselves entangled in several cases of litigation from that district by reason of this clause, because the rights of khots are being encroached upon in

[Mr. S. L. Karandikar]

spite of the solemn declarations made when the Act of 1880 was passed. I believe several suits will be filed just to test whether or not this Bill is *ultra vires*. That is one fear that I entertain.

Now, one fear on which the whole clause is based is that because a permanent tenancy law is going to be enacted, landlords will evict their tenants. That is the fear that Government seem to be possessed with. Now, if you turn to actual life, we find that landlords do not easily evict tenants. I am glad that my honourable friend Mr. Parulekar has admitted that fact.

Mr. S. V. PARULEKAR: Except khots.

Mr. S. L. KARANDIKAR: If I remember right, he did say that; I can depend upon my memory to that extent; I am not likely to forget what was spoken about only two hours back. He admitted openly the fact that landlords do not easily evict tenants.

Mr. S. V. PARULEKAR: But khots are exceptions.

Mr. S. L. KARANDIKAR: Of course, if the honourable member means to say that khots are something extraordinary and not human beings, it is open to him to hug that supposition; he is free to have any opinions. He admitted that landlords do not easily evict their tenants from lands which the tenants have been holding for a very long time. That practice the landlords follow both as a matter of expediency and as a matter of goodness. If landlords go on evicting their tenants wantonly, the experience they will have to face is that they will have to leave their land uncultivated for one or two years before they get another tenant to come in. Therefore, even a landlord, whatever his grievances may be against his tenants, has to wait for a long time before he can eject his tenants. Therefore, the fear that Government has entertained in framing this clause is altogether groundless. It is the duty of Government to avoid unnecessary surmises that they are going to bring in a permanent measure of legislation on the same lines. It is from that point of view that I made several recommendations in the select committee. But Government, except for the one amendment that they accepted from this side of the House, were arrogant. Therefore, I thought it my duty to say all these things by way of elucidating certain facts that are very real facts in certain districts. And I would be very grateful to Government if they gave unequivocal answers to what I have stated just now. From these several points of view, I have to protest very strongly against the manner in which this principle of permanent tenancy has been incorporated. And I believe this principle that has been introduced in this backdoor fashion will do greater harm than good for that section of the ryots in whose interests this Bill is being brought forward.

The Honourable Mr. K. M. MUNSHI: Sir, my honourable friend Mr. Karandikar stated that there were no grave cases of hardship which would require a clause like this. He is not correct there.

[Mr. K. M. Munshi]

Hundreds of cases have been brought to the notice of Government where landlords, in anticipation of some tenancy legislation, are taking steps to evict tenants. This is not put in for the purpose of introducing the element of permanent tenancy by the backdoor. The whole idea with which the landlords are taking steps to evict tenants is to prepare the ground for the legislation, so that by the time it comes they may make it nugatory. That is why this clause is necessary. At the same time, I may assure my honourable friend Sardar Vinchoorkar that whenever Government frames its substantive legislation the fullest opportunity will be given by them to the landlords as well as to the tenants of the province to consider the whole question from every point of view. The different sections of the House, whether they belong to one side or the other, will also be given the fullest opportunity to discuss them. So, there is no reason to be afraid that this is going to introduce permanent tenancy by the backdoor. After all, what does the section purport to do? It only purports to keep the rights on the 31st March 1939 exactly the same as they were on the 31st March 1938. There is no reason, therefore, to be apprehensive that any extraordinary legislation about permanent tenancy would be introduced or would be rushed through without considering all the interests concerned.

Clause 9, as amended, ordered to stand part of the Bill.

The Honourable the SPEAKER: The next clause is clause 10. Mr. Raut has tabled an amendment, which is clearly out of order, as it is a negation of the original motion.

Clause 10 (*Interest or rent not to be paid or reduced in cases in which land revenue is suspended wholly or partially*) ordered to stand part of the Bill.

Clause 11 (*Revival of rights, liabilities and obligations after the expiry of the Act*) ordered to stand part of the Bill.

Clause 12 (*Delegation of powers of Collector*):

All powers exercisable by the Collector under this Act may be exercised by the Assistant or Deputy Collector or by such officer as may be empowered by the provincial Government by general or special order in this behalf.

The Honourable the SPEAKER: The honourable member Mr. Parulekar has given notice of an amendment. That is also out of order, being a direct negation of the motion. He can oppose the clause. The honourable member Mr. Jhabvala.

Mr. S. H. JHABVALA (Railway Unions): Sir, I beg to move:

In clause 12, after the words "in this behalf" add the following: "but in no case shall final orders be passed except with the sanction of the Collector."

Question proposed.

Mr. S. H. JHABVALA : Sir, this amendment is not of a very radical nature. It simply states a technical operation. The select committee appears to have conceded the right to the provincial Government by general or special order to empower an officer. But, Sir, if the whole clause is read, it will be found that the responsibilities of powers are to be exercised by the Collector, to whom all transactions under this Bill have been handed over. The Collector is the most responsible person here all throughout. But the powers exercisable by him are under this clause allowed to be exercised by the Assistant or Deputy Collector or by such officer as the Government may arrange to fix. But then, after all, looking to the whole spirit of the Bill, and looking to the connection the Collector has got with the operation of the Bill so far as the working of the Bill is concerned, the Collector is the most responsible man shouldering the whole task. For that reason, I desire that his sanction should be taken before the passing of final orders takes place. Even in the matter of certain judicial decisions he is empowered with certain reservations, and at the time when final action is to be taken, his sanction is not sought but it should be taken looking to his official responsibility. With these words, I desire to press my amendment.

The Honourable Mr. K. M. MUNSHI : Sir, however desirable it may be to entrust the whole work to the Collector, it is humanly impossible for one officer in a district to cope with the work which this Bill would entail. Therefore, it is not possible to accept the amendment. Out of respect for the opinion that was expressed here at the first reading of this Bill, the select committee has already transferred the power of empowering officers from the Collector to the Provincial Government. Except for this, it would be difficult to have any other restricted machinery in this matter.

Mr. S. H. JHABVALA : Sir, I was simply trying to remove an anomaly. If Government have accepted the spirit in which this amendment was moved at first and they have substituted the Provincial Government in place of the Collector, then certainly it is very creditable on the part of the Government.

The Honourable Mr. K. M. MUNSHI : Thank you.

The Honourable the SPEAKER : Does that induce the honourable member to withdraw his amendment ?

Mr. S. H. JHABVALA : No, no.

Amendment put, and negatived.

Clause 12 ordered to stand part of the Bill.

Clause 13 (*Rules*).

The Provincial Government may, by notification in the Official Gazette, make rules to carry out the purposes and objects of this Act.

Mr. R. R. BHOLE (Poona West): Sir, I beg to move :

In clause 13, after the words "this Act" add :

"Provided that a draft of such rules shall be laid before each Chamber of the Legislature for a period of not less than 21 days during the session of the Chamber, and if either Chamber, before expiration of the said period, passes a resolution against the draft or any point thereof, no further proceedings shall be taken thereon but without prejudice to a new draft."

Question proposed.

Mr. R. R. BHOLE: Sir, I move this amendment with the full understanding that this House would not in any way like to delegate to Government the powers of making rules. If Government wishes to take the powers of rule-making to themselves, I think it should be their sacred and bounden duty to place before this House the rules which they may frame in the interest of the masses; and if this House records a verdict to the effect that those rules or part of those rules are not in the interests of the masses, then it should be the duty of the Government to accept that verdict. It is only because of that, Sir, that I have moved this amendment. The other day, when the honourable member Dr. Ambedkar, the leader of our party, stated that rules when adumbrated in the form of Orders in Council were also placed on the table of the House of Commons, the Honourable Minister for Law and Order quoted section 291 of the Government of India Act. But he conveniently, quietly, or purposely, forgot to read the previous section 290. That section reads as follows :

- "(1) Subject to the provisions of this section, His Majesty may by Order in Council—
- (a) create a new Province ;
 - (b) increase the area of any Province ;
 - (c) diminish the area of any Province ;
 - (d) alter the boundaries of any Province :

Provided that, before the draft of any such Order is laid before Parliament, the Secretary of State shall take such steps as His Majesty may direct for ascertaining the views of the Federal Government and the Chambers of the Federal Legislature and the views of the Government and the Chamber or Chambers of the Legislature of any Province which will be affected by the Order, both with respect to the proposal to make the Order and with respect to the provisions to be inserted therein."

Sir, this provision has been made even in the Government of India Act. The provision which is sought to be made in this Bill is that they should notify in the Official Gazette any rules which might be made concerning the peasants. After they have been so notified, perhaps it would not be possible for this House or any member to seek to change them. When once the rules have come into effect, naturally whatever is sought to be done will be done when the vehicle of these rules starts. We want that those rules should, before being published, be placed on the tables of this House. Section 23 of the General Clauses Act lays down :

"Publication in the Gazette of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made."

[Mr. R. R. Bhole]

If it is a conclusive proof that the bye-law or rule has been made and put into effect, then we shall be having no voice whatsoever in the framing of such rule. It is, after all, an elementary principle of democracy that we should have a voice in the framing of those rules. It is only from this point of view that I move this amendment, and I hope Government will accept it.

The Honourable Mr. K. M. MUNSHI: Sir, I never thought that the epidemic of citing the precedent of the Government of India Act would be caught by the Deputy Leader of the Independent Labour Party from his Leader.

Mr. R. R. Bhole: I am not the Deputy Leader.

The Honourable Mr. K. M. MUNSHI: Issuing of Orders under section 290 really amounts to an amendment of section 46 of the Government of India Act where the Provinces are enumerated. The rules made under this Act are not amendments of the Act; they are in pursuance thereto. In Poona it was made clear, on the authority of Laski, as to the circumstances under which rules could be made, and Government propose to adhere to that test.

The proposal that has been put forward now was customary in the old days, though the rules were placed before the House, when Government took care to see that even if a resolution was passed it was not binding on the Government in respect of some Acts. But so far as the practice followed up to now is concerned—and as I said, there is high authority for it—I see no reason to depart from it. To do so would only introduce unnecessary complications. Members of either House who have got any grievance against the rules will have open before them the various methods by which a debate could be raised in the House.

Mr. R. R. Bhole: After the rules come into effect.

The Honourable Mr. K. M. MUNSHI: Therefore, Sir, it is not possible for me to accept the amendment.

Amendment put. The House divided: Ayes, 12; Noes, 67.

Division No. 19.

Ayes.

BHOLE, Mr. R. R.
CHITRE, Mr. A. V.
GAIKWAD, Mr. B. K.
JADEHAV, Mr. D. G.
JHABVALA, Mr. S. H.
KALE, Mr. R. S.

MEHTA, Mr. JAMNADAS M.
PARULEKAR, Mr. S. V.
RAUT, Mr. D. W.
ROHAM, Mr. P. J.
SAVANT, Mr. K. S.
VARALE, Mr. B. H.

Tellers for the Ayes: Mr. A. V. CHITRE and Mr. B. H. VARALE.

Noes.

ANTHOLIKAR, Dr. K. B.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 COLLACO, Dr. J. A.
 DABHI, Mr. FULSINHJI B.
 DANDEKAR, Mr. V. V.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESHMUKH, Mrs. ANNAFURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FIRODEA, Mr. K. S.
 GANDHI, Mr. M. M.
 GHIA, Dr. C. J.
 GILDER, the Honourable Dr. M. D. D.
 GOKHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HALLIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 JADHAV, Mr. T. S.
 JAKATY, Mr. P. C.
 JOG, Mr. V. N.
 KANUGA, Mrs. VIJAYAGAURI BALVANTRAI
 KARAVADE, Mr. R. K.
 KAROUDRI, Mr. S. S.
 KESHWAIN, Mr. S. N.
 KHERR, the Honourable Mr. B. G.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MEHTA, Mr. H. P.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.

MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NESVI, Mr. T. R.
 NEMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MANGESH B.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. GAMBHIRRAO A.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.
 PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PURANI, Mr. C. B.
 RAJMAL LAKHICHAND, Mr.
 SATHE, Mr. S. H.
 SHINDE, Mr. BAJIRAO *alias* BABASAREB
 JAGDEORAO
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SUGANDHI, Mr. M. S.
 THAKOR, Mr. B. P.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 VAGHELA, Mr. B. U.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

Tellers for the Noes : Mr. S. H. SATHE and Mr. K. S. FIRODEA.

7-30 p.m. Clause 13 (*Rules*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that Bill No. VI of 1938, as amended at the second reading, be read a third time and passed.

Question proposed.

The Honourable Mr. K. M. MUNSHI : There were two amendments which I had accepted and which had to be drafted. They have been duly drafted now and I will read them for the benefit of the House : They are as follows :

In sub-clause (3) of clause 3 for the words "the said land" where they occur for the first time substitute the words "the land referred to in sub-section (1)".

that is, the land in respect of which the stay order is made, and

In sub-clause (3) of clause 3 for the words "any proceedings taken under any law for the time being in force relating to the said land" substitute the words "any other proceedings taken under any law for the time being in force relating to any land belonging to the small holder."

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These amendments will cover all the points that were discussed at the second reading.

The Honourable the SPEAKER: I will first put the amendments to the House.

The Honourable Mr. K. M. MUNSHI: I have accepted the amendments; they need not be put to the House at this stage.

The Honourable the SPEAKER: They will have to be put to the House.

Amendments put, and agreed to.

The Honourable Mr. K. M. MUNSHI: Then there are two amendments in clause 6. One is—

In clause 6 the word "or" occurring after sub-clause (2) shall be deleted.

The second amendment is—

Add the following as sub-clauses (4) and (5):

(4) household utensils necessary for the daily use of the small holder and his family;

(5) agricultural produce necessary for the support of the small holder and his family.

Sub-clauses (1), (2) and (3) are already there. Sub-clauses (4) and (5) have to be added. I think they will meet with the wishes of the House.

Amendments put, and agreed to.

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, I rise to support the third reading of this Bill, subject to the few reservations that will be found embodied in the amendments on which divisions were taken. But even without those amendments, I feel satisfied, as I am sure the whole House will feel satisfied (*An Honourable Member*: No.) that the Bill is some advance on the existing situation and however partial it may be, it will afford protection to the distressed peasant of this Presidency for the next 12 months and we hope that when the permanent Bill is brought, the debates that have taken place and some of the points of view that have been urged, while they might not have met with the approval of Government, will receive close and sympathetic attention. Perhaps in the transition stage, the Government were not satisfied of their utility.

In connection with this Bill, there is one difficulty which I find and that is about the Governor's sanction. I maintain and submit that if a Bill requires Governor's sanction—

The Honourable the SPEAKER: I am afraid, that cannot be reopened at this stage now.

Mr. JAMNADAS M. MEHTA : If you will hear me, Sir, I am not raising that point. You can check me after the first sentence is finished, if you think necessary.

What I was going to submit is that if a Bill really requires sanction under section 299 (3), the grant of sanction should appear on the Bill itself. Under the old Government of India Act, whenever previous sanction of the Governor-General was necessary, the sanction was stated on the Bill itself to have been obtained, and I submit that in future apart from what has happened on this occasion, it will be convenient for Government, as well as for honourable members of this House, to know that Government did think that a particular Bill required sanction of the Governor. It will facilitate the study of the Bill more closely if one were given to understand that this Bill was coming under the mischief of that sanction, and further about the amendments, I submit that once a Bill which required the sanction has got it, the amendments should not stand in need of further sanction. If the principle of that Bill is sanctioned, I submit that the amendments which come within the principle, should not need any further sanction. But this is my submission for the future. What has happened could not be recalled and the only effect of what has happened has been that some amendments have not been before the House which perhaps might have been if the procedure which I have submitted would have been followed. Subject to this, Sir, the Bill has received, as everybody will admit—

The Honourable the SPEAKER : The honourable member's remark has not been clear to me. Does he mean to suggest that any amendments which have been tabled were not brought forth for want of sanction ?

Mr. JAMNADAS M. MEHTA : I was told that some amendments which were notified by Mr. Parulekar were not in time day before yesterday.

The Honourable the SPEAKER : There is nothing of the kind, and the sooner this impression is removed the better. Every amendment that has been tabled and that required the sanction—the views of the honourable members may differ as to whether sanction was necessary—has been allowed and has received the sanction.

Mr. JAMNADAS M. MEHTA : To that extent, Sir, I stand readily corrected. All that I felt was that on Monday it had happened you were pleased to say that particular amendments cannot be allowed. I have not noticed that they were later included. When you say that they are, I stand readily corrected. Subject to that, I think, it can be admitted by everybody that the Bill has received a close scrutiny and a scrutiny which it well deserved and I think there was little justification for my honourable friend Mr. Ali Bahadur Bahadur Khan who said yesterday that undue time was being taken over the Bill. The clauses, the various amendments, the nature of the legislation, all required careful consideration and I think the House has given it the best possible consideration ; and if I may, Sir, I must say that we are all thankful to you for the

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wonderful patience with which you have allowed every possible amendment and every possible latitude for its consideration and the voting thereon. Neither side of the House is tired. Both have responded to your magnificent determination with as much thoroughness as it deserved and we are all even now prepared to sit here right up to dawn tomorrow morning, if the merits of the Bill so required.

The Honourable Mr. Morarji Desai said at an earlier stage of the Bill that the Government were going to set such a precedent that no future Government will have the courage to be reactionary. I admire this self-confidence. I, on the other hand, feel that the Bill is such a modicum of reform, so modest in its range that I would be surprised if even the most reactionary Government could have done less than that. I do not think that any Government, the most reactionary in its character, if it wanted to bring a Bill for the protection of the tenants and the indebted ryot, could have done less than this and, therefore, I would beg of my honourable friend to take from me that public opinion is far more wide awake than he is prepared to give credit for and this Government is not the monopolist of the interests of the public. They have still to show that they could go more forward than they have done; but for that reason I do not wish to deprive my honourable friend and the Government of the credit which they deserve on this Bill.

One reason, Sir, why this debate was prolonged was the exclusion of my honourable friend, Mr. Parulekar, from the Select Committee. (*Hear, hear.*) I think it was a very ill advised step.

The Honourable the SPEAKER: I do not think it arises.

Mr. JAMNADAS M. MEHTA: I submit, Sir, it does arise from the length of time taken. I am not going—

The Honourable the SPEAKER: The difficulty is, if any such allegations are made, it would be necessary to allow an opportunity for the replies and then the whole discussion will turn into as to whether the inclusion was proper or exclusion was proper and what was proper and what was not, with which the House is not at all concerned. The Select Committee was appointed, it has done its business, the Bill has been considered by this House and I wish the debate is confined only to the features of the Bill.

Mr. JAMNADAS M. MEHTA: The lessons which we would like to take from this Bill are as much a concern of ours at the third reading. I was saying, Sir, that even if there is one member who has got to say anything, it is wiser to include him on the Select Committee and be more tolerant about the difference of opinion than was found possible on this occasion. I am sure half of the debate would have been curtailed if the points of view which Mr. Parulekar wanted to bring would have been put before the Select Committee. What happened as a result of his exclusion from the Select Committee? The Committee practically became a mockery—a Government affair. If I had been in my place, I would have

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advised my honourable colleague Mr. Karandikar not to join. It is the inherent right of any member, just as it is of the honourable member Mr. Parulekar, to challenge the *bona fides* of a particular measure. The opposition is here to oppose. I am sure that he would never challenge and nobody here thinks of challenging the personal *bona fides* of any Honourable Minister or of any man, but for the Government's *bona fides* the opposition is a permanent challenge and that is a right which cannot be taken away in a huff as it was taken away. That is the lesson that this Bill has also taught us. I am not going to make much of it, but for the future it must be remembered.

The attitude of Government on the various amendments which were tabled from this side of the House was a little more responsive as we got on to the end and, if it had been maintained as it should have been maintained from the commencement, time could have been further curtailed, but I do admit that divisions were perhaps more numerous than they might have been, but that is also an education in constitutional progress. Therefore, I congratulate the House on the close co-operation between the Government and the Opposition; the differences are now forgotten, and only the lessons to be learnt from them are left which will be all to the good when the permanent legislation is brought before the House.

Now, coming to the broad merits of the Bill, it may be said, Sir, that we have tried to meet the credit situation of the peasants in the presidency. This Bill is a tentative measure for regulating the credit mechanism in existence in the presidency so far as the peasantry is concerned, and so long as the social order is what it is—I am not going to Russia for that purpose—so long as the social order is what it is, the credit mechanism will be far more subtle, far more elusive than we know. It is not for the first time that Government has brought a Bill to regulate credit in a certain way or to prevent any distress arising from the existing mechanism of credit in this province. The whole report of the Royal Agricultural Commission, the whole experience of the various legislations that were passed for 50 years and more points only to one result and one result only and it is this, that while we try to remedy at one end, defects arise at some other end and, ultimately, the net result is not much better. Here is the opinion of the Agricultural Commission :—

“Legislative measures designed to deal with the problem of indebtedness have proved a comparative failure. Evidence was received in one province that the provisions of the Civil Procedure Code exempting the cattle, implements and produce of agriculturists from sale may be ignored..... The provisions of the Deccan Agriculturists' Relief Act are being evaded and the Usurious Loans Act is practically a dead letter in every province in India.”

And yet those measures at that time were conceived with the object of relieving distress among the agriculturists. We may hope that this Bill will escape the same consequences which the previous legislations had to face. I am not, however, quite happy that it will be possible to do so. Some loopholes are there and I want to point out one so that the

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Government, when administering the measure, may kindly remember what I fear might happen as it has happened to the previous legislations on the agricultural indebtedness and that is this. The various provisions, which are made for staying of any sale, the various stay orders, the stay upon stay and the powers given to the Collector and the approach to the Collector, the appeal to the Collector by the small holder, all this means going to the highest official through a labyrinth of obstacles. The Collector will not be approached at the first shot, and when the application is made, we know how it reaches the topmost official—I should say—through a barricade at each stage where the applicant will have to pay something, and I do hope that corruption in the lower ranks will not increase as the result of the designing of the machinery for obtaining various stay orders and reliefs. Otherwise, the object of this Bill which is being passed will be defeated. The result of more than 50 years of legislation about agricultural finance has led to an admission of failure of these measures, and I am hoping that care will be taken to prevent this measure from becoming a failure. After all, as my honourable friend Mr. Phadake pointed out, even after a decree was passed it was not easy to take lands to sale sometimes for five years or at least for three years. So that, what this Bill proposes to do did actually prevail in practice and we are giving only legislative sanction to a practice which has been in force more or less all over the presidency. But, Sir, it is an advantage to get a legal right in place of a customary practice. Barring that, I am not really satisfied that we have gone very far in helping the agriculturists.

Sir, the "Bombay Sentinel" newspaper, on the 22nd January, contained an article which was written by some Mr. "S. K." I thought it was Mr. S. K. Patil, but I have verified from Mr. S. K. Patil and he said he was not the author of that letter. It would certainly have been a wonderful thing if Mr. S. K. Patil had sent that contribution to the "Sentinel" and if the Sentinel had accepted it. What does the article say? It says that the true title of the Bill should be the "small holders death warrant Bill"; this description is considerably exaggerated; since the Bill came out of the select committee, it has been improved in the House and the description in the Sentinel is no longer applicable. I am not either sure that it was applicable at any stage—but a responsible journal had a special article denouncing this Bill as a mere scratching of the surface, a mere deception of a political character and a death warrant of the small holder. I hope that the writer will now realise that we have taken every care to prevent it from becoming a death warrant. It will give some life to the small holder, however small it may be.

The Honourable the SPEAKER: Is the honourable member likely to take long? Otherwise, we may adjourn now and re-assemble later.

Mr. JAMNADAS M. MEHTA: I was going to submit that instead of adjourning for half an hour now, we may take this Bill through without any further vacation; but if you are pleased otherwise, I have not the least objection.

The Honourable the SPEAKER: My only point was that if honourable members desired to address long speeches at the third reading also, so far as possible, I should not like to prevent them from doing so. It is a matter of their choice, but if one is permitted, the others too have an equal right to be permitted. In that state of things, it is better to retire now and re-assemble at 8-30. That was what I was thinking of.

Mr. JAMNADAS M. MEHTA: I have not the least objection.

Mrs. LILAVATI K. MUNSHI: Would it not be better to adjourn till 9 o'clock so that everybody can go home for dinner?

Honourable MEMBERS: No, no. No dinner to-night. Let us continue for an hour or so.

The Honourable the SPEAKER: I am prepared to continue, but I am seeing whether there is any move in that direction. I do not unfortunately see that. It is very unfortunate.

Mr. D. W. RAUT: I think nobody will speak from this side.

Khan Saheb FAIZ MOHAMED KHAN: Why do you think like that?

Mr. JAMNADAS M. MEHTA: There is no monopoly for me or that I alone should speak for my honourable colleagues, but I feel sure that further debate will not be on an extended scale.

The Honourable Mr. B. G. KHER: I think we might as well sit on and finish this business.

The Honourable the SPEAKER: I will wait and see for a few minutes and then decide. The honourable member (Mr. Jamnadas M. Mehta) may continue.

Mr. JAMNADAS M. MEHTA: I am not in the least anxious to prolong the debate unnecessarily, but we feel a sense of responsibility about this Bill, and though I hear a sound of "Oh, oh" coming from my honourable friend Mr. Gokhale, I know that he feels the same responsibility as I feel, or at least I claim to feel. Sir, I have given my support to the third reading of this Bill with certain reservations, and I should like to point out what those reservations are.

First of all, although on the whole my attitude towards the Bill has been that of support to the tenants' and the small holders' point of view, still I felt considerable sympathy for the opposition to the amendment which was moved at the last moment and to which my honourable friend Sardar Vinchoorkar took exception; it was in the nature of an eleventh hour amendment and it did require more notice than the House had.

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Secondly, there are the two points which my honourable friend Mr. Phadake brought forward, namely, that in the case of an honest agriculturist who had left agriculture and gone in for some other avocation in Bombay and who during the depression loses his employment, if he wanted to cultivate his land again, under this legislation for 12 months at least it will become impossible. Similarly, while the sowcars will be prevented, the co-operative societies and the Government will be free. These two aspects do require closer consideration than it was possible to give them in the present state of things, and I do hope in the Bill which is going to come in the course of six months these aspects, whether we agree with them or not, would receive ample consideration.

Then I shall come to the reservations, and they are nearly five in number. The first is that I am really not satisfied with the provision that the application for the stay order should have been forced on the small holder; I think that it will work a great hardship, and that the burden should have been thrown on the judgment-creditor, the decree-holder, to say that there should be no stay order because the debtor was not a small holder. The burden of proof should have been laid on the judgment-creditor that the man was not a small holder and not on the judgment-debtor to prove that he was a small holder.

The second reservation with which I am supporting the third reading of this Bill is that the interest has to be paid to the decree-holder or deposited with the Collector. Now as it is passed it is irrevocable, but I do feel that it is going to cause real distress. If the man has been found unable to pay and the things went to the point of litigation and the creditor had to go to a court of law and still the man could not pay, at this stage, to compel him to pay, and without the payment not to give the stay order is going to result in serious distress to hundreds and thousands of people who really stand in need of relief. It would not have been difficult for the judgment-creditor—

The Honourable Mr. K. M. MUNSHI: On a point of information, Sir. Would it be open to members of the House speaking after the honourable member to vindicate the position of the Bill on the various points individually, and is the whole Bill open for discussion on the various points? I am only asking for information. If that is so, then perhaps, we may adjourn now and meet later, because if judgment is to be delivered by one honourable member against the Bill, it must be open to the other side to vindicate the position taken up by the Bill. That means, we must have a discussion again. If that is so, and if that is your ruling, I should certainly like that we meet at half past eight or nine, so that we can thresh out again the merits of each provision in detail properly and fully.

The Honourable the SPEAKER: I was just thinking of putting the question to the honourable member myself. I think he would be within his rights to refer to what reservations he means, but beyond that, any

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detailed discussion of the various clauses again which have already been discussed would not be permitted in the third reading stage. He may refer to what he called his reservations. Beyond that I do not think any further discussion of the various clauses should again be developed.

Mr. JAMNADAS M. MEHTA : I have only developed each reservation for one minute. If I am not to develop them at all, mere mention will not be sufficient. I will keep in mind what the Chair has just said, and I wish to assure the Honourable the Home Minister that I am not really doing anything which a member of this House is not entitled to do at the third reading.

The Honourable the SPEAKER : The honourable member may refer to his reservations in brief without entering into the merits of the various clauses.

Mr. JAMNADAS M. MEHTA : The third reservation is that the stay order will not be granted if the decree holder suffers substantial loss. As I said, "substantial loss" is a most elusive phrase.

The Honourable the SPEAKER : May I tell the honourable member that he may refer to the next reservation ?

Mr. JAMNADAS M. MEHTA : I do not think I am limited in that way under the rules.

The Honourable the SPEAKER : I think it is a question of repetition of the same arguments over and over again ; it is not a question of curtailing any of the rights of members. What has been fully debated upon, on each individual clause by various members during the clause by clause reading stage should not again be discussed at the third reading stage. If that repetition is permitted on the part of one member, I think I must permit it on the part of other members also, and then there will be no end to the whole thing. That is not the object of the third reading.

Mr. JAMNADAS M. MEHTA : I am not taking more than one minute on each reservation.

The Honourable the SPEAKER : It is not a question of the quantum of time taken. It is a question of repetition. There should be no repetition. The honourable member has already spoken from about 7-35 or 7-40 to 8-10 on the third reading.

Mr. JAMNADAS M. MEHTA : I have made as many points as the minutes I have spoken ; the record will bear it out.

The Honourable the SPEAKER : I do not want the honourable member to enter into a fresh discussion of the whole thing, which will

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be a repetition of whatever has been stated during the clause by clause reading stage of the Bill.

Mr. JAMNADAS M. MEHTA : Re-discussion I shall not indulge in ; re-statement barely is the only possible thing to do, and I promise you, Sir, that I am keeping in mind all that has been stated by you. I am sorry that the members' patience is tired out, but I do not want to tire it out more than is necessary. I have said that the proving of substantial loss will lead to corruption. That point was not brought out. I warn the Government that in proving substantial loss corruption will be let loose.

Fourthly, under sub-clause (3) of clause 3 the stay of execution proceedings was to be continued. But now that position has been rectified, and therefore I have nothing more to say.

The last reservation that I wish to make is the unfortunate exclusion of co-operative societies and the Government. I have referred to co-operative societies already. But I wish to make a small submission on the question of Government, and I want to mention one thing. I had covered the whole ground yesterday. Just think of the position. You have got a stay order. The man is proved to be incapable of paying anything. At that time the Government machinery of recovery of land revenue is set against him. He has lost his credit.

The Honourable the SPEAKER : That point has been made already by one of the members.

The Honourable Mr. K. M. MUNSHI : May I draw your attention to the ruling on the speeches at the third reading stage :

" Scope of discussion : On the third reading of a bill the principle of the bill cannot be discussed. The discussion must be limited to the modifications made in the bill in the clause by clause reading stage."

Again, Sir :

" Opposition at the third reading should be based on definite grounds to any features of the bill that have come into existence at the second reading."

The honourable member is bringing all the points that have been discussed at the time of the second reading and at the first reading stage when the original Bill came before the House.

The Honourable the SPEAKER : The honourable member is supporting the third reading.

The Honourable Mr. K. M. MUNSHI : If that is the way in which the discussion at the third reading should go on repeating all the arguments that have been advanced, each member will be entitled to address the House—

Mr. JAMNADAS M. MEHTA : Shall I refer to the ruling given in the Central Legislative Assembly at the time of the Ratio Bill—

The Honourable the SPEAKER : The honourable member should express such views on the debate as are relevant at the third reading of a Bill. The honourable member may proceed and bring his remarks to a close.

Mr. JAMNADAS M. MEHTA : If you think that this question was already covered, if you hear me, you will be satisfied. I will not take much time of the House—

The Honourable the SPEAKER : As I pointed out, it is not a question of time. It is a question of allowing what has been said more than once. That is not within the scope of a third reading motion.

Mr. JAMNADAS M. MEHTA : I have not told you the point. The man will have lost credit and will have to pay the land revenue. One source of credit is closed and Government will fall upon him for recovery. With these reservations, I have great pleasure in supporting the third reading of the Bill. [*Interruption.*] I am not here to show gracefulness. Grace is all on that side. I will wind up by saying that as a result of the last two days' deliberation, a substantial solution has been found for the problem and the time spent is well spent. With these words, I support the third reading.

Mr. B. H. VARALE (Belgaum North) (*Addressed the House in Marathi*) : Sir, I rise to support the third reading of the Bill. Though there are defects, in spite of our efforts to rectify them, those defects will continue to be in the Bill and the third reading will be passed. Any way this is something better than nothing.

The Honourable Mr. B. G. KHER : Sir, I think that it would be better if we adjourn at this stage and meet at quarter past nine. If we go on in the hope that we will be able to finish at 9 o'clock, we may find ourselves yet in the middle of the discussion. I think it is much better to adjourn for an hour and sit late at night.

The Honourable the SPEAKER : I was given to understand that the honourable member (Mr. Mehta) was going to be very short and I thought very likely that the work would be finished; and that no other honourable members would speak. I still hope so. I am not hoping against hope, I suppose. It is better to hope and get disappointed. Unless it is the desire of the House to adjourn, I am prepared to sit any length of time.

The Honourable Mr. K. M. MUNSHI : It is likely to take more time. There are honourable members who are anxious to speak.

The Honourable the SPEAKER : The House will now adjourn till 9-15 p.m.

(The House re-assembled at 9-15 p.m.)

Mr. B. K. GAIKWAD: Sir, may I know whether there is quorum?

The Honourable the SPEAKER: (After a count) I think we are thirty.

Mr. B. H. VARALE (Belgaum North) (Addressed the House in Marathi): Sir, I do not think that this Act will benefit the agriculturists for whom it is meant. Undoubtedly some relief is given to them, but it is not at all substantial, and I do not think that useful purpose has been served. This Act is just an attempt of milking a goat and can be called "Ajagal" Act because it serves no useful purpose at all. If there is a decree against a small holder, he should apply to the Collector—

The Honourable the SPEAKER (In Marathi): I gave some latitude to the previous honourable member, but I shall be more strict. I think the honourable member should better confine himself to the point.

Mr. B. H. VARALE: Sir, I was going to point out—

The Honourable the SPEAKER: I am going to conform strictly to the ruling that the discussion at the third reading must be limited to the modifications made in the Bill in the clause by clause reading stage.

Mr. B. H. VARALE: Now, it will be necessary for a money-lender to prove that a particular tenant is a small holder. Up to now it was the small holder—

The Honourable the SPEAKER: I do not permit that argument.

Mr. B. H. VARALE: The agriculturists in this Presidency number about 21 lakhs and they do not get any relief at all.

The Honourable the SPEAKER: This relates to an amendment not adopted at the second reading, and the honourable member will not refer to this point.

Mr. B. H. VARALE: Sir, my last point is that this Bill is in no way useful to the tenant, and it is a mere eye-wash.

The Honourable Mr. B. G. KHER: Sir, I do not understand whether the honourable member is supporting the Bill or is opposing it.

Mr. B. H. VARALE: I am supporting it, I say that something is better than nothing.

Sardar N. G. VINCHOORKAR (Deccan Sardars and Inamdars): Sir, I am very sorry to have to strike a dissenting note. I had tried to accommodate with the spirit that prompted Government in bringing forth this measure. But there are some difficulties like the constitutional rights coming in the way. This was made all the more clear in view of

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the amendment to clause 9 that was added so late. To be fair to my Constituency I should not be a willing party to such encroachment on our rights. Therefore, I must differ and oppose the third reading of the Bill.

Mr. ATMARAM N. PATIL (Satara South) (*Addressed the House in Marathi*): Sir, I rise to support the third reading of this Bill. I am convinced that this Bill is solely in the interests of agriculturists. I feel that this is the first fruit of Swaraj. In old days, we used to feel that a man who had four acres of land was a member of the middle class. But today the Congress has included in the list of the poorer classes even people who own six acres and eighteen acres. Not content with this, the honourable members Messrs. Jhabvala and Parulekar wanted to bring in even people who own 20 acres of land under the operation of this Bill. One may rest assured hereafter that the Congress will always look after the interests of the poor. Sir, this is a proud day for the Congress, and for the agriculturists a red letter day.

Mr. R. R. BHOLE: Sir, on a point of order. Is the honourable member speaking of any modification of the Bill that took place at the second reading, or is he speaking outside it?

The Honourable the SPEAKER: He is speaking generally on the Bill.

Mr. ATMARAM N. PATIL: This Bill is definitely going to benefit the agriculturists, and I heartily support it.

Mr. RAJMAL LAKHICHAND (East Khandesh East) (*Addressed the House in Hindi*): Sir, I support this Bill which is intended to provide temporary relief for small holders. I do not agree with the honourable member Mr. Jhabvala who wanted to extend the scope of the Bill. The sowcars are as much citizens of this province as the agriculturists. The province is not composed solely of agriculturists. I am glad that the Congress Government has held the balance evenly between the agriculturists and the money-lenders. Our socialist friends are carrying on an agitation in the country against capitalists. This promotion of class war should be deprecated by all of us. Why should there be any class war? Swaraj should benefit all classes and communities. I support this Bill which while protecting small holders does not weigh heavily on the money-lenders—

Mr. S. V. PARULEKAR: Sir, I rose to a point of order, and the Chair did not heed me at all.

The Honourable the SPEAKER: What is the point of order?

Mr. S. V. PARULEKAR: Was the honourable member speaking on the Bill or the amendments made?

The Honourable the SPEAKER: He was speaking with reference to some remarks made in the previous debate on this particular Bill. He was referring to the select committee and the non-inclusion of certain members in it. All those points were referred to by a member of this House in a previous speech, and therefore what the honourable member was saying was perfectly relevant.

Mr. P. C. JAKATI (Belgaum South). (*Addressed the House in Kanarese*): Sir, I rise to support the third reading of the Bill. If we try and analyse the opposition that has been offered to the various provisions of the Bill, we come to the conclusion that it is not on account of any real hardship to any of the parties concerned that that opposition is offered, but it is offered for the sake of opposition only, simply because they want to oppose whatever the Congress Government attempts to do. That fact is apparent from all the discussion that has taken place on this Bill. People who have never been to a village and never seen the actual conditions under which a village agriculturist lives have criticised this Bill in the strongest terms. So far as I know, the honourable member Mr. Parulekar is a resident of a town. The honourable member Mr. Jamnadas Mehta has never, I think, seen a village. We are agriculturists, and we have a right to speak about things pertaining to agriculture. Have the honourable members Mr. Jamnadas Mehta and Mr. Parulekar ever visited the villages and enquired into the condition of the villagers?

Mr. S. V. PARULEKAR: On a point of explanation. The honourable member says that I was not elected by the votes of the peasants. I stood as a candidate in the Ratnagiri district, and most of those who voted for me were peasants.

The Honourable Mr. B. G. KHER: As far as I understood the honourable member, I think he referred to the fact that the honourable member Mr. Jamnadas Mehta had not seen the face of any village and yet he was talking about agriculturists.

Mr. JAMNADAS M. MEHTA: That is wrong.

The Honourable Mr. B. G. KHER: It may be wrong; but that is what he said.

The Honourable the SPEAKER: The honourable member Mr. Jakati may proceed.

Mr. JAMNADAS M. MEHTA: We are prejudiced by these Kanarese speeches.

The Honourable the SPEAKER: I cannot prevent the honourable member from speaking in his language. Every member is entitled to be heard without being laughed down.

Mr. JAMNADAS M. MEHTA: I have not the least objection.

The Honourable the SPEAKER: I am trying to follow the speech, and although it is not possible for me to follow it completely, something can be made out of it. I could follow this much, that all that he is advocating seems to be that the question should be looked at dispassionately and there should not be opposition for the sake of opposition, as was the case with some members. That was his point.

Mr. JAMNADAS M. MEHTA: Perfectly right.

Mr. P. C. JAKATI: Now, Sir, under the original definition of the term "small holder", 13 lakhs of people would have benefited by the provisions of this Bill. But Government were not slow to appreciate the necessity of extending the benefits to a still larger population, with the result that the select committee has now revised the definition of "small holder" so as to include holders of land to the extent of 6 acres of irrigated land instead of 5 as originally proposed, or 18 acres of dry land instead of 15 acres, and holders of land paying an assessment of Rs. 30. The result of this change will be that the provisions of this Bill will benefit 14½ lakhs of peasants instead of 13 lakhs under the original proposal. That shows that the Congress Government has its heart on the amelioration of the condition of the agriculturist. Past history tells us that nothing substantial can be expected from those who offer opposition for the sake of opposition only. The whole heart of the Congress Government is in this question of relief to agriculturists.

Mr. R. R. BHOLE: Is the honourable member addressing the Chair or individual members?

The Honourable the SPEAKER: Order, order.

Mr. P. C. JAKATI: Under this Bill, about 90 per cent. of the agriculturists will get benefit.

Sir, from the way in which criticism was levelled against the Government, I can say that the only object behind that criticism was to carry on propaganda against the present Government. But, Sir, I may tell those honourable members that whatever propaganda they carry on, the people outside know thoroughly well what the Congress Government is doing for them. Some honourable members adopted the curious procedure of supporting the measure and at the same time criticising the Government in very strong terms, with the result that we were left wondering whether they were supporting or opposing the proposition before the House. Why should they adopt this dual policy? Why not say whether you support or oppose the proposition? Why say that you support it, and then go on attacking and criticising the Government? Take only one course—either support or oppose it. If those speeches are intended for outside consumption, those honourable members may rest assured that no amount of propaganda will shake the conviction of the people that it is the Congress which is trying to save them and nobody else.

Mr. JAMNADAS M. MEHTA: Why is he beating his chest?
(Laughter.)

Mr. P. C. JAKATI : In my opinion, this Bill is most equitable. While giving much-needed relief to the ryots, it does not in any way harm the interests of the zamindars. As such, I have great pleasure in supporting it in its third reading.

Mr. T. S. JADHAV (Sholapur North-East) (*Addressed the House in Marathi*): Mr. Speaker, Sir, when discussion on this Bill started, we thought that there would not be much debate on it and that it would be passed without much opposition. But we find that the debate has gone on beyond the expected time. Well, Sir, I should think that it would be much more useful if every member were to go to his constituency and explain the implications of it to his voters.

In these matters, it behoves us to maintain a broad outlook. We have not secured complete independence. We must try and extract whatever good there is in the present situation. If you look at the question from that point of view, you will agree that the most important provision in this Bill is the one relating to interest. What is the position now? Peasants are ruined by being compelled to pay exorbitant rates of interest. The sowcar lends Rs. 100 to the needy agriculturist and takes a promissory note for Rs. 200 from him; over and above that, he extracts interest at the exorbitant rate of 25 per cent. from the poor man. Sowcar writes 12 per cent. in promissory note and takes 25 per cent.; also does not give receipt to the former. You can imagine the result of this exploitation on the economic condition of the peasant. That is going to stop under the provisions of this Bill, and to that extent it confers a very great boon on the small holder. This provision is, in my opinion, is the most important part of the Bill.

Sir, the honourable member Mr. Parulekar suggested that the limit in the case of holders of dry land should be 20 acres instead of 18. I submit that the limit of Rs. 30 as proposed in the Bill will include cases where the holder possesses land to the extent of 20 acres or even more; for if you calculate the assessment at one rupee per acre, the limit of Rs. 30 will include small holders possessing land 30 acres in area, and if you base it on assessment at Re. 1-2-0 per acre, that limit will enable holders of 25 acres to come under the category of "small holder" and claim the benefits of this Bill. So, really the honourable member's demand is met in the provision as it already exists.

Mr. G. K. PHADAKE : On a point of order, Sir. The honourable member is making a misstatement. On our side an acre has an assessment of Rs. 6 or Rs. 7 or even Rs. 8; it is not one or two rupees.

The Honourable the SPEAKER : He is not referring to any particular district on the honourable member Mr. Phadake's side; he is referring to some districts on his side which he knows.

Mr. T. S. JADHAV : What the honourable member Mr. Phadake says may be correct on his side, but especially in my district of Sholapur the assessment varies from Re. 1 to Re. 1-2-0 per acre. I got this information from the agriculturists themselves.

[Mr. T. S. Jadhav]

Another point on which there was much discussion in the House was with regard to the payment of one year's interest on the amount due. I know it is rather difficult to pay the whole year's interest, but then we must take the whole situation into consideration. By this Bill the Congress Government are trying to root out the cause of the whole evil. If we look to the history of the life of the peasant during the 150 years we will find that whatever he produced was taken away by the money-lender with the result that he had to starve and go half-naked. Now we are trying to relieve him from the clutches of the money-lender and thereby improve his condition. It must be admitted and it has been admitted that the Bills which this Government has so far brought forward are of a revolutionary character inasmuch as Bills for the real benefit of the peasants had never been hitherto brought forward. Before this Congress Government none had brought any people's benefit Bill except university Bill, but when Congress Government came into power so many poor people's Bills are passed in this session.

I would therefore appeal to the House to accept whatever good there is in this Bill and support it.

Mr. R. B. WADEKAR (East Khandesh, East): Mr. Speaker, I am lucky in having an opportunity to make my first speech on a memorable occasion. I think it is memorable at least for one reason, namely, the number of divisions which I have been lucky enough to see in this House. Although I have not attended Council meetings so far, I have read the proceedings of such meetings and I do not remember that in any House so many divisions have taken place on one and the same day. Another reason why I think the occasion is memorable is the importance of the Bill which we have discussed so far. This Bill affects two classes of people, namely, the indebted agriculturists and the money-lenders. The Opposition has brought forward a number of amendments and most of them are defeated.

Honourable MEMBERS: All of them.

Mr. R. B. WADEKAR: I would have said all, but I think one or two amendments have been accepted. The nature of some of the amendments at least showed that the Opposition wanted to score a point over this side of the House, but let me tell them that we have also seen both the classes; we are moving among both the classes, namely, the agriculturist and the money-lender. I may tell the House that I have had an opportunity of going into the country just when this Bill was under consideration—I had been to attend a certain meeting. On my way back I found that the principal question that the people were discussing among themselves and which they put to me was with regard to this Bill and the other Bill which was expected very soon. I may tell the House that I was able to satisfy all the questions that were put to me. They did raise some questions because it was not possible for them to apprehend all the provisions of this Bill all at once,

[Mr. R. B. Wadekar]

I may tell these people that the Bill, as brought forward, is a most considerate Bill; it is a Bill which has been brought forward after taking into consideration all sides of the question. You have not to legislate for one class but include every side. We ought to get all the classes with us and try to see that Government does include all classes. From that point of view, the Bill has been the best that one could have drafted and I maintain that I had not only had discussions with agriculturists, but with people who dealt in money-lending and they were also putting certain questions from their point of view, and when I was able to explain all the points of view that they put forward before me, I was myself quite satisfied that this Bill would serve the needs of both the classes and therefore after I came from that side, when these amendments were moved I was not a little amazed because I thought from the amendments that they were not in touch with the agriculturists and they did not understand the needs of the agriculturists. (*Hear, hear*). The Bill that has been moved and passed, now undergoing the third reading, is a Bill which requires knowledge not only of the people themselves but in certain cases it deals with procedure and it requires knowledge of the procedure that is followed in Civil Courts particularly, and from that point also I must congratulate the Honourable the Home Minister for looking at the needs of the litigants, particularly from those districts in which the Deccan Agriculturists' Relief Act is at present in operation. The needs are felt in those districts where the Deccan Agriculturists' Relief Act is in actual operation and from my experience I may tell the House that all the provisions that have been incorporated in this Bill will satisfy the needs that have been felt by the creditors and litigants. I do not like to detain this House for long, but I think that the measure is the best that could have been devised under the present circumstances.

Mr. S. H. JHABVALA (Railway Unions): Sir, as one responsible for several amendments prior to the appointment of the Select Committee and some amendments after the report of the Select Committee and as one of those stalwart 14 who carried the House into frequent divisions, I hope you expect me to make a speech on the third reading of the Bill. Heavy stomachs make wild beasts of human beings. There is no need to bring in a moment of heat all sorts of various remarks that fell from the lips of some of our comrades opposite to me. Our attitude on this side is clear. From the very start, I have said that the purpose of the Bill, the principle of the Bill is acceptable, is laudable; who has opposed that? If there is any, say yes. Nor do we oppose even now the third reading. If there is any, say yes. The reading has our support. But our angle of vision is slightly different. We fight for the class of the exploited; and certainly it is because of this difference put up by us that the House is alive. If our Ministers or the Congress Party desire that we should lock up our mouth and accept everything that is said by them, then, it cannot be the establishment of equality, but an imposition of mere brute force. Who desires that? Any among the Congress Party? None. That is a laudable purpose.

[Mr. S. H. Jhabvala]

We have been representing our case in a very plain spirit and we have struggled to the best of our ability, but we are generous as a lion also and with that generosity of lions we stretch our hand and say, we congratulate the Minister in charge for presenting a Bill of this character, which imparts temporary benefit in its own way in spite of the fact that it is but a little measure of usefulness to the agriculturists, which while advancing only a certain measure does not fulfil all the purpose and no one here has up till now come and said that it completes the whole programme, that it gives full benefit. No one says that and we say also that it does not contemplate the fulness of the benefit which is intended to be given and in that measure we are preparing the ground for the Ministry for the voicing of a large measure of agrarian benefit under a policy by which the whole of the peasantry might benefit. That is our object. Our object is to exploit the strength of the Government for the amelioration of the masses and to enlarge the scope of the contemplated benefit. Notwithstanding the whole agrarian policy being based on such lines, the largest amount of benefit should accrue to the country forthwith. What we want is that everyone in the country must have a full morsel of grain. What we want is everyone in the country must have food and clothing. What we want is that every one must have a shelter under a home and in that behalf any measure that the Congress Ministry or the Government of the day can bring forward will be acceptable to us. It is in this spirit that I rise to support the third reading of the Bill.

Sir, I think that the question of small holdings which is itself essentially involved here is rather a very intricate one. The
 10 p.m. Opposition has been completely disarmed in view of the fact that the Honourable Mr. Morarji R. Desai gave an assurance that within the next six months he will be able to present to the House a well-conceived project. Certainly on account of that, much of the Opposition has been disarmed for the Bill is temporary and hope may be allowed to be fulfilled. The only other opposition that remains underlying the different amendments was in respect of certain adjustments of understanding, but let me congratulate the Honourable the Minister for Law, his cleverness and ingenuity so adjusted themselves and his legal acumen also that oftentimes we found that what he was saying was not completely wrong. (*Laughter.*) Experience might show whether the Bill is going to fructify the purpose in view. Anyway the method in which he has explained away the whole Bill is indeed very; very clever. For that talent he deserves our compliments.

Now, Sir, coming to the small holdings, the whole problem of the small holdings needs exploration and the difficulty is not going to be solved by the adoption of a measure of this kind. It might give a temporary relief, but relief must be permanent and the correct idea that should be adopted by the Congress Ministry is doubtlessly collectivisation and socialisation of agriculture which will eliminate the very essence

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of lending and credit at the hand of private lenders. In the midst of the great Revolution in Russia, Lenin, in the interest of his country, was contemplating a collectivisation scheme by which the whole country could produce large quantities to supply the needs of his people. Unless a scheme of that kind is urgently contemplated and actively adopted by the Ministry, it is not possible that a temporary measure of this kind will be at all beneficial. I do not think the directness of our opposition indicated anything else. Surely, Sir, the Opposition has always a claim to put before the House constructive criticism with whatever purpose it may be. We went into frequent divisions also for a constructive purpose. You must accept that.

Finally, before I sit down I have got one suggestion to offer. In 1925 it was I think Sir Chunilal Mehta who brought in this Council what was called Small Holdings Consolidation Bill. There was a hue and cry against it, but I do believe that if the same Bill is thoroughly studied today by the present Government and if its principles are thoroughly understood by Government, Government will soon realise the many good points of that scheme and lay out its policy on the basis of that ideal. Sir, the question of small holdings should be earnestly tackled and tackled on right lines, on the lines on which Sir Chunilal Mehta tackled it nearly 15 years ago and by which the consolidation could be effectively brought about, by which the fragmentation could be stopped and by which the uneconomic holdings could disappear and the whole country would have its agricultural scheme so laid out that it would bring the largest amount of benefit to the largest number of the people.

With these words, I support the third reading of the Bill.

Mr. S. V. PARULEKAR (Ratnagiri South): Sir, I had no intention of participating in the discussion at this stage but for the few remarks that fell from Government benches. Sir, they seem to have misunderstood the attitude of the Opposition. The attitude of the Opposition was not that of one who wanted to obstruct the passage of the Bill. I have tabled 26 amendments, and I challenge the Government benches to point out even one which was not intended either to include more unfortunate persons within the scope of the Bill or to confer more benefit on them. By means of all those amendments the Opposition intended to enlarge the scope of the Bill, to bring within the scope of the Bill more persons than were intended by the Government. In spite of that, I am surprised to find that there are members in this House who want to say that the attitude which was adopted by the Opposition was that of obstruction. I will not take much more time of the House—

The Honourable the SPEAKER: That impression was perhaps the result of the Opposition asking for uncalled for divisions.

MR. S. V. PARULEKAR : I will explain that, Sir. Going through the list of divisions, I still maintain that on every occasion division was demanded when a vital issue was involved. On several of the amendments I have not asked for division. But on amendments which affected the life and death of several lakhs of people in this presidency, I did demand divisions (Cries of "Oh, oh"). When, Sir, I have been charged with having obstructed the passage of this Bill and with having taken unnecessary time of the House, I owe an explanation to the House and I must explain my conduct. I am prepared to wait for even two months for Government to point out to me a single issue on which I asked for a division and which did not relate to a vital issue. Sir, Government wanted to exclude 21 lakhs of agricultural labourers whom I wanted Government to include. I asked for a division. Was I not justified ? Sir, I wanted their huts to be protected, milch cattle to be protected, every tiny thing of use to the agriculturist to be protected, and I asked for a division when Government denied protection ; yet Government benches have the courage to say that I asked for divisions because I wanted to take the time of the House. Certainly not. There is not the slightest justification for that charge. Sir, the Government expect the opposition to flatter them, to pay them homage (Cries of "No, no"). If we could do that, we would not be on the opposition benches but we would be on the back benches there. Sir, we have got a different programme. We stand for all the exploited classes and I maintain and declare here today that we stand only for the exploited classes in the world and for none else. That is why you are bound to hear all the criticism from us. Why do you grumble then ? Why don't you tolerate our criticism ? We have got, as I said, a different programme. We have different ideals. We have got different methods of work. Why do you quarrel because we do not agree with you ? We want to stand by the agriculturists, the peasants, the workers, the exploited classes in the world and the exploited classes in this country of ours. We do not stand by the exploiters. We are their enemies and I am not ashamed of saying that we want to root out exploitation. That is the justification of all our amendments which some of my honourable friends described as mischievous, as unnecessary, as unjustifiable. They are perfectly justifiable from our point of view and I am sure you will also agree that they are justifiable if you look at them from our point of view. We do not blame you for looking at them from your point of view. We know you are not capable of doing anything more than what you have done, because the point of view of one who wants to please both the exploiters and the exploited is different from the point of view of the exploited. I never expected the Congress benches to bring forward a more liberal measure than this one. All they can do is to bring tiny and dwarfish measures of the kind placed before us—measures which will give relief neither to the exploiters nor to the exploited. That will be the character of all the Bills of this Government even if we wait for five years.

Sir, I need not take much more time of the House. I wanted only to repudiate the charges, the unjustifiable charges, levelled by the Government benches against the attitude taken up by the opposition.

[Mr. S. V. Parulekar]

Sir, the benefit that is likely to accrue to the small peasant is doubtful. The safeguards being so many, it is very doubtful if the small holder can be benefited to any appreciable degree at all. Even assuming that the small holders are likely to be benefited, the number of small peasants who will be actually benefited will be a very small percentage of the total population of the small holders. So far as the benefit to the small holder is concerned, it is a doubtful factor, but there is no doubt whatsoever that the interests of the money-lenders are not at all going to be affected adversely by this Bill.

Sir, I do support the third reading of this Bill. But at the same time I cannot forget the defects which are innumerable in this Bill. Do Government benches maintain that when one supports the Bill, one must praise it? Why should I not point out the defects and the objectionable features that are evident in it? I cannot understand when some honourable members say that when we stand to support the Bill, we should not criticise it. We support the Bill because the principle of protecting the small tenant and the small holder is dear to us as it is dear to some members of the opposite benches. We support the principle of the Bill. We support the attempt which has been made, the little attempt which has been made, to give relief to the small peasant. But does it therefore mean that we must admire everything in it, even the objectionable features of it which are sure to defeat the objects of the Bill? Certainly, that is not a rational attitude taken.

With these words, and without taking much more time, I will say only this that this Bill is of a doubtful character so far as the benefit to the agriculturist is concerned, but that it is not doubtful so far as the benefits to the money-lenders are concerned.

Sir, I support the third reading of the Bill.

Mr. V. N. NAIK (Nasik West) (*Addressed the House in Marathi*): Sir, I rise to support the third reading of this Bill. In judging of this Bill, we should try to understand the principles for which the Congress Government has pledged itself to stand. One of such principles established by the Congress is that land is very dear, dearer than life itself, to the agriculturist, and that therefore the land should not go to the money-lenders, and this is the measure, which, when it becomes law of the land, will give the agriculturist protection. If you study the psychology of the agriculturist, you will easily see that the agriculturist's one anxiety is that his land should not go to the money-lender, and the Congress Ministry has therefore tried by this Bill to do what it can for the benefit of the agriculturist in this respect.

Sir, the honourable member Mr. Parulekar objects, it is apparent from his remarks, to the use of the words "small holders" in this Bill. If the Honourable Minister in charge had used some other words—words like "large holders"—in place of the words "small holders", I am sure the honourable member Mr. Parulekar would have been

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entirely satisfied. It is, Sir, very unfortunate that the Honourable Minister in charge of the Bill, for once, tripped and adopted the words "small holders" and that it did not occur to him to have previous consultation with the honourable member Mr. Parulekar in order to seek his guidance as to the most suitable words to be used in this Bill! (*Laughter*). I am sure that if the word "large" had been put in the Bill in place of the word "small", my amiable and conscientious friend Mr. Parulekar would never have spoken against the Bill in the manner he has done!!

Mr. S. V. PARULEKAR: That was not my amendment. I never said that instead of Small Holders Bill it should be called a Large Holders Bill.

The Honourable the SPEAKER: He never asserted it; he only stated his inference.

Mr. V. N. NAIK: The honourable member Mr. Jamnadas said that we must learn something from this Bill. I have learnt this much that we need not attach great importance to the complaint of the honourable member that though he had given notice of so many amendments he was not included as a member of the select committee, because as a matter of fact the select committee considered carefully each and every one of those amendments, and in the light of such of them as could be accepted the Bill has been modified. That being the case, I submit that there was no reason for the honourable member to move some 27 amendments. Therefore, if we have to learn anything, it is that though a member is not included in a select committee, the select committee nevertheless considers all the amendments of which he might have given notice.

The honourable member Mr. Jamnadas supports the Bill, but the language which he used was different. He wants many more objects to be achieved. I wonder whether he could have done it. The position is difficult. Grapes are sour. The same thing applies to my honourable friend Mr. Parulekar. He wants milk, but instead of going to a cow for it, he has caught hold of a bullock, and is trying to milk it. I have nothing more to say.

Mr. B. K. GAIKWAD (Nasik West) (*Addressed the House in Marathi*): Sir, the discussion on the Small Holders Bill has taken place so far. I did not want to take any part in it. But the discussion is continuing and you, Sir, have given the opportunity to members to take part in it, and I want to take advantage of that opportunity. As regards the future of this Bill I do not want to say anything.

In the first place, Sir, the opposition has been criticised for the way in which it has attacked the Government. My honourable friend Mr. Atmaram Patil first of all said that the opposition were using coloured glasses, and the colour of the glasses varied. I say that is quite

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natural. My reply to the Government is, although we offer our opposition in the best of spirits and with the best of intentions, it is because of the coloured glasses which you are wearing that you do not see fair criticism in it. So, the argument about looking at things through coloured glasses applies to both sides—to the Government as well as to the opposition. But I should like to ask, were not those very people while sitting on these benches in the past criticising the Government of those days in much stronger terms? Just as when Karna found himself in difficulty on the battlefield he implored Krishna and Arjun to fight consistent with principles of morality and justice, he was retorted by Krishna. “तैन्हां गेला होता कोठें राधासुता तुझा धर्म ?” Similarly, I address the same question to you. Why should a little criticism from the opposition upset them so much ?

Then, Sir, it was stated that the owner of 16 acres of jirayat land is called a *jabbu* (ace). I ask, have the Congress Government brought forward this Bill for the benefit of the *jabbus* ? I do not say that that is their object. I say that even the man owning 50 acres cannot be called a *jabbu*. I am an agriculturist, and I know that even people owning 50 and 60 acres are on the verge of bankruptcy. The utmost that can be said is that the man with 16 acres of land just manages to live from hand to mouth. That my honourable friend Mr. Patil should call such people *jabbus* and thus himself become a *jabbu* is not proper.

Then, Sir, it was stated that the members of the opposition are jackals in tiger's clothing. Sir, when my honourable friends who are now supporting the Government were on the opposition benches they were saying that so many things should be done for the welfare of the people. Now they constitute the Government, they have the power and they have the authority. But what do we see ? We see the Honourable Minister in charge himself apologising for the fact that the Bill is incomplete, that it is a temporary measure. They have also stated that a more complete and permanent measure is being considered and will be placed before the House in the near future. I do not therefore understand why my honourable friend Mr. Patil should go on beating the big drum in praise of the present Bill. If you look to past history, you will see that the past Governments also passed measures for the relief of poor agriculturists. The Deccan Agriculturists' Relief Act is an outstanding example, and I do not think that that Act is in any way worse than the present measure.

Then my honourable friend sitting over there said that the socialists are the enemies of sowcars and capitalism. But has not the Congress all these years been raising the cry that the country is drained of its wealth on account of its economic exploitation under the support of a foreign Government ? Have they not said that if it has to be stopped, the foreign Government should be driven out of the country and the power should be in the hands of the people of the land ? If what the Congress has been saying is true, then what my friends of the socialist

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creed say is also true. I do maintain that if there is anybody who troubles the agriculturists more than anybody else it is the sowcar. Just as it was ridiculous for British Government to maintain that Posts, Telegraphs, Railways, etc. were constructed for the benefit of the people, it is equally laughable to say that the sowcars do good to the agriculturists by advancing loans, and if those occupying the Government benches bring forward such contentions, they will make themselves the laughing stock of the country.

My honourable friend Mr. Jadhav said that the poor agriculturists are troubled like the animal which has a tick behind its ear. We want that the Congress Government should remove that tick, and therefore we support the Bill. On principle, there is nobody who is against the Bill. Even members of the Opposition have supported the principle of the Bill. All that we say is that the tick which is troubling the animal should be removed completely. Mere removal of the body, leaving behind the mouth of the tick still catching hold of the animal will not do any good. And for the removal of the pest completely, to give greater relief to the agriculturists in their state of indebtedness, we understand that a more comprehensive and permanent measure is being prepared.

Then my honourable friend Mr. Naik said that Mr. Parulekar and Mr. Jamnadas Mehta were unnecessarily criticising the Government. He said that if it had been a Large Holders Bill instead of Small Holders Bill, there would have been no criticism from those quarters. I fear that my honourable friend did not understand the trend of the criticism of the two honourable members. All that I can say in reply to the honourable member is, just as you charge us with opposing for the sake of opposition, we charge you that you criticise us for the sake of criticism. Mr. Naik said that both of these members fight for details, for words, that if the Bill was called a Large Holders Bill instead of a Small Holders Bill, they would not have criticised it.

With regard to the inclusion of the honourable member Mr. Parulekar in the select committee, all that I suggested was that if he was a member of the committee, the time of this House would have been saved. I do not want to say anything more on the point. The honourable member Mr. Naik appeared to suggest that whatever amendments were moved, they would not care for them, and they were proud of it.

Mr. V. N. NAIK (*Speaking in Marathi*): I think, Sir, there is a misunderstanding. I did not use the words which I am charged with using.

Mr. B. K. GAIKWAD (*Speaking in Marathi*): I am prepared for the removal of any misunderstanding. I have noted down the words which he used. He said, they should learn not to give so many amendments in future.

Mr. V. N. NAIK (*Speaking in Marathi*): No. What I said was that all the amendments were considered by the select committee, and the Bill was improved upon.

Mr. B. K. GAIKWAD: Then I do not want to say anything on the point.

My honourable friend Mr. T. S. Jadhav referred to the Opposition as if they were ghosts. This applies to both sides. There is a talk about what should be done for the people, but when it comes to actually doing something, we see how little is done. In conclusion, I would say that both sides of the House have the interest of the poor at heart; both sides want to do good to the people, and every opportunity afforded for the purpose should be fully taken advantage of. It has been admitted by the Honourable Minister in charge that this is not a complete Bill. And when a more comprehensive measure is brought forward, I am sure you will see that my honourable friends Messrs. Jhabvala, Parulekar and Jamnadas Mehta will give it their hearty support.

Mr. S. L. KARANDIKAR (Ratnagiri North): Sir, I really had no intention, especially in view of the fact that the Leader of my Party, Mr. Jamnadas Mehta, has practically touched every important point that required to be touched. But I was tempted to be on my legs especially in view of the fact that you have allowed the debate to be something in the nature of after-dinner speeches. Though I am not going to enjoy your indulgence overmuch, I want only to touch two points. I believe that much of the misunderstanding that has been caused in the minds of the Government Benches would have been avoided, if they had understood that the Opposition was simply trying to keep them on the right track.

I am coming to the point. At the time of elections, they have given so many pledges to all sorts of classes of society. I can say why they did it. Pandit Nehru in his Autobiography has described the position of a big party which is out to fight elections. He has referred to the difficulty that it will find itself in. For catching the votes of the poorer classes, they have to make certain promises to the poorer classes and for getting the funds for carrying on the election campaign, they have to put their hands into the pockets of the rich and that is exactly the Congress Party finds itself in. For catching the votes, they have given promises to the poorer classes and for the funds, because they have to go to the rich, they proceed with cautious steps. In order to keep them conscious of their promises to all sorts of people, the Opposition is stressing forward certain points as part of its duty over which there should be no misunderstanding. Criticism coming from the Opposition should be taken in a generous spirit by the Government Benches.

One point more, and I have done. The honourable member Mr. Naik did great injustice to his own party when he referred to some remarks that came from my honourable friend Mr. Parulekar. The honourable member Mr. Parulekar's

10-30 p.m.

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opposition to the Congress Party is due to the fact that his aspiration in the matter of agricultural need should be fulfilled. The honourable member Mr. Naik referred to him as gentleman putting his hand to the bullock instead of putting his hand to the cow. In saying so, he was unjust to his own party. As his party is expected by many in the Opposition to do many things which they have promised, he should have been a bit more cautious when he used that metaphorical language. Metaphors are useful but very often deceptive, and lead their user into a trap which he never expects. I believe he has been guilty of that mistake in this case. He should not condemn a party in that way. He should be more generous hereafter to the Opposition and more faithful to his own party. With these words, I resume my seat.

The Honourable the SPEAKER: I think there has been to my mind a sufficiently long discussion over the third reading. I do not propose to analyse as to why and how, unfortunately, the discussion has side-tracked to a large extent, and a little latitude given by me to a member of the Opposition landed me into giving an opportunity, not to every member actually, but to a large number of members of this House. I sincerely regret that such latitude that was given should have been, in the first instance, not used properly so as to drive the discussion into a different trend. I do not propose to cast any remarks over the nature of the debate, but it is enough for me to say that the whole thing has pained me extremely. However, I hope I shall not allow myself into committing a slip of that kind of giving full and unrestricted latitude on future occasions, and to my mind it seems that the debate should now be brought to a close instead of being continued by continuous speeches on this side or that, on an issue which is not new at all and which has not the remotest relevancy to the merits of the third reading of the Bill, but which has arisen on account of the references in the very first speech of an Opposition member who rose ostensibly to support the Bill but later on went into another temper. If the House agrees that the discussion should be brought to a close,—I do not wish to exercise my right in any way—the debate might now be brought to a close.

The Honourable Mr. K. M. MUNSHI: I am much obliged to you, Sir, for bringing back the discussion to its proper channel by a very timely rebuke. I do not propose to go, at this late hour, into any of the charges and counter-charges that have been made at the third reading of the Bill, and I will content myself with giving the House a few principles which arise out of the second reading of this Bill and answering a few points of substance that have been made against the Government in the speeches that have been made on the third reading.

But before I do so, Sir, I take this opportunity of thanking the members of this House—of both sides—who have co-operated with my Honourable Colleague and myself in piloting this rather difficult Bill, which by its nature is bound to evoke different points of view and likely to lead to feeling and passionate outbursts of speech. Sir, the policy of the Bill has been fully dealt with at the different stages and I will not trespass upon the time or the indulgence of the House by repeating what I stated

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on the different clauses. But I can assure the House, Sir, that Government undertook this task with a full sense of their responsibility and out of solicitude for the small holder and the tenant. By its very nature the question was a difficult one. On one side there were the small holders and the tenants who were entitled to relief at the hands of a Government returned to power on the wave of public enthusiasm; on the other, Sir, no Government, which knows its business, can be oblivious of the delicate mechanism of credit. Credit, as is well known, is not a thing which can be controlled by legislation, nor by tricks and devices. Whoever tries to frame laws which would affect credit must see, in the first instance, that it is not lost; he should not hunt for safety which in the end would be more dangerous than the existing state of things. Government keeping both these points of view have tried to put forward a measure which will give the largest measure of relief consistent with the maintenance of credit. It is therefore, Sir, that Government have not taken an impulsive view of this measure; they have at the same time kept in mind the needs and the situation of the agriculturists whose land must remain in their possession before the land legislation which is contemplated could prove a success. And speaking on behalf of Government and the benches on this side, the measure that we have placed before the House and succeeded in bringing to this stage, is a measure which satisfies both the requirements. It meets the needs of those people who really need it and it creates an elastic machinery in the hands of the Collector which would enable him to see that the credit of the small holder is not destroyed. My honourable friends, on the other side, quarrelled with what they called the safeguards. They are not safeguards in the sense of restricting the relief which is given to the small holder or the tenant; they are intended to be a self-adjusting machinery which would immediately be put into action in case the credit of the small holder or the tenant begins to fail. It was therefore that the Government benches adhered to the plan and programme which they had put forward in this Bill.

Sir, it was said that the Bill brought forward was a bad Bill and that, thanks only to the select committee, it had come out with some redeeming features. If the whole House had co-operated in the select committee and shaped this measure, it would equally have been a matter of congratulations, it would equally have been a credit, to Government that with their majority they were prepared to meet the wishes of the opposition and to adjust their points of view to the points of view of the opposition. But, Sir, in this case, the credit, which is sought to be taken for the whole House, in truth belongs mainly to the Government benches, because even though we invited the other side to co-operate with us, with the notable exceptions of my honourable friends Sardar Vinchurkar and Mr. Karandikar, no one came forward to co-operate with us on the select committee. The Bill which emerged from the select committee is not the result of the collaboration of all sections of this House but is the result solely of the efforts of the Congress Party,

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who formed the bulk in the select committee and who tried to adjust this Bill to the best needs of the small holder and the tenant for whose relief it was intended. Therefore, if there is any credit, I humbly claim that that credit belongs to the Congress party in this respect and not to other parties in the House.

Sir, my honourable friend Mr. Jannadas Mehta, in his last speech on the third reading, has found points on which to quarrel with this Bill. If his quarrel is serious, then the whole Bill, according to him, must be valueless and he should oppose it. But he has a technique of his own; he delights in delivering judicial pronouncements at the end of the whole process of the making of law. He has given all the garnered wisdom which was locked up in his breast so far in the safe keeping of this House, when it is no longer needed. When he did so at this late stage, he reminded me of those exhausted volcanoes which we see in some countries. During the first and the second readings, there is no thunder, no fire, no flame flickering on its crest, nor was anything done which would show that the volcano was alive. But once the Bill came for the third reading, once peace and harmony prevailed, once people were happy over what they had done, the ancient mountain begins to rumble, and emit fire and thunder; but it is fire that does not scorch, and thunder which looks very much like the stage variety. Then, ultimately it ends by helplessly lapsing into a part of the general scene. That is the process to which we were treated today. Either he accepts the Bill, considers it a wise measure and straightforwardly comes forward to support it, or he disapproves of it, attacks it and straightforwardly opposes it. He does neither; he has neither the courage to support nor the courage to oppose it. Ultimately all that happens is, as a gentleman said just now, postprandial speeches, which perhaps, at this late hour, could have been spared.

He made a point about the exclusion of the honourable member Mr. Parulekar from the select committee. I would not have touched this point had not a grievance been made of it by the honourable member. In the first instance, I do not agree with him that if that honourable gentleman had been on the select committee, the long process of the second reading could have been at all curtailed. The outlook that he brings to bear is so entirely different from the general outlook of the House, that neither in the select committee nor in the open House is it possible for any one to placate or win him over; for he does not speak to reason; he does not speak for winning votes here. His eyes are cast on his constituency and his voice is raised to misrepresent the Congress and to proclaim himself the great champion of the exploited classes in some out of the way villages in the Ratnagiri District. Sir, with an honourable member of this type, whether in the select committee or in the House, we must be prepared, in a democracy, to give him the time and the energy which such spirited men always deserve and require for their own benefit.

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As regards the exclusion of the honourable member Mr. Parulekar from the Select Committee, it pained me to insist upon it more than anything else ; but in discharge of the duty which I owe to the members of the House on this side it had to be done. On behalf of Government I stated its policy and announced on the floor of this House that they proposed to issue a certain notification. The honourable member challenged the honesty of Government. No Government which is keen to maintain its self-respect would be willing to invite a gentleman, however great and eminent he may be, to sit down with them in its deliberations if he attributes to Government dishonesty of motive by asserting that they will not keep the promise which they have given to this House solemnly and openly. Sir, the House may force him on us and require us to deal with him ; but I will never willingly accept a gentleman who, on a particular measure, would say that the Government was acting dishonestly, as this honourable gentleman had the temerity to do. Sir, that is why it was my painful duty to exclude him. It was nothing else but an expression of the indignation which every one of us on this side felt at the baseless insinuation that was made against Government. Otherwise, Sir, select committees are intended for bringing together all points of view. Those on the other side who have worked with us on this side know that all points of view are tried to be co-ordinated and accepted. That is the intention of a democratic House ; and we would not have departed from that tradition in this instance but for the reason that I have mentioned.

Even at the last stage, what do we find ? In spite of the remarkable learning which he brings to bear on the question, in spite of the logic which he thinks he can apply to any question, the most remarkable thing about him is the aversion, the spontaneous aversion, that he brings to bear upon everything that pertains to the Congress and to this side of the House. He hates the Congress ; he hates the Congress Party ; he hates truth ; he hates non-violence ; he hates civil liberty. In fact he hates every thing that the Congress stands for and makes a parade of it in a language—

Mr. S. V. PARULEKAR *rose*.

The Honourable the SPEAKER: Let the Honourable Minister finish.

The Honourable Mr. K. M. MUNSHI: He hates everything that the Congress stands for, and he parades it with a taste and in a manner which, to say the least, does not redound to the credit either of this House or of himself. Therefore, Sir, it became my painful duty to exclude him. I am not sorry for it ; nor, I can assure you, is any member on this side sorry for having done it.

About the Congress Party, many things have been said—

Mr. S. V. PARULEKAR : Sir, I do not want to refute all the charges, but I only want to say that I do not hate civil liberty. I want civil liberty and I stand for civil liberty. It is he (the Honourable Mr. Munshi) who hates civil liberty.

The Honourable Mr. K. M. MUNSHI : Did I not say that he was incorrigible, Sir ? He has a spontaneous aversion for everything that the Congress stands for and he has proved it even now. Sir, we have got a straightforward policy ; there is no camouflage about our policy. We have all along stood for the villagers. If Congress is anything, it is a huge village organisation. If Congress has any strength—it may not use the words “peasants and workers”—it stands for the masses, it stands for the villagers, it stands for the down-trodden, it stands for the exploited. It has not only talked about masses, but it has worked for them by organisation, sacrifice and service. And this Bill, Sir, is the outcome of the attitude which Congress brings to bear upon the village problem. One honourable member said that this Bill could have been brought forward by any Government. Does he know what governments in the past have done for the masses, for the villagers ? What other governments in the past had brought forward such a measure for the villagers ? Did the old governments do anything for the villages as this Government has done during the last six months of its career ? What is the use of talking about things which are absurd and entirely far from truth ? Sir, the fact is that the Congress is nothing but just a huge village organisation. As I said the other day, and I repeat it again, that if knowledge of the villagers, if feeling for them, if sympathy for them, if work done for them is to be measured by the amount of time and energy spent and sacrifice made, there is more time, more energy, more spirit and more sacrifice put forth for the villages by this side than by the other side. In that spirit we have brought forward this Bill, not with a view to keep election pledges but only with the consciousness that we are here because of the trust and the confidence which the huge masses of this Province have reposed in us, and, in all humility we are here tonight discharging the duty which we owe to them. By bringing forward this Bill we are giving a respite for one year to the small holder and the tenant in order that the agrarian policy which this Government propose may have full time to be considered and carried through. I have no doubt—whatever the members on the other side may say—that extending as this Bill does now to about 15 lakhs of small holders in this Presidency, it had as wide a scope as possibly it could have, and the modifications that have been made in the Select Committee have widened its scope further. All things necessary for the relief of the small holders that could have been possibly expected from a popular Government like this have been duly and properly carried out in this Bill. Sir, our policy has been very fair. It is a policy of honesty and courage ; it is a policy of grappling with real live issues and difficulties ; it is a policy of national welfare inspired by a zeal for service. It is a policy of popular service—not of class service or of class hatred—and if by this measure this Government is able to bring

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to the poor, the indebted and the helpless in this Presidency even one iota of relief, the Congress would have justified its existence on these benches. [*Applause.*]

Question, "That Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay), as amended, be read a third time and passed," put, and agreed to.

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

Before we adjourn, we have to decide when we sit on Saturday.

The Honourable Mr. B. G. KHER: I suggest, Sir, that we should sit at 2 o'clock on Saturday, because I do hope that even if they are not able to finish tomorrow in the Upper House, they will be able to do so if they sit from 10-30 to 1-30 or 2 on Saturday. We might therefore sit at 2 or 2-30 on Saturday, whichever suits you. I would leave it to the Opposition. (*Honourable Members: 2 p.m.*) I would then suggest that we should meet at 2 o'clock on Saturday.

The House then adjourned till 2 p.m., on Saturday, the 5th February 1938.

Saturday, the 5th February 1938.

The House re-assembled at the Assembly Hall, Bombay, on Saturday, the 5th February 1938, at 2 p.m., the Honourable the Speaker, Mr. G. V. MAVALANKAR, LL.B., presiding.

Present :

ANTROLIKAR, Dr. K. B.
 BEGMAHOMED, Mr. HUSEIN ABOOBAKER
 BHAGAT, Khan Saheb ABDULLAH HAJI ISSA
 BHAIJI, Mr. M. M. A.
 BHATANKAR, Mr. R. G.
 BHOLE, Mr. R. R.
 BRAMBLE, Mr. C. P.
 CHITALE, Rao Bahadur G. K.
 CHITRE, Mr. A. V.
 CHAWDHARI, Mr. D. N.
 CHAWHAN, Mr. P. L.
 CHUNDRIGAR, Mr. ISMAIL I.
 COLLACO, Dr. J. A.
 CURRION, Mr. FRED J.
 DABHI, Mr. FULSINHI B.
 DANDEKAR, Mr. V. V.
 DEHLAVI, Sir ALI MAHOMED KHAN
 DESAI, Mr. GURASHIDDAPPA K.
 DESAI, the Honourable Mr. MORARJI R.
 DESAI, Mr. RANDHIR P.
 DESAI, Mr. S. B.
 DESHMUKH, Mr. K. B.
 DESHMUKH, Mrs. ANNAPURNA GOPAL
 DESHPANDE, Mr. G. H.
 DODMETI, Mr. A. D.
 FAIZ MOHAMED KHAN, Khan Saheb
 GAIKWAD, Mr. B. K.
 GANDHI, Mr. M. M.
 GAVIT, Mr. D. P.
 GHATGE, Mr. G. R.
 GHIA, Mr. M. C.
 GILDER, the Honourable Dr. M. D. D.
 GORHALE, Mr. K. G.
 GOPI, Mr. M. G.
 GUPTA, Mr. B. M.
 HAKEEM, Khan Saheb A. B.
 HALLIKERI, Mr. N. F.
 HIRAY, Mr. B. S.
 ILKAL, Mr. A. N.
 JADHAV, Mr. D. G.

JADHAV, Mr. T. S.
 JAKATY, Mr. P. C.
 JHABVALA, Mr. S. H.
 JOSHI, Mr. JINABHAI P.
 JOSHI, Mr. N. G.
 JOG, Mr. V. N.
 KALE, Mr. R. S.
 KALYANI, Rao Saheb A. N.
 KAMBLI, Sir SIDDAPPA T.
 KANUGA, Mrs. VIJAYAGAU RI BALVANTRAI
 KARANDIKAR, Mr. S. L.
 KARAVADE, Mr. R. K.
 KARGUDRI, Mr. S. S.
 KAZI, Mr. AZIZ GAFUR
 KESHWAIN, Mr. S. N.
 KHEDGIKAR, Mr. R. A.
 KHER, the Honourable Mr. B. G.
 KHIMJI, Mr. BHAWANJI A.
 KILLEDAR, Mr. MAHOMED MUSA
 KUNTE, Mr. D. K.
 LALA, Mr. BHOGILAL D.
 LATTHE, the Honourable Mr. A. B.
 MAGANLAL NAGINDAS, Mr.
 MANDLIK, Mr. R. N.
 MARATHE, Mr. NAMDEORAO BUDHAJIRAO
 MASTER, Mr. NAGINDAS T.
 MEHTA, Mr. H. P.
 MEHTA, Mr. JAMNADAS M.
 MIRZA AKHTAR HASAN, Mr.
 MOHAMEDALLY ALLABUX, Mr.
 MORARBHAI KASANJI, Mr.
 MUKADAM, Mr. W. S.
 MUNSHI, the Honourable Mr. K. M.
 MUNSHI, Mrs. LILAVATI K.
 NAIK, Mr. V. N.
 NANDA, Mr. GULZARI LAL
 NESVI, Mr. T. R.
 NIMANEE, Mr. P. A.
 NURIE, the Honourable Mr. M. Y.
 PARULEKAR, Mr. S. V.
 PATASKAR, Mr. H. V.
 PATEL, Mr. BABUBHAI J.
 PATEL, Mr. BHAILALBHAI B.
 PATEL, Mr. MAHOMEDBAWA M.
 PATEL, Mr. MANGESH B.
 PATEL, Mr. MUSAJI E.
 PATIL, Mr. ATMARAM N.
 PATIL, Mr. LAXMAN G.
 PATIL, the Honourable Mr. L. M.

PATIL, Mr. MALGOUDA P.
 PATIL, Mrs. NAGAMMA
 PATIL, Mr. S. K.
 PHADAKE, Mr. G. K.
 PURANI, Mr. C. B.
 RAJMAL LAKHICHAND, Mr.
 RANE, Rao Sahéb B. N.
 RAUT, Mr. D. W.
 ROHAM, Mr. P. J.
 RUSSELL, Mr. W. W.
 SAKLATVALA, Mr. S. D.
 SAVANT, Mr. K. S.
 SHIRALKAR, Mr. P. K.
 SHRIKANT, Mr. L. M.
 SIDDIQUI, Mr. ISMAIL HASAN BAPU
 SINGAPORI, Mr. A. E.
 SONGAYKAR, Mr. S. G.
 SUGANDHI, Mr. M. S.
 TALKAR, Mr. K. R.
 THAKOR, Mr. B. P.
 THUBE, Rao Bahadur V. L.
 THUSE, Mrs. LAXMIBAI GANESH
 TULPULE, Mr. H. V.
 VAGHELA, Mr. B. U.
 VARALE, Mr. B. H.
 VARTAK, Mr. G. D.
 VINCHOORKAR, Sardar N. G.
 VYAS, Mr. ISHVARLAL K.
 WADEKAR, Mr. R. B.
 WAGH, Mr. P. W.
 WALVEKAR, Mr. B. B.
 WANDREKAR, Mr. D. N.

GOVERNOR'S ASSENT TO ACTS.

The Honourable the SPEAKER: I have to announce to the House that the following Acts have received the assent of the Governor:—

Act No. I of 1938 (An Act to amend the Bombay Local Boards Act, 1923).

Act No. II of 1938 (An Act to amend the City of Bombay Municipal Act, 1888).

Act No. III of 1938 (An Act to provide for the extension of the term of office of the members of the Bombay Municipal Corporation).

Act No. IV of 1938 (An Act to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes).

BILL No. VI OF 1938 (A BILL TO PROVIDE FOR THE TEMPORARY RELIEF OF SMALL HOLDERS IN THE PROVINCE OF BOMBAY).

The Honourable the SPEAKER : With reference to Bill No. VI of 1938, the following message has been received from the Legislative Council :

" I am directed to inform you that Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay) which was passed by the Legislative Assembly at its meeting held on the 3rd February 1938, was passed by the Legislative Council at its meeting held on the 4th February 1938, with the following amendments, namely :—

(i) For clause 2 (2) (b) (ii), substitute the following—

' (ii) at least one adult member, if any, of which personally cultivates land.'

(ii) In clause 4 (1) for the words ' before 31st day of March 1939 ' substitute the words ' before 1st day of April 1939.'

2. The Legislative Council requests the concurrence of the Legislative Assembly to the amendments."

The Honourable Mr. K. M. MUNSHI : Sir, I move that the amendments made to Bill No. VI of 1938 by the Legislative Council be taken into consideration by the Assembly. You have already read out the amendments, Sir. The amendments contemplate two changes. In the first instance, we have defined the small holder to be a joint Hindu family in certain circumstances, one of which was that at least one adult member of the joint Hindu family must personally cultivate the land. The question was raised in the Legislative Council that there may not be any adult member of the joint family at all, all may be minors ; and if that was so, why should it lose the benefit because the minor children cannot actually cultivate the land ? So, the amendment was accepted. The amendment is this : " at least one adult member, if any, of which personally cultivates land." If there are adults, one of them must personally cultivate and, if there are minor children, that condition should not be insisted upon.

The other amendment in clause 4 which relates to taking possession of land under orders passed by the court is that the words " before the 31st day of March 1939 " should be changed into " before 1st day of April 1939." It was found that if this Act expired by the 31st of March, the last day, the 31st, would not be covered by the Act. This is the origin of the amendments. I move that the House do accept these amendments.

Question, " That the amendments made by the Legislative Council to Bill No. VI of 1938 be taken into consideration, " put, and agreed to.

The Honourable the SPEAKER : I will now put the amendments :

(i) For clause 2 (2) (b) (ii), substitute the following :

" (ii) at least one adult member, if any, of which personally cultivates land."

(ii) In clause 4 (1) for the words " before 31st day of March 1939 " substitute the words " before 1st day of April 1939."

Mr. JAMNADAS M. MEHTA (Railway Unions): Sir, the original clause 2 (2) (b) (ii) was :

“ at least one member of which personally cultivates land.”

Now, the amendment made in the Council is :

“ at least one adult member, if any, of which personally cultivates land.”

The intention is clear, but I doubt whether it is expressed by the amendment made by the Council as it stands. Two possibilities can be visualised. Supposing firstly that a joint family has got all minors, then Government want that such small holder should get the benefit ; and, if there is an adult, he should personally cultivate the land ; if there is an adult and no cultivation takes place by him personally, protection will not be given. But it is not clearly shown that, if all are minors, this protection will hold good.

The second difficulty is this. The adult member may be an old woman of sixty years of age. She may not be in a position personally to cultivate the land. Then, this protection that is intended to be given is lost. If Government mean that where co-parceners are all minors the protection should be given and further that an adult member, if old or infirm, should be given the benefit of this Act, I fear that the amendment does not clearly express itself, though the object of Government is clear. I, therefore, propose to move this amendment :

For clause 2 (2) (b) (ii), substitute the following: “ of which all the co-parceners are minors or at least one co-parcener, if otherwise not disabled, personally cultivates land.”

“ Member ” has got a different signification from “ co-parcener ”. A co-parcener will be a male member and an adult member might not be a male member. We should like to know clearly what is sought to be done by this amendment. I submit that we should do two things : first, that if all the co-parceners or members are minors, then the protection should hold good whether anybody cultivates land or not, and secondly, if they are adults but infirm or disabled. For this purpose, in order to bring out the meaning of the Government and, I am sure, of this House, as also of the Upper House, it is necessary to word this clause like this :

2 (2) (b) (i) which holds land not exceeding the limit specified in clause (a) (i) and (ii) where all the co-parceners are all minors—

The Honourable the SPEAKER : Is it proposed to substitute the word “ or ” for “ and ” ?

Mr. JAMNADAS M. MEHTA : I want that two conditions must be satisfied. One is that the land should be a small holding, and the other condition which should be specific is that all co-parceners should be minors, or if there is any adult co-parcener, he should personally cultivate the land. That is what I want.

The Honourable the SPEAKER : I am not sure, but I carry an impression that very probably an amendment was tabled to substitute “ or ” for “ and ”.

Mr. JAMNADAS M. MEHTA : " And " after the first, and " or " after what I have moved. The first clause must remain as it is, that is, which holds land not exceeding the limit laid down to be a small holding. That is the qualification. Therefore, that must remain, and in addition there must be two conditions, both alternative. One is, if all co-parceners are minors of an undivided Hindu family which holds land not exceeding the limits specified in clause (a) (i) and all the co-parceners are minors, or at least one adult member, if not otherwise disabled, personally cultivates land. Sir, this really is the meaning that Government, I think, have at the back of their mind and that is, I think, the meaning which the Council wanted to give it when they made the change. Sir, we are grateful to the Council for bringing out this lacuna in the Bill which we perpetrated, and now that we have an opportunity, let us leave no loophole and let us be clear that wherever there are minors who come within the small holding definition, the land shall get the protection, because it is not the fault of the minors that they cannot personally cultivate, and if there is an adult co-parcener, then he should not be otherwise disabled. He should be a co-parcener and not a member because member may also mean an old lady who is past the age of cultivation.

This is the amendment which I move and I hope, without any further necessity for discussion, the House will accept it.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Sir, the clause as it runs amply protects the case of a family which has only minor members. Member is not necessarily a co-parcener of a family ; even women of a family are considered members under Hindu Law. And generally in the families of agriculturists' women also take part in agriculture. At any rate, " personally cultivates land " would also include personal " supervision " and so long as there is one adult member who can supervise, there would be no difficulty at all. So far as the words " if any " are concerned, I fail to see the difficulty of my honourable friend. The sentence runs like this : " Small holder " means an undivided Hindu family which holds land not exceeding the limits specified in clause (a) (i). That is the first thing. The second is, if there is none, the second clause does not come into operation at all and such a family, if it has a small holding, will get the benefit of the Act. If they are all minors, then that condition will not come into operation.

Mr. JAMNADAS M. MEHTA : So you want all minors to be protected ? Then let us have it in the Bill itself.

The Honourable Mr. K. M. MUNSHI : They will be protected by the amendment which has been accepted by the Legislative Council.

Mr. D. W. RAUT (Thana North) (*Addressed the House in Marathi*) : Sir, I feel that the amendment which we have received from the Council does not achieve its real purpose. The amendment we made was " at least one member of which personally cultivates land ", and the Council

[Mr. D. W. Raut]

has substituted this by "(ii) at least one adult member, if any, of which personally cultivates land". If there is no major member in a family, then the cultivation clause will not apply.

Sir, suppose there is a person who is about 80 years of age and has got 3 or 4 minor sons. Being himself unable, on account of old age, to cultivate the land, and his sons being all minors, he will not get the benefit. So also, there are many families the head of which is serving in a mill in Bombay, and all the remaining youngsters work on the fields. In their case also, no benefit will accrue.

I do not mean to say that the Council has erred in any way, but I point out that the amendment does not achieve its object. All these matters are made clear if we accept the honourable member Mr. Jamnadas Mehta's amendment, and I therefore support his amendment and commend it for the acceptance of the House.

*Rao Bahadur G. K. CHITALE (Ahmednagar South): Mr. Speaker, Sir, I believe the Cabinet has considered this point, namely, whether the wording of the Bill carries out their object in full. There is no difference at all between the Cabinet and the Opposition so far, but I am not satisfied that "personally cultivates" includes supervision. I should think that if personal cultivation is an essential condition in order that there should be agricultural bias in the family, I am not quite sure whether in the definition and the rulings that have been given, it has been made clear that "A" is an agriculturist because he supervises. I believe these two words are quite different. I supervise my field, so also many others, but to say that "I personally cultivate" includes that is not, I should think, a proper legal word which would bring out that meaning. I can quite understand that personal cultivation may mean even a little watering of the crop or drawing the *Mot* or the water, but surely myself going to supervise I think hardly includes the process of cultivation. I should think that it is the strongest case possible so far and if the meaning is to be clarified that the joint family consisting of all members have to be protected, then again I should think that the wording should be absolutely clear. I am just visualising certain events, namely, that in plague times you find—those of us who are old enough must have known—that several families lost earning members, but left only a small child or two and an old woman, and then in that case it may be proposed,—in the case of agriculturists only, for instance, these Marathas and other people—but if there is no class distinction which is intended to be perpetuated under this amendment, namely, Brahmins are entitled to that protection, then in that case their women do not have this agricultural occupation and then in that case and in the case of Muslims, because they usually have purdah, they do not go and cultivate. I should think these are the aspects that frustrate the intentions of Government. I should think that the amendments that have now come from the Council deserve very serious notice and these defects should, if possible, be removed. I hope, therefore, the

* Speech not revised by the Member.

[Rao Bahadur G. K. Chitale]

Government will see to it. I am quite indifferent about the phraseology that they use ; that is a matter of drafting ; but the main intentions of Government must be put in clear language not liable to double interpretation. That is my only wish.

The Honourable the SPEAKER : I think I may point out a practical difficulty to avoid further discussion. It is conceded on all hands that the Bill is a very important one and an urgent one and is of a temporary nature only. I do not wish to say anything on the merits of the amendment at all, but assuming that some amendment is necessary, I wish only to point out a practical difficulty to this House that the Council session is prorogued, and if this Assembly now makes any alteration in this Bill even by a comma or a full-stop, I am afraid, this piece of legislation which everybody desires urgently to be put into effect, cannot come into force till again the concurrence of the Council is sought. The result of pressing any amendments or considering any amendment would, therefore, be to delay this measure for a further period till the Council meets again ; and I would only invite the attention of the House as to whether, in the desire to be perfect in phraseology or to avoid some cases of doubtful construction, it would be desirable to postpone the bringing into effect of this piece of legislation by any amendments now suggested. That is only the practical difficulty which I would wish to place before the House. I do not wish to make any remarks on the merits of the amendments. In this view, I would leave it to the House whether they would like to carry on further discussion. To my mind, if it is the desire of the House that this Bill should come into effect immediately, the only course is to accept the recommendation as it is and it would be for the Government to rectify it by subsequent legislation during the next session or as they deem fit.

Sir ALI MAHOMED KHAN DEHLAVI (Surat and Rander Cities) : Sir, the procedure laid down, which we are following at present, would be nullified if your suggestion is accepted. Taking for a moment that the amendment were different, and one which would appeal to yourself also as being very important, what would have been the course for the Assembly to follow ? If you say that because the Bill has to come immediately into effect and because the Council is prorogued, we should pass the Bill so amended, then the procedure laid down giving a right to this House that a Bill amended by the Council must come back again for the Assembly's consideration, has no significance at all. In this particular case you probably have judged rightly that the alteration suggested is not of such a far-reaching nature as to stop the passage of the Bill, but it would be giving away a great privilege of this House under the procedure laid down in the Constitution.

The Honourable Mr. B. G. KHER : Mr. Speaker, Sir, I do not think there is any question at all here of giving up the rights of the House, because the question of procedure is not in doubt. This House has a perfect right to discuss any amendment that is moved here and pass it and

[Mr. B. G. Khor]

then the Bill can go back. That is not in issue. The point is, this Bill is of such a nature that the sooner it comes into operation the better. In fact it ought to come into operation at once because a moratorium is only of value inasmuch as it comes into operation at once and comes to end also at a certain stated short period. So that now if we go into a number of amendments, as we are probably going, if they are of any consequence, we are frustrating the intention of the Bill. Nobody would for a moment suggest that we should accept implicitly whatever has been done by the Upper House, but here what happens is this. There is a case of hardship likely to result in one or two instances, which is pointed out, but I have not yet known of any Bill where the ingenuity of lawyers does not find out hard cases so that often and often the Courts have to judicially interpret those consequences and to give what is intended to be the relief of the Statute to the litigants. In this particular instance, it seems to me fairly clear, and as the members will see, it is the express intention of the Bill that they should get the benefit. Anyhow there is no difference of opinion on this side that all such cases should get the benefit.

As regards the interpretation of "personally cultivating" also, such a small duty perhaps as watching the crops, driving away the birds, may perhaps be interpreted to fall within the meaning of that expression. I am sure if my honourable friend Mr. Jamnadas Mehta were arguing the point in a Court of Law, he would keep the judges busy for three or four hours convincing them that driving away the birds and watching the crops was certainly a very important part of cultivation. But may I appeal to the House that the point is there is no difference of opinion between the two sides as to what is intended to be the effect of this Bill? As to the wording, I daresay that it is quite possible that it may be open to

2.30 p.m.

the construction which the honourable member Rao Bahadur Chitale or the honourable member Mr. Jamnadas Mehta wants to put upon it. It is perhaps quite capable of being interpreted that way, but I will not, for the purposes of these remarks, go into that question which I will leave the Honourable the Home Minister, who is piloting the Bill, to deal with. I wish, however, to emphasise the other aspect of it, and it is this. The other House is now prorogued. If today we do not accept the amendment passed by it, then the earliest this Bill can come into operation will be after the 5th or 10th of March, and in between there will be a month and a half. Knowing that this is coming, I shudder to think what will be the effect on so many of those poor debtors to whom we intend by this measure to give immediate relief. That is an important aspect of the question which my honourable friends will, I hope, keep in mind.

As regards the objection pointed out by the honourable member the Leader of the Opposition, I am entirely at one with him. There is no dispute as to the rights of this House. We can certainly discuss and reject any amendment sent to us by the Upper House. I rather thought that you, Sir, pointed out the peculiar circumstances in which this Bill was being taken through this House.

Sir ALI MAHOMED KHAN DEHLAVI: May I put in a word, Sir? I am afraid the Honourable the Leader of the House has not understood the real issue which I raised, although he very kindly said that he agrees with me, but the way he points out of getting out of that difficulty is simply to come in and say "Yea" to anything. I warn him that an occasion might arise, as it might have arisen in this particular case had the Honourable the Minister in charge of the Bill not been agreeable to the amendment that was passed in the Upper House, in which case Government might be the first to advise this House to make further alteration in a Bill amended by the Council. What would happen in such a case? The Bill would have to wait; but simply because the Honourable Minister in charge happens, fortunately or unfortunately, to agree with the amendment made in the Upper House, that you should ask us to give up our right on the ground that the Bill has to come into force at once, is really, to say the least, not fair.

The Honourable Mr. B. G. KHER: What does the honourable member suggest we should do now?

Sir ALI MAHOMED KHAN DEHLAVI: We will proceed with it.

The Honourable Mr. B. G. KHER: Of course, you are proceeding with it.

The Honourable the SPEAKER: I am afraid what I stated has been entirely misunderstood by the honourable member the Leader of the Muslim League Party. I merely pointed out the practical difficulty and I entirely left it to the honourable members to judge for themselves that if they really were anxious to see that this measure is given effect to immediately, there was this difficulty. The House is perfectly competent to discuss any amendments made by the Council and I did not have the least idea of suggesting that they were to be deprived of their rights of throwing out any amendment. Far from it. That was never my intention, but under the peculiar circumstances of this particular case, I felt it my duty to invite attention to this particular aspect which perhaps might not be present to the minds of members and at the end of the discussion of one or two hours, they might ultimately find that there was no use discussing this as that would have the effect of merely delaying bringing the measure into effect. That is why I invited attention to that, nothing further. The Honourable the Prime Minister should not, therefore, be made responsible for the suggestion that I made to the House for their consideration. Otherwise, so far as the rights of the House are concerned, I am entirely at one with what has fallen from the honourable member the Leader of the Muslim League Party, Sir Ali Mahomed Khan Dehlavi.

Mr. R. R. BHOLE: I want to know, Sir, as a point of information whether the Governor prorogued the session of the Council on the advice of the Minister or in his own discretion.

The Honourable the SPEAKER: I do not think that point arises now.

Mr. R. R. BHOLE : It is because I feel that the privileges and rights of this House are being restricted by the prorogation of that House.

The Honourable the SPEAKER : It does not arise. All that the honourable member can say is that things which are arising now were not anticipated. Possible amendments from the Upper House were anticipated. That is why this House was adjourned to today. That itself ought to prove that the rights of this House were duly cared for and, instead of proroguing this House, it was kept open today, but the present difficulty was very probably not anticipated. It is not possible to anticipate all the possible circumstances which may arise. This is one of those exceptional cases, and I do not think it is justifiable to say that the prerogatives of this House were disregarded in the prorogation of the Council, apart from the question whether the Governor prorogued it on the advice of the Minister. That question does not arise.

Does the honourable member Mr. Bramble wish to say anything ?

Mr. C. P. BRAMBLE : No, Sir, as my point has already been more or less covered.

Mr. JAMNADAS M. MEHTA : Am I to reply or is there anybody else desiring to speak ?

The Honourable the SPEAKER : I do not know whether, after this, the honourable member wishes to press his amendment or whether he would like to leave it at that stage and go on with what the Council has passed.

Mr. JAMNADAS M. MEHTA : All that you have observed is so crushing and convincing that it is not possible to hold the Bill over for any particular point. It is quite clear to me that if the Upper House is prorogued, then whether the Governor is responsible or anybody else is responsible, the fact remains that it is prorogued and anything we will do now to alter the decision of the Council cannot recall the prorogation until the 5th of March. But taking into account the advantages of giving up the amendment and the disadvantages of not giving up the amendment, the scale is heavily weighted in favour of giving up the amendment. There is no question of pursuing the amendment, but what will happen is that the minors are sacrificed—

The Honourable the SPEAKER : I think that if the result is agreed to, further discussion is unnecessary, and in that event I would only wish to know whether the honourable member now wishes to withdraw his amendment.

Mr. JAMNADAS M. MEHTA : Sir, I am withdrawing the amendment, but I am only reflecting what a tragedy it is that the minors are sacrificed.

Amendment, by leave, withdrawn.

The Honourable Mr. K. M. MUNSHI: Sir, I have only one word to say. The minors are not sacrificed. As a matter of fact, the words "if any" have been accepted because this point of view was not present at an early stage of the consideration and this has been done only with a view to protect the minors. The Government accepted the amendment in the Council and brought it down here.

Mr. JAMNADAS M. MEHTA: After my amendment was withdrawn, this speech should not have been made by the Honourable Minister. Otherwise, I would have said much to show that the minors are not protected.

Amendment put, and agreed to.

The Honourable the SPEAKER: The concurrence sought for is given.

BILL No. V OF 1938 (AN ACT TO REMOVE DISABILITIES OF HARIJANS IN REGARD TO WORSHIP IN TEMPLES).

The Honourable the SPEAKER: With reference to Bill No. V of 1938, the following message has been received from the Bombay Legislative Council:

"I am directed to inform you that Bill No. V of 1938 (an Act to remove disabilities of Harijans in regard to worship in temples), which was passed by the Legislative Assembly at its meeting held on the 1st February 1938, was passed by the Legislative Council at its meeting held on the 5th February 1938, with the following amendment namely:—

In sub-clause (2) of clause 5, for the word 'or' where it occurs for the second time substitute the word 'and'.

2. The Legislative Council requests the concurrence of the Legislative Assembly to the amendment."

The Honourable Mr. K. M. MUNSHI: Sir, I move that the amendment made by the Legislative Council in Bill No. V of 1938 be taken into consideration by the House.

Question proposed.

The Honourable Mr. K. M. MUNSHI: Sir, only a verbal amendment is sought to be made. The position is, if the House will remember, that after a declaration is made by the trustees to open a temple, it is open under clause 5 to any person interested to go to a Court of Law and challenge the position of the trustees. An attempt can be made to establish that the trustees who came to the decision were not valid trustees or that they did not form the majority of the trustees. In sub-clause (2) of clause 5 it is provided that notice should be given to the trustees who made the declaration or to any other person to whom the court thinks it proper such notice should be given. Curiously, in one or the other stage of the drafting of the Bill, the word "and" became "or". How it changed, I do not know, but immediately it was noticed, the amendment was made. The word "or" would have this result, that the Court may give notice to somebody who is not connected with the management of the temple and not to the trustees making the declaration. The intention is that the persons making the declaration should have the notice, and in addition to it somebody else whom the court thinks proper

[Mr. K. M. Munshi]

should also be given notice of the proceedings. It is purely an error which crept in, probably in print, or in the beginning at some stage or other, and the amendment was accepted in the Legislative Council. I therefore move the following amendment :

In sub-clause (2) of clause 5, for the word " or " where it occurs for the second time, substitute the word " and ".

Motion, " That the amendment made by the Legislative Council in Bill No. V of 1938 be taken into consideration," put, and agreed to.

Amendment put, and agreed to.

The Honourable the SPEAKER : The concurrence is given.

PROROGATION OF THE ASSEMBLY.

The Honourable the SPEAKER : 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, clause (2), of the Government of India Act, 1935, that the present session of the Legislative Assembly be prorogued. The Assembly is accordingly prorogued.

APPENDIX I.

BILL No. XXVII OF 1937.

A Bill to provide for the extension of the term of office of the members of the Bombay Municipal Corporation.

(As published in the "Bombay Government Gazette" of the 31st December 1937.)

WHEREAS it is expedient to provide for the extension of the term of office of the members of the Municipal Corporation of the City of Bombay; It is hereby enacted as follows:—

1. *Short title and duration.*—(1) This Act may be called the City of Bombay Municipal Corporation (Extension of Term) Act, 1938.

(2) It shall remain in force up to and inclusive of the first day of April 1939.

2. *Extension of term of office of councillors and retirement of members of certain Committees.*—(1) Notwithstanding anything contained in section 7 or 9 of the City of Bombay Municipal Act, 1888, hereinafter called "the said Act", the term of office of councillors which by reason of the provisions of either of the said section would have expired at noon on the first day of April 1938 is hereby extended to noon on the first day of April 1939 which day for the purposes of the said Act shall be deemed to be "the day for retirement", and no general elections shall be held or made and no appointments shall be made to fill the vacancies of the said councillors on the expiry of the triennium in 1938, notwithstanding anything in the said Act contained. Bom.
III of
1888.

(2) Notwithstanding anything contained in sections 39, 45 and 49E, of the said Act, those members of the following Committees, who came into office on 1st April 1936, namely:—

- (1) the Schools Committee,
- (2) the Standing Committee, and
- (3) the Improvements Committee,

shall retire from office at noon on the first day of April 1938 and their seats shall be filled by election or by appointment, as the case may be, in accordance with the provisions of the said Act.

Explanation 1.—Save as otherwise provided in this section, the words and expressions used therein shall have the meanings assigned to them in the said Act.

[Appendix 1—*contd.*]

Explanation 2.—For the purposes of this section, any person elected or appointed to fill a casual vacancy shall be deemed to have been in office for the period for which the member in whose place he was elected or appointed would have held office if the vacancy had not occurred.

STATEMENT OF OBJECTS AND REASONS.

Suggestions have been made to Government to widen and readjust the existing franchise of the Bombay Municipal Corporation and to revise its constitution with the object of placing the same on a more democratic basis. The period of the members of the present Corporation expires on 31st March 1938 and fresh elections will have to be held before that date. As it is not possible within the short time available to revise the City of Bombay Municipal Act for the purpose of giving effect to the various suggestions made, it is proposed to extend the life of the present members of the Corporation by one year, so that the Bombay Municipal Act may be revised during the interval for the purpose of giving effect to the suggestions made. The Corporation which was consulted agrees that the period of office of the present members of the Corporation may be extended for that purpose. The object of this Bill is to carry out the said purpose.

L. M. PATIL.

29th December 1937.

APPENDIX 2.

BILL No. XXVI OF 1937.

A Bill to amend the City of Bombay Municipal Act, 1888.

(As published in the "Bombay Government Gazette" of the 31st December 1937).

Bom. III of 1888. WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purpose hereinafter appearing: It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the City of Bombay Municipal (Amendment) Act, 1938.

(2) It shall come into force from the 1st day of April 1938.

Bom. III of 1888. 2. *Amendment of section 39 of Bom. III of 1888.*—Sub-section (8A) of section 39 of the City of Bombay Municipal Act, 1888, hereinafter referred to as the said Act shall be repealed.

[Appendix 2—contd.]

3. *Insertion of new heading and new sections 78-A and 78-B in Bom. III of 1888.*—After section 78 of the said Act, the following heading and sections shall be inserted, namely :—

“ *Municipal Chief Auditor.*

78-A. *Appointment of municipal chief auditor.*—(1) The Corporation shall from time to time appoint a fit person to be Municipal Chief Auditor, who shall

(a) perform such duties as he is directed by this Act to perform and such other duties with regard to the audit of the accounts of the Corporation as shall be required of him by the Corporation or by the standing committee ;

(b) devote his whole time and attention to the duties of his office ;

(c) receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the Corporation shall from time to time determine ;

(d) be removeable at any time from office for misconduct or for neglect of, or incapacity for the duties of his office on the votes of not less than two-thirds of the members present at a meeting of the Corporation.

(2) The municipal chief auditor shall not be eligible for further office under the Corporation after he has ceased to hold his office.

78-B. *Appointment, salaries, fees, allowances and duties of assistant auditors, clerks and servants subordinate to the municipal chief auditor.*—

(1) The standing committee may from time to time—

(a) appoint such assistant auditors, clerks and servants to be immediately subordinate to the municipal chief auditor as they think fit ;

(b) determine the nature and amount of the salaries, fees and allowances to be paid to the said assistant auditors, clerks and servants respectively ;

(c) prescribe or delegate to the municipal chief auditor the power of prescribing the duties of the said assistant auditors, clerks and servants.

(2) *Control, etc., of the said assistant auditors, clerks and servants.*—Subject to the orders of the standing committee, the municipal chief auditor, shall exercise supervision and control over the acts and proceedings of the said assistant auditors, clerks and servants, and the standing committee, subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said assistant auditors, clerks and servants and their pay, privileges and allowances.”

[Appendix 2—*contd.*]

4. *Amendment of section 80 of Bom. III of 1888.*—In section 80 of the said Act, for the word and figures “ or 78 ” the figures, letters and word “ 78, 78A or 78B ” shall be substituted.

5. *Amendment of section 83 of Bom. III of 1888.*—In sub-section (2) of section 83 of the said Act in clause (b) for the word and figures “ or 77 ” the figures, word and letter “ 77 or 78A ” and in clause (c) for the word and figures “ or 77 ” the figures, word and letter “ 77 or 78A ” shall be substituted.

6. *Amendment of section 84 of Bom. III of 1888.*—In section 84 of the said Act,—

(1) in sub-section (1) after the words “ municipal secretary ” the words “ or the municipal chief auditor ” shall be inserted ; and

(2) in clause (a) of sub-section (2) after the figures “ 78 ” the words, figures and letter “ or to any assistant auditor, clerk or servant appointed under section 78B ” shall be inserted.

7. *Amendment of sections 135, 136 and 137 of Bom. III of 1888.*—For sections 135, 136 and 137 of the said Act, the following sections shall be substituted, namely :—

“ 135. *Weekly scrutiny of accounts by municipal chief auditor and scrutiny of accounts by the standing committee.*—(1) The municipal chief auditor shall conduct a weekly examination and audit of the municipal accounts and shall report thereon to the standing committee who shall publish weekly an abstract of the receipts and expenditure of the week last preceding, signed by not less than two members of the said committee and by the municipal chief auditor. The standing committee may also from time to time and for such period as they think fit conduct independently an examination and audit of the municipal accounts.

(2) For these purposes the standing committee and the municipal chief auditor shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the Commissioner shall forthwith furnish to the standing committee or the municipal chief auditor any explanation concerning receipts and disbursements which they may call for.

136. *Duties and powers of the municipal chief auditor.*—The municipal chief auditor in addition to any other duties or powers imposed or conferred upon him under this Act shall perform the duties and may exercise the powers specified in Schedule EE.

137. *Report by the municipal chief auditor.*—(1) The municipal chief auditor shall

(a) report to the standing committee any material impropriety or irregularity which he may at any time observe in the expenditure or in the recovery of moneys due to the Corporation or in the municipal accounts ;

[Appendix 2—*contd.*]

(b) furnish to the standing committee such information as the said committee shall from time to time require concerning the progress of the audit.

(2) The standing committee shall cause to be laid before the Corporation every report made by the municipal chief auditor to the standing committee and every statement of the views of the municipal chief auditor on any matter affecting the pursuance and exercise of the duties and powers assigned to him under this Act which the municipal chief auditor may require the standing committee to place before the Corporation, together with a report stating what orders have been passed by the standing committee upon such report or statement, and the Corporation may take such action in regard to the matters aforesaid as the Corporation may deem necessary.

(3) As soon as may be after the commencement of each official year the municipal chief auditor shall deliver to the standing committee a report upon the whole of the municipal accounts for the previous official year.

(4) The Commissioner shall cause the said report to be printed and forward a printed copy thereof along with the printed copy of the Administration Report and Statement of Accounts which he is required by sub-section (3) of section 124 to forward to each councillor."

8. *Amendment of section 133 of Bom. III of 1888.*—In sub-section (2) of section 133 of the said Act for the words "an auditor appointed by the Corporation" the words "the municipal chief auditor" shall be substituted.

9. *Insertion of new schedule EE in Bom. III of 1888.*—In the schedules to the said Act, after schedule DD, the following schedule EE shall be inserted, namely:—

"SCHEDULE EE.

(See section 136.)

Duties and Powers of the Municipal Chief Auditor.

1. (1) The municipal chief auditor shall audit the accounts of the Corporation, as hereinafter provided, with the assistance of the assistant auditors, clerks and servants appointed under section 78B of this Act.

(2) In the discharge of his functions under this article the municipal chief auditor shall—

(i) audit the accounts of all expenditure from the revenue of the Corporation, all expenditure on account of loan works and all expenditure incurred out of special funds and shall ascertain whether moneys shown therein as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it,

[Appendix 2—*contd.*]

(ii) audit the accounts of all debt, deposit, sinking funds, advances, suspense and remittance transactions of the Corporation and report upon those accounts and upon the results of verification of the balances relating thereto.

(3) The municipal chief auditor shall examine and audit the statements of accounts relating to the commercial services conducted in any department of the Corporation, including the trading, manufacturing and profit and loss accounts, and the balance sheets where such accounts are maintained under the orders of the Corporation or the standing committee; and shall certify and report upon these accounts.

(4) The municipal chief auditor shall, in consultation with the standing committee, and subject to any directions given by the Corporation, determine the form and manner in which his reports on the accounts of the Corporation shall be prepared and shall have authority to call upon any officer of the Corporation to provide any information necessary for the preparation of these reports.

2. (1) The municipal chief auditor may make such queries and observations in relation to any of the accounts of the Corporation which he is required to audit and call for such vouchers, statements, returns and explanations in relation to such accounts as he may think fit.

(2) Every such query or observation as aforesaid shall be promptly taken into consideration by the officer or authority to whom it may be addressed and returned without delay with the necessary vouchers, documents or explanations to the chief auditor.

(3) The powers of the municipal chief auditor with regard to disapproval of, and the procedure with regard to settlement of objections to expenditure from the revenues of the Corporation shall be such as may be prescribed by rules or orders made by the standing committee in consultation with the chief auditor and sanctioned by the Corporation.

3. If the municipal chief auditor considers it desirable that the whole or any part of the audit applied to any accounts which he is required to audit shall be conducted in the offices in which these accounts originate, he may require that these accounts, together with all books and documents having relation thereto, shall at all convenient times be made available in the said offices for inspection.

4. The municipal chief auditor shall have power to require that any books or other documents relating to the accounts he is required to audit shall be sent for inspection by him :

Provided that if the documents are confidential he shall be responsible for preventing disclosure of their contents.

5. The municipal chief auditor shall have authority to frame rules and to give directions on all matters relating to audit, particularly in respect of the method and the extent of audit to be applied and the raising and pursuing of objections.

[Appendix 2—concl'd.]

6. Sanctions to expenditure accorded by the municipal chief auditor shall be audited by an officer to be nominated by the Corporation after consultation with the chief auditor."

STATEMENT OF OBJECTS AND REASONS.

Experience has shown that the existing provisions of the City of Bombay Municipal Act, [III of], 1888, with regard to the audit of municipal accounts are unsatisfactory, as the audit under the present arrangement does not reach the standard of efficiency which is desirable in the audit of the accounts of an important public body. Under the present arrangement two auditors are appointed annually by the Corporation and, although such appointments are frequently renewed from year to year, the short term for which each appointment is made results in insecurity of office and a lack of continuity in the system of audit. It is also desirable that there should be proper control over the number and qualifications of the staff engaged by the person or persons in charge of the audit. The object of this Bill is to introduce new provisions under which the audit of the municipal accounts will be conducted by a separate department under the charge of a municipal chief auditor to be appointed by the Corporation. The nature of the appointment will be such as to attract a man of the required qualifications and due provision is made for security of tenure of the office and for the appointment of an adequate staff to assist in the audit. Special provisions have been introduced specifying in detail the duties and powers of the municipal chief auditor. These provisions have been modelled upon the provisions regulating the duties and powers of the Auditor-General under the Government of India Act, 1935.

L. M. PATIL.

28th December 1937.

APPENDIX 3.

BILL No. XXV OF 1937.

A Bill to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes.

(As published in the "Bombay Government Gazette" of the 23rd December 1937).

WHEREAS it is expedient to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Provisional Collection of Taxes Act, 1938.

[Appendix 3—*contd.*]

2. *Definitions.*—In this Act—

(1) a “declared provision” means a provision in a Bill in respect of which a declaration has been made under section 3 ;

(2) “tax” includes any rate, cess, duty, fee, toll or other impost, whether general or local or special.

3. *Power to make declarations under this Act.*—Where a Bill to be introduced in the Bombay Legislative Assembly on behalf of the Provincial Government provides for the imposition or increase of a tax, the Provincial Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.

4. *Effect of declarations under this Act, and duration thereof.*—
(1) A declared provision shall have the force of law on the day on which the Bill containing it is introduced or published whichever day is earlier.

(2) A declared provision shall cease to have the force of law under the provisions of this Act—

(a) when it comes into operation as an enactment, with or without amendment, or

(b) when the Provincial Government, in pursuance of a motion passed by the Bombay Legislative Assembly, directs by notification in the Official Gazette, that it shall cease to have the force, of law, or

(c) if it has not already ceased to have the force of law under clause (a) or clause (b), then on the expiry of the sixtieth day after the day on which the declared provision has the force of law under sub-section (1).

5. *Certain refunds to be made when declarations cease to have effect.*—

(1) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which such provision has the force of law under sub-section (1) of section 4, refunds shall be made of all taxes collected which would not have been collected if the provision adopted in the enactment had been the declared provision :

Provided that the rate at which refunds of any tax may be made under this sub-section shall not exceed the difference between the rate of such tax proposed in the declared provision and the rate in force immediately prior to the day on which the declared provision has the force of law under sub-section (1) of section 4.

(2) Where a declared provision ceases to have the force of law under clause (b) or clause (c) of sub-section (2) of section 4, refunds shall be made of all taxes collected which would not have been collected if the declaration in respect of it had not been made.

[Appendix 3—concl'd.]

STATEMENT OF OBJECTS AND REASONS.

Whenever new taxation is proposed, taxpayers try to avoid it by taking all possible action between the publication of the proposals and the passing of the necessary Act. A typical instance is the sale of large quantities of a commodity on the introduction of a Bill to impose a Sales or Turn-over Tax but before the Bill becomes a Law to avoid the imposition of that tax. The object of this Bill is to prevent such evasion in suitable cases. It is based on a similar law enacted by the Government of India in their Act No. XVI of 1931.

A. B. LATTHE.

18th December 1937.

APPENDIX 4.

BILL No. VII OF 1937.

A Bill to provide for Recognition of Registered Trade Unions in the Presidency of Bombay.

(As published in the "Bombay Government Gazette" of the 21st October 1937.)

WHEREAS it is expedient to make provision for the Recognition of Registered Trade Unions ; It is hereby enacted as follows :—

1. *Short title.*—(a) This Act may be called the Bombay Trade Unions Recognition Act, 1937.

(b) *Extent.*—It extends to the whole of the Presidency of Bombay.

(c) *Commencement.*—It shall come into force on such date as the Local Government may, by Notification in the *Bombay Government Gazette*, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Registered" means a Trade Union which is registered under the Trade Unions Act ;

(b) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between the workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions ;

[Appendix 4—*contd.*]

(c) "Prescribed" means prescribed by regulations made under this Act;

(d) "Worker" means a person employed, whether for wages or not in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever incidental to or connected with the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;

(e) "Executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted.

3. *Obligation upon Employer to accept registration of Trade Union.*—There shall be imposed an obligation upon every employer of labour to accept Registration under the Government of India Trade Unions Registration Act as a legal fact expressing the acceptance of the *bona fides* of the existence and activities of the Trade Union.

4. *Recognition of Registered Trade Union as representative organisation of workers.*—Every Registered Trade Union shall be acknowledged by every employer to be a representative organisation of the workers expressing an organised opinion of the workers in the Trade in which the Union is formed.

5. *Every registered representative organisation shall have right to be recognized by employer.*—Every such registered representative organisation shall have a right to be recognised by the employer regardless of the numbers of members joining the Union.

6. *Application for recognition.*—No Trade Union as soon as registered applying for such recognition shall be denied the right by the employer raising the question outside the purview of the Trade Union Registration Act.

7. *No speeches and writings or resolutions passed by a Registered Union shall be deemed a factor against its recognition by employer.*—No speeches delivered or writings made or resolutions passed by such a Registered Trade Union shall be deemed a factor weighing with the employer against recognition as being immaterial and irrelevant to the fact of recognition so long as the Union continues to be registered under the Trade Unions Act.

8. *Production of Copies of Constitution, Rules, Regulations of Union, etc.*—As soon as an application is made by such Union for recognition, the employer shall invite the Union to submit the following for his assurance and guarantee of the *bona fides* of the Union,—

(a) Copy of Constitution, Rules and Regulations containing the aims and objects of the Union.

(b) Original certificate of the Registration of the Union.

[Appendix 4—contd.]

9. *Recognition.*—Recognition shall consist in the employer immediately investigating into all the complaints both individual and general that may from time to time be sent by the Union for his consideration and replying to the Union communicating the results of such investigations.

10. *Right of Union to address communications.*—Every Union so recognised shall have a right to address all communications to the highest member in the workshop, office or any other place of employment and every communication shall be replied to by him except if the powers are delegated by him to his subordinates, notification for which shall be given to the Union from time to time.

11. *Privileges of Union.*—When recognised among others the following privileges shall be accorded to the Union by the employer :—

(a) Right to collect subscriptions within the premises of the place of employment ;

(b) Right to hold meetings of the Union.

12. *Right of Union to meet officer or officers in the matter of complaints, etc.*—Every Union so recognised shall have the right of meeting an officer or officers concerned in the place of employment on behalf of the Union in the matter of complaints forwarded or representations made at times previously appointed and suitable to the officer or officers concerned.

13. *Right of Union to hold joint meetings with employers.*—Every Union so recognised shall have the right of holding joint meetings with the employers in the matter of various grievances, complaints and representations at least once per two months.

14. *No Union shall be refused right of recognition on account of its political persuasion.*—No Union shall be refused the right of recognition whatever its political persuasion, or political colour of its different members.

15. *Withdrawal of Recognition.*—No employer shall withdraw recognition until Government withdraws registration under the Trade Union's Registration Act, or if conditions material to recognition such as those under Clause 8 are not fulfilled.

16. *Obligation on certain employers to conform to the rules of recognition.*—Any employer in an Industry which falls under the heading "Concurrent Subjects" that is falling under the Central Legislatures as well as partially under Provincial Legislatures such as Railway shall conform to the above rules of recognition provided the Head Office of a Union of the employees in that industry is located in one of the principal towns of the Presidency.

[Appendix 4—concl'd.]

17. *Penalty for breach of provisions of the Act.*—Any employer violating any of the above clauses under the Act shall be subject to a fine of Rs. 500 on the first application for recognition made by the Union and six months' imprisonment for the succeeding.

STATEMENT OF OBJECTS AND REASONS.

The Government of India Act of Registration of Trade Unions, 1926, gives a legal and constitutional value to a Union of Workers. But the employers do not recognise such a registered organisation and there is no binding upon them to do so. Under the circumstances the workers having their straight dealings with the employers, do not stand to gain any benefit possible to be derived from joining such a registered Union. Recognition of such a Union at the hand of the employers is bound to create a healthy atmosphere between the employers and the employees. The above Bill is aimed at rehabilitating a registered Trade Union in its constitutional relations with the employers.

S. H. JHABVALA.

APPENDIX 5.

BILL No. VIII OF 1937.

A Bill to make proper provision for the fixation of Tariff for Vehicles plying for hire in the Presidency of Bombay.

(As published in the "Bombay Government Gazette" of the 21st October 1937.)

WHEREAS it is expedient to make proper provision for the fixation of Tariff for Vehicles plying for hire in the Presidency of Bombay; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Presidency Vehicles Tariff Fixation Act of 1937.

(2) It shall extend to the whole of the Bombay Presidency; and the Local Government may, by notification, extend to and from a date to be specified in the Notification the whole of the Act to any part of the Presidency.

2. *Definitions.*—In this Act unless there is anything repugnant in the subject or context—

(1) "Vehicles" means a vehicle, carriage or other means of conveyance propelled or which may be propelled on a road by electrical or mechanical power, either entirely or partially, including a tram car or carriage.

[Appendix 5—*contd.*]

(2) "Local authority" includes a Cantonment Authority within the meaning of the Cantonments Act, 1924.

(3) "Prescribed" means prescribed by rules made under the Act.

(4) "Presidency" means the Presidency of Bombay excluding Sind.

3. *Constitution of Vehicles Tariff Control Board.*—There shall be constituted a Vehicles Tariff Control Board by the Minister in charge of Local Government.

4. *Term of Office.*—It shall hold permanent office :

provided that from time to time as particular vehicles are added to the existing kinds or diminished therefrom, they shall be represented or their representation removed from time to time as the case may be.

5. *Control Board.*—The Control Board shall consist of—

- (a) Minister of Local Government ;
- (b) one representative of the Tramway Company ;
- (c) one representative of the Victoria Owner Drivers ;
- (d) one representative of the Taxi Owner Drivers ;
- (e) one representative of the Bombay Municipality ;
- (f) one representative of the Passenger public preferably from Passengers and Traffic Relief Association ;
- (g) one representative of the Private Bus Owner Drivers ;
- (h) one representative of the Lorry Owner Drivers ;
- (i) the Commissioner of Police, Bombay.

6. *Certain Representatives of the Board shall be elected.*—The representatives of the Board

excepting (a) in (5)

shall be elected by their respective representative bodies or organisations :

provided that wherever such an organisation or organisations do not exist legally and constitutionally the Minister of Local Government shall nominate a representative or representatives from such an organisation or organisations.

7. *President of the Control Board.*—The Minister of Local Government shall *ipso facto* be the President of the Control Board.

8. *Location of the office of Control Board.*—The office of the Control Board shall be located in the office of the Minister of Local Government.

9. *Work of the Control Board.*—All work pertaining to and arising from the Control Board shall be transacted by the office of the President of the Control Board.

[Appendix 5—concl'd.]

10. *Meetings of the Control Board.*—The Control Board shall meet once a year :

provided that the President is requisitioned by a one-third part of the representatives to call for meetings more than once for business under section 11.

11. *Control Board to fix annual Tariff of vehicles plying for hire.*—It shall be the duty of the Control Board to fix the Tariff of all vehicles plying for hire in the Presidency from year to year.

12. *Publication of the annual Tariff in the "Bombay Government Gazette."*—The annual tariff so fixed shall be the official Scheduled Rate for all vehicles in the Presidency and shall be published in the *Government Gazette* : Provided that the Tariff so fixed is objected to and revision is granted by the President of the Control Board on requisition being received under section 10 hereof ; but under no circumstances shall a revision be effected within 3 months at least of the annual decision arrived at.

13. *Bye-laws.*—The President of the Board shall be empowered to prepare Bye-laws under this Section for the proper holding of the Annual Meeting and guidance thereof.

STATEMENT OF OBJECTS AND REASONS.

The control of tariff as at present laid down is vested in different hands while there is joint responsibility in the matter of mutual burdens. Sometimes even Rate war settles in due to unhealthy competition at the hand of rich and able private companies. The Bill contemplates the avoidance of such a kind of individual option as may cut out the weaker sections engaged in the driving trade in the Bombay Presidency and also gives the right of fixing the tariff of all with mutual agreement.

S. H. JHABVALA.

APPENDIX 6.

BILL No. I OF 1938.

A Bill to amend the Bombay Local Boards Act, 1923.

(As published in the "Bombay Government Gazette" of the 5th January 1938.)

WHEREAS it is expedient to amend the Bombay Local Boards Act, 1923, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Local Boards (Amendment) Act, 1938.

[Appendix 6—*contd.*]

2. *Amendment of section 3 of Bom. VI of 1923.*—In section 3 of the Bombay Local Boards Act, 1923, hereinafter called “the said Act”, after clause (c), the following shall be inserted, namely :—

“(cc) ‘Backward tribe’ means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.

(dd) ‘Harijan’ means a person belonging to any of the Scheduled Castes as defined in the Government of India (Scheduled Castes), Order, 1936.”

3. *Amendment of section 5 of Bom. VI of 1923.*—In section 5 of the said Act,

(1) for sub-section (1), the following shall be substituted, namely :—

“(1) Every district and taluka local board shall, subject to the provisions of sub-section (5), consist of elective members.”

(2) sub-sections (3) and (4) shall be deleted.

4. *Amendment of section 6 of Bom. VI of 1923.*—For section 6 of the said Act, the following section shall be substituted, namely :—

“6. *Elective members of local boards by whom to be elected.*—

(1) The elective members of local boards shall be elected by general and Muhammadan constituencies. The number of members to be elected by each constituency, and the number of seats to be reserved in general constituencies for the representation of women or of any caste, community or tribe shall be as prescribed by orders made by the Provincial Government under clause (a) of section 133 :

Provided that no seat shall be reserved for the representatives of any caste, community or tribe,

(a) other than—

(i) Harijans,

(ii) a backward tribe, 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 caste, community or tribe in the area constituting the general constituency.

(2) Notwithstanding anything contained in sub-section (1), the Muhammadans in the area constituting a Muhammadan constituency

[Appendix 6—*contd.*]

who have attained the age of 21 years may either unanimously or by majority declare in the manner prescribed under clause (a¹) of section 133 that the said Muhammadan constituency be abolished.

(3) On such declaration, the Provincial Government shall direct that the said Muhammadan constituency be abolished from such date as may be specified in the notification in the Official Gazette and may make orders under clause (a²) of section 133 for the purpose of securing representation in general constituencies of the Muhammadans in the area constituting the said Muhammadan constituency."

5. *Insertion of new section 15A in Bom. VI of 1923.*—After section 15 of the said Act, the following section shall be inserted, namely :—

"15A. *Provisions of section 15(3), clauses (a) and (b) to cease to be in force.*—From the date specified in the notification under sub-section (3) of section 6 the provisions of clauses (a) and (b) of sub-section (3) of section 15 shall cease to be in force and for the purpose of any election of persons to fill the places of persons whose term of office has expired under section 28 and for all subsequent elections, lists for constituencies shall be prepared and finally published as if the said provisions have not been in force."

6. *Amendment of section 130 of Bom. VI of 1923.*—In section 130 of the said Act, the words "by such nominations and elections as may be necessary" shall be deleted.

7. *Amendment of section 133 of Bom. VI of 1923.*—In section 133 of the said Act,—

(1) in clause (a) for the words beginning with the words "the proportion" and ending with the words "each constituency" the words and figure "the number of members to be elected by each constituency and the reservation of seats in general constituencies for women or for any caste, community or tribe specified in section 6" shall be substituted :

(2) after clause (a) the following clauses shall be inserted, namely :—

"(a¹) prescribing the manner in which the Mahomedans in any area for which a Mahomedan constituency is constituted may declare that the said constituency be abolished ;

(a²) determining the mode in which the representation of the Mahomedans in the area for which a Mahomedan constituency is abolished under section 6 shall be secured."

8. *Saving.*—(1) Nothing in this Act shall affect the local boards 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

[Appendix 6—concl'd.]

local board 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 a local board constituted immediately before the commencement of this Act shall, subject to the provisions of section 33, be filled in the manner provided by the said Act, as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS.

It is proposed that nominations in the case of all local boards should be abolished and that elective representation should be given by means of reservation of seats in joint electorates to Harijans and backward tribes and, where necessary, to women and to minority communities for whom separate constituencies have been formed in the legislatures under the Government of India Act, 1935. The intention is that the reservation of seats for Harijans, backward tribes, and, where necessary, for other minority communities should be on a population basis, as far as possible. It is also proposed to give an option to the Muhammadans in any Muhammadan constituency in a district (a) to declare that the said Muhammadan constituency be abolished and (b) to have representation in general constituencies.

The Bill is intended to achieve the above objects.

4th January 1938.

L. M. PATIL.

APPENDIX 7.

BILL No. III OF 1938.

A Bill to provide for the release on probation of offenders.

(As published in the "Bombay Government Gazette" of the 7th January 1938).

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for other matters incidental thereto; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Probation of Offenders Act, 1938.

(2) It extends to the whole of the Province of Bombay.

(3) This Act shall come into force in such area and on such date as the Provincial Government may, by notification in the Official Gazette, direct.

[Appendix 7—*contd.*]

2. *Definition.*—In this Act, unless there is anything repugnant in the subject or context,—

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1898.

(a) the “Code” means the Code of Criminal Procedure, 1898;

(b) “Probation order” means an order made under sub-section (1) of section 5;

(c) “supervision order” means an order made under sub-section (2) of section 5; and

(d) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

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.

4. *Power of Courts to release certain convicted offenders after admonition.*—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 and if it is empowered to exercise powers under this Act, instead of sentencing him to any punishment, release him after due admonition, having regard—

(a) to the age, character, antecedents or physical or mental condition of the offender, and

[Appendix 7—*contd.*]

(b) to the nature of the offence or any extenuating circumstances under which the offence was committed.

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 circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court may, if it is empowered to exercise powers under this Act, 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 place 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 make an order, hereinafter called a supervision order, directing that the bond to be entered into under subsection (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.

[Appendix 7—*contd.*]

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 damages for injury or compensation for loss caused to any person by the offender in committing the offence and such costs of the proceedings as the Court thinks reasonable, and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has condoned by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian.

(2) The amount paid by way of damages or compensation to a person under this section shall be taken into account in awarding damages to such person in any subsequent civil suit relating to the same matter.

(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.

7. *Power of Court of appeal or revision.*—When an order has been made by a Court under section 4 or 5 in respect of any offender, the Court of Session, on appeal, or the High Court, either on appeal or in the exercise of its power of revision, when under the provisions of the Code there is a right of appeal to such court or such power of revision, may set aside such order and in lieu thereof pass sentence on such offender according to law :

Provided that such other Court shall not under this section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

8. *Provision in case of offender failing to observe condition of release.*—(1) If the Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, or any Court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which an offender is brought or appears under sub-section (1) may either remand him to custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (2) or sub-section 3 of section 5, it may forthwith—

[Appendix 7—*contd.*]

(a) sentence him for the original offence, or

(b) without prejudice to the continuance in force of the bond, impose upon him a fine not exceeding one hundred rupees.

(4) If a fine imposed under clause (b) of sub-section (3) is not paid within such period as the Court may fix, the Court may sentence the offender for the original offence.

9. *Provisions as to bonds.*—The provisions of sections 122, 126A, 406A, V of 514, 514A, 514B and 515 of the Code, shall, so far as may be, apply in the ^{1898.} case of sureties given under this Act.

10. *Appointment of probation officers.*—(1) A probation officer named in a supervision order may be—

(a) any person appointed to be a probation officer by the Provincial Government, or

(b) any person nominated for this purpose by a society recognised in this behalf by the Provincial Government, or

(c) any other person who, in the opinion of the Court, is a fit person to act as a probation officer in the special circumstances of the case.

(2) In naming a probation officer in a supervision order the Court shall be guided by any general or special instructions the Provincial Government may issue in this behalf.

(3) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(4) The Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, may at any time appoint another probation officer in place of the person named in the supervision order.

Explanation.—In this section, in a presidency town “District Magistrate” means the Chief Presidency Magistrate, and “district” means the presidency town.

11. *Duties of probation officers.*—A probation officer shall, subject to the provisions of section 10 and rules made under this Act—

(a) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the probation officer may think fit;

(b) see that the offender observes the conditions of the bond;

(c) report to the Court as to the behaviour of the offender;

[Appendix 7—*contd.*]

(d) advise, assist and befriend the offender, and, when necessary, endeavour to find him suitable employment; and

(e) perform any other duty which may be prescribed by rules made under this Act.

12. *Variation of conditions of probation on application by probation officer.*—(1) The Court before which any person is bound by a bond under section 5 to appear and receive sentence may at any time upon the application of the probation officer or of its own motion, if it thinks that it is expedient that the terms or conditions of the bond should be varied, summon the offender to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration thereof or by altering any of the conditions thereof or by inserting additional conditions therein :

Provided that, in no case, shall the duration of the bond be less than one year or more than three years from the date of the original order where a supervision order has been made under sub-section (2) of section 5, the duration of the period of supervision extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of 26 years :

Provided further that in the case of a bond with a surety or sureties, no such variation shall be made without the consent thereto of such surety or sureties and that in the absence of such consent the Court shall in all such cases require the offender to enter into a new bond with or without sureties.

(2) Such Court may also, on the application made by the probation officer or of its own motion, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond.

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 ;

(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.

[Appendix 7—concl'd.]

14. *Barring of operation of section 562 of Act V of 1898.*—In any area in which this Act is in force, no Court shall make an order under section 562 of the Code in respect of any first offender.

15. *Saving of the Bombay Children Act and the Bombay Borstal Schools Act.*—Nothing in this Act shall affect the provisions of the Bombay Children Act, 1924, or the Bombay Borstal Schools Act, 1929.

STATEMENT OF OBJECTS AND REASONS.

The need to provide for a regular system of probation of offenders on the lines of the English Probation of Offenders Act, 1907, is being increasingly felt in this Province. Experience in England shows that the system has proved itself not only efficacious in checking crime but also a great economy by reducing the population of the jails.

2. The Bill incorporates the provisions of section 562 of the Criminal Procedure Code for the release on probation of offenders and provides particularly for the supervision of those under 25 years of age by a probation officer named by the Court. The success of the scheme ever depends on the efficiency of the supervision imposed during probation. Government therefore propose to restrict for the present the scope of the Bill to certain places only where local conditions are favourable and there are prospects of the system being worked properly. The Act will only come into operation in any area by notification and Government will require to be satisfied that the necessary machinery to work the system exists before notifying the extension of the Act to any area.

K. M. MUNSHI.

4th January 1938.

APPENDIX 8.

BILL No. IV OF 1938.

A Bill to amend the City of Bombay Municipal Act, 1888.

(As published in the "Bombay Government Gazette" of the
8th January 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 (Amendment) Act, 1938.

Bom.
III of
1888.

[Appendix 8—contd.]

Bom. 2. *Amendment of section 3 of Bom. III of 1888.*—After clause (kk) in
III of section 3 of the City of Bombay Municipal Act, 1888, hereinafter called
1888. “the said Act”, the following new clause shall be added, namely:—

“(ll) ‘Market’ includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person”.

3. *Amendment of section 15 of Bom. III of 1888.*—In section 15 of the said Act, hereinafter called the said Act, for the words “he resides in the city”, the following shall be substituted, namely:—

“he has resided in the city for six months immediately preceding the date of the election.

Explanation.—A fellow shall be deemed to have resided in the city if he resides in any dwelling in the city which he uses from time to time as a sleeping apartment and the fellow shall not be deemed to cease ‘to reside’ in the city if there is the liberty of returning to any such dwelling and no abandonment of the intention of returning thereto even though he is absent therefrom or has elsewhere another dwelling in which he resides.”

4. *Amendment of section 17 of Bom. III of 1888.*—In section 17 of the said Act, after clause (c), the word “or” and the following new clauses shall be inserted, namely:—

“(d) absents himself from or is unable to attend the meetings of the Corporation during twelve successive months from any cause whatever, whether approved by the Corporation or not, or

(e) being elected by a chamber or association mentioned in sub-section (1) of section 5, ceases to be a member of such chamber or association or to be a person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm, company or corporation registered as a member of such chamber or association, as the case may be.”

5. *Amendment of section 30 of Bom. III of 1888.*—For sub-section (1) of section 30 of the said Act, the following shall be substituted, namely:—

“(1) An election of a councillor by fellows shall be made, subject to the provisions of section 15, in accordance with the statutes made by the Senate of the University of Bombay in this behalf:

Provided that no fellow who has not resided in the city for six months immediately preceding the date of the election shall be entitled to vote at such election.

[Appendix 8—*contd.*]

Explanation.—A fellow shall be deemed to have resided in the city if he resides in any dwelling in the city which he uses from time to time as a sleeping apartment and the fellow shall not be deemed to cease 'to reside' in the city if there is the liberty of returning to any such dwelling and no abandonment of the intention of returning thereto, even though he is absent therefrom or has elsewhere another dwelling in which he resides."

6. *Amendment of section 31 of Bom. III of 1888.*—For sub-section (1) of section 31 of the said Act, the following shall be substituted, namely :—

"(1) An election of a councillor by a chamber or association mentioned in sub-section (1) of section 5 shall be made by the members for the time being of the said chamber or association, as the case may be, subject to the provisions of section 15, in accordance with the rules made by the said chamber or association in this behalf."

7. *Amendment of section 39 of Bom. III of 1888.*—In section 39 of the said Act—

(a) in sub-section (1-C) for the word "he" the following shall be substituted, namely :—

"or absents himself during three successive months from the meetings of the committee, except on account of temporary illness or other cause to be approved by the committee, or absents himself from or is unable to attend the meetings of the committee during eight successive months from any cause whatever, whether approved by the committee or not, such person";

(b) in sub-section (1-D) after the word "office" where it occurs for the second time, the words, brackets, figure and letter "or of his seat becoming vacant under sub-section (1-C)", shall be inserted.

8. *Insertion of a new section 46A in Bom. III of 1888.*—After section 46 of the said Act the following new section shall be inserted, namely :—

"46A. *Member of Standing Committee absenting himself for three months from meetings to vacate seat.*—Any member of the standing committee who absents himself during three successive months from the meetings of the committee, except on account of temporary illness or other cause to be approved by the committee, or absents himself from or is unable to attend the meetings of the committee during eight successive months from any cause whatever, whether approved by the committee or not, shall cease to be a member of the standing committee and his seat shall thereupon be vacant."

9. *Amendment of section 47 of Bom. III of 1888.*—In section 47 of the said Act, after the word "office" where it occurs for the second time, the words, figures and letter "or of his seat becoming vacant under section 46A" shall be inserted.

[Appendix 8—*contd.*]

10. *Amendment of section 49G of Bom. III of 1888.*—In section 49G of the said Act, after the word “office” where it occurs for the second time, the words, figures, letters and brackets “or of his office becoming vacant under clause (j) of section 49I^a”, shall be inserted.

11. *Amendment of section 49I of Bom. III of 1888.*—In clause (j) of section 49I of the said Act after the word “committee” where it occurs for the third time, the following shall be inserted, namely:—

“or absents himself from or is unable to attend the meetings of the committee during eight successive months, from any cause whatever, whether approved by the committee or not.”

12. *Amendment of section 110A of Bom. III of 1888.*—In section 110A, of the said Act—

(a) in sub-section (1)—

(i) for the words “wholly or partly lost or destroyed”, the words “lost, stolen or destroyed either wholly or in part” shall be substituted;

(ii) after the word “loss” where it occurs at both the places, the word “theft” shall be inserted; and

(iii) for clauses (a) and (b) the following clauses shall be substituted, namely:—

“(a) if the debenture alleged to have been lost, stolen or destroyed is payable more than six years after the date of publication of the notification referred to in sub-section (2)—

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture, and

(ii) for the issue of a duplicate debenture payable to the applicant, or

(b) if the debenture alleged to have been lost, stolen or destroyed is payable not more than six years after the date of publication of the notification referred to in sub-section (2)—

(i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and

(ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due”;

(b) in sub-section (2)—

(i) after the word “loss” the word “theft” shall be inserted, and

[Appendix 8—*contd.*]

(ii) after the word “lost” the word “stolen” shall be inserted; and

(c) for sub-section (3) the following shall be substituted, namely :—

“ (3) A list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the Official Gazette ”;

(d) the following new sub-section shall be added, namely :—

“ (4) If at any time before the Corporation becomes discharged under the provisions of section 110AD from liability in respect of any debenture the whole of which is alleged to have been lost, stolen or destroyed, such debenture is found, any order passed in respect thereof under this section shall be cancelled.”

13. *Insertion of new sections 110AA, 110AB, 110AC, 110AD and 110AE in Bom. III of 1888.*—After section 110A of the said Act, the following new sections shall be inserted, namely :—

“ 110AA. *Renewal of debentures.*—Subject to the provisions of section 110AB, a person claiming to be entitled to a debenture issued under this Act or any previous Act relating to the municipal govern-^{Bom. IV of}ment of the city or under the City of Bombay Improvement Act, 1898, 1898. or the City of Bombay Improvement Trust Transfer Act, 1925, may on^{Bom. XVI of} applying to the Commissioner and on satisfying him of the justice of his claim and delivering the debenture received in such manner and^{1925.} paying such fee as may be prescribed by the Commissioner obtain a renewed debenture payable to the person applying.

110AB. *Renewal of debentures in case of dispute as to title.*—
(1) Where there is a dispute as to the title to a debenture issued under this Act or any previous Act relating to the municipal government of^{Bom. IV of} the city or under the City of Bombay Improvement Act, 1898, or the^{1898.} City of Bombay Improvement Trust Transfer Act, 1925, in respect of^{Bom. XVI of} which an application for renewal has been made, the Commissioner^{of} may—^{1925.}

(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party, or

(b) refuse to renew the debenture until such a decision has been obtained, or

(c) after such inquiry as is hereinafter provided and on consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance

[Appendix 8—*contd.*]

with the provisions of section 110AA, unless within that period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation.—For the purposes of this sub-section the expression 'final decision' means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(2) For the purposes of the inquiry referred to in sub-section (1) the Commissioner may himself record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. The District Magistrate to whom such request has been made may himself record the evidence or may direct any Magistrate subordinate to him to record the evidence and shall forward the record of such evidence to the Commissioner.

(3) The Commissioner or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

110AC. *Liability in respect of debenture renewed.*—(1) When a renewed debenture has been issued under section 110AA in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Corporation and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Corporation of any other person to the debenture so renewed.

110AD. *Discharge in certain cases.*—When a duplicate debenture has been issued under section 110A, or when a renewed debenture has been issued under section 110AA or section 110AB, or when the principal sum due on a debenture in respect of which an order has been made under section 110A for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due the Corporation shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued, or in respect of which such payment has been made, as the case may be—

(a) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 110A or from the date of the last payment of interest on the original debenture, whichever date is later,

(b) in the case of a renewed debenture, after the lapse of six years from the date of the issue thereof, and

[Appendix 8—*contd.*]

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 110A.

110AE. *Indemnity*.—Notwithstanding anything in section 110AA or 110AB, the Commissioner may in any case arising under either of those sections—

(1) issue a renewed debenture upon receiving such indemnity in favour of the Corporation and the Commissioner as he shall think fit against the claims of all persons claiming under the original debenture, or

(2) refuse to issue a renewed debenture unless such indemnity is given”.

14. *Amendment of section 110DD of Bom. III of 1888*.—To section 110DD of the said Act the following new sub-sections shall be added, namely:—

“(3) The Corporation may from time to time make, alter or rescind rules prescribing:—

(a) the amounts for which stock certificates may be issued;

(b) the fees to be levied in respect of the issue of stock certificates;

(c) the form of keeping a register of the holders of stock;

(d) the mode in which payment of interest to holders of stock is to be made, recorded and acknowledged;

(e) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock;

(f) the circumstances and manner in which duplicate stock certificates may be issued and the fees to be levied or the indemnity to be required on any such issue;

(g) generally the measures to be adopted for carrying out the objects of this section.

(4) No rule, or alteration or rescission of a rule, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Official Gazette; and no rule, or alteration or rescission of a rule, shall be approved by Government until, the same shall have been published for three weeks successively in the said Gazette.”

15. *Amendment of section 115 of Bom. III of 1888*.—In sub-section (3) of section 115 of the said Act, for the word, letter and brackets “clause (b)” the word, figure and brackets “sub-section (1)” shall be substituted.

[Appendix 8—*contd.*]

16. *Amendment of section 117 of Bom. III of 1888.*—In section 117 of the said Act—

(1) after the word “ of ” where it occurs for the first time, the words, figure and brackets “ sub-section (2) of ” shall be inserted ;

(2) after the word “ under ” where it occurs for the second time, the words, figure and brackets “ sub-section (2) of ” shall be inserted ; and

(3) after the word and figures “ section 131 ”, the words, figures and brackets “ or under sub-section (1) of section 133 ”, shall be inserted.

17. *Amendment of section 123A of Bom. III of 1888.*—In sub-section (3) of section 123A of the said Act, the word “ half ” shall be omitted.

18. *Insertion of a new section after section 125 of Bom. III of 1888.*—After section 125 of the said Act, the following new section shall be inserted, namely :—

“ 125A. *Classification of budget heads.*—The expenditure side of a budget estimate shall be classified under major heads, minor heads, subordinate heads and primary units.

(a) ‘Major head’ means the principal head of accounts corresponding to the different services under which expenditure is classified in the budget estimate, and may be divided into two or more minor heads.

(b) ‘Minor head’ means the head of accounts immediately subordinate to a major head under which each major head is classified, and may be further sub-divided into two or more subordinate heads.

(c) ‘Subordinate head’ means the head of accounts immediately subordinate to a minor head under which each minor head is classified and may be further sub-divided into two or more primary units.

(d) ‘Primary unit’ means the ultimate group or groups into which individual items of expenditure in the budget estimates are arranged.”

19. *Substitution of new section 130 in Bom. III of 1888.*—For section 130 of the said Act, the following shall be substituted, namely :—

“ 130. *Budget grant defined.*—The total sum entered under a major head, which has been adopted by the Corporation shall be termed a ‘ budget grant ’.”

20. *Substitution of new section 133 in Bom. III of 1888.*—For section 133 of the said Act, the following shall be substituted, namely :—

“ 133. *Reductions or transfers.*—(1) Subject to the provisions of sub-section (1) of section 131, the Corporation may on the recommendation of the Standing Committee from time to time during an

[Appendix 8—*contd.*]

official year sanction the transfer of any amount from one budget grant to another.

(2) The Standing Committee may at any time during an official year—

(a) reduce the amount of a budget grant ;

(b) sanction the transfer of any amount within a budget grant from one minor head to another or from a subordinate head under one minor head to a subordinate head under another minor head ; or

(c) sanction the transfer of any amount exceeding rupees five thousand within a minor head from one subordinate head to another or from one primary unit to another.

(3) The Commissioner may, at any time during an official year, sanction the transfer of any amount not exceeding rupees five thousand within a minor head from one subordinate head to another or from one primary unit to another, if such transfer does not involve a recurring liability :

Provided that every transfer of an amount exceeding rupees five hundred made under sub-section (3) shall be reported forthwith by the Commissioner to the Standing Committee and that the said Committee may pass with regard thereto such order as they may think fit ; and it shall be incumbent on the Commissioner to give effect to such order.

(4) When making any transfer under sub-sections (1), (2) and (3), due regard shall be had to all the requirements of this Act.

(5) If any such reduction as is referred to in clause (a) of sub-section (2) is of an amount exceeding five hundred rupees, the Corporation may pass with regard thereto such order as they may think fit, and it shall be incumbent on the Standing Committee and the Commissioner to give effect to such order."

21. *Insertion of new section 260A in Chapter X of Bom. III of 1888.*—In Chapter X of the said Act, the following new section shall be inserted at the commencement, namely :—

"260A. *Definitions.*—In this chapter, unless there is anything repugnant in the subject or context—

(a) 'Communication pipe' means a pipe extending from a municipal water main up to and including the municipal stop-cock.

(b) 'Consumer' means any person who uses or is supplied with water from a municipal water work or on whose application such water is supplied and includes any person liable to the Corporation under the provisions of this Act for the payment of water tax or any sum for the water supplied from a municipal water work.

[Appendix 8—*contd.*]

(c) 'Consumer's pipe' means a pipe used in connection with the supply of water from any municipal water work and which is not the property of the Corporation.

(d) 'Distributing pipe' means any pipe not subject to water pressure from a municipal water main.

(e) 'Fitting' includes a pipe, coupling, flange, branch, bend, stop, ferrule, stop tap, bib tap, spring tap, pillar tap, globe tap, ball cock, boiler, pump, meter, hydrant and any other apparatus or article used for the purpose of conveying or storing water supplied by the Corporation.

(f) 'Municipal stop cock' means the stop cock which controls the supply of water from a municipal water main.

(g) 'Supply pipe' means the pipe extending from a municipal stop cock up to the ball cock of the storage tank, if any, and any pipe subject to pressure from a municipal water main."

22. *Amendment of section 269 of Bom. III of 1888.*—In sub-section (3) of section 269 of the said Act, for the words "private use and not for sale" the words "personal or domestic use and not for the purpose of business or sale" shall be substituted.

23. *Amendment of section 271 of Bom. III of 1888.*—In section 271 of the said Act—

(a) in sub-section (1)—

(i) for the words "Communication pipes" the words "Supply pipes" shall be substituted, and

(ii) for the words "a water main or other municipal water-work" the words "a municipal water work" shall be substituted, and

(iii) for the words "ordinarily be connected with the main or other water-work" the words "be connected with such water-work" shall be substituted;

(b) for sub-section (2) the following shall be substituted, namely :—

"(2) *Commissioner may in certain cases require owners to obtain private water supply.*—But if it shall appear to the Commissioner that any premises situate within any portion of the city in which a public notice has been given by the Commissioner under clause (b) of section 141, are without a supply of pure water, adequate to the requirements of the person usually occupying or employed upon the said premises, the Commissioner shall, by written notice, require the owner of the said premises or the person primarily liable for the payment of property-taxes thereon, to obtain a supply adequate as

[Appendix 8—*contd.*]

aforesaid from a municipal water work and to provide supply and distributing pipes, cisterns and fittings and do all such works as may in the opinion of the Commissioner be necessary for that purpose."

24. *Amendment of section 272 of Bom. III of 1888.*—In section 272 of the said Act—

(a) In sub-section (2) for the words "from and including the ferrule on the supply main up to and including the stop-cock nearest the supply main," the word "thereon" shall be substituted.

(b) In sub-section (3) for the words "Every such new connection or renewed connection with its communication-pipes and fittings up to and including its stop-cock as aforesaid shall thereafter vest" the words "Every such communication pipe and fittings thereon shall vest" shall be substituted.

(c) For sub-section (4) the following shall be substituted, namely:—

"(4) All supply and distributing pipes and cisterns and fittings not being the property of the Corporation shall be laid and applied under the supervision and to the satisfaction of a municipal officer appointed by the Commissioner in that behalf, who shall give and sign a certificate, free of charge, when such supply and distributing pipes, cisterns and all necessary fittings have been laid, applied and executed in a satisfactory manner and when proper and sufficient arrangements have been made for draining off waste water."

(d) For sub-section (5) the following shall be substituted, namely:—

"(5) Where any supply or distributing pipe, cistern or such fitting is laid, applied, added to or altered, or any connection is made in contravention of this section the Commissioner may, with the previous approval of the Standing Committee, remove such supply or distributing pipe, cistern, fitting or connection, or additions or alterations thereto, and make good such pipe, cistern, fitting or connection; and the owner and occupier of the premises in which or for supply to which such supply or distributing pipe, cistern or fitting has been laid, applied, added to or altered or such connection has been made, shall be jointly and severally liable to pay the expenses incurred by the Commissioner in so doing."

25. *Amendment of section 273 of Bom. III of 1888.*—In section 273 of the said Act for the words "all communication-pipes and fittings of any existing private service connected with any municipal water-works up to and including the stop-cock nearest the supply main for the said service", the words "all or any consumer's pipes and fittings" shall be substituted.

[Appendix 8—contd.]

26. *Amendment of section 273A of Bom. III of 1888.*—For section 273A of the said Act, the following shall be substituted, namely :—

“273A. *Power of Commissioner to alter position of connections.*—The Commissioner may, if at any time he deems it expedient to alter the position of an existing connection with any municipal water-works or of any consumer’s pipe or fitting thereof, and after giving to the owner of such connection, pipe or fitting not less than four days previous notice of his intention so to do, cause the said connection, pipe or fitting to be moved to such other position as he thinks fit and relaid and applied, or others to be laid and applied in lieu thereof, in such position as he may direct ; and in every such case all such work shall be carried out at the expense of the municipal fund and such new connection, pipe and fitting shall thereafter vest in the Corporation and be maintained at the charge of the municipal fund as a municipal water-work.”

27. *Amendment of section 274 of Bom. III of 1888.*—In section 274 of the said Act—

(a) For sub-section (1) the following shall be substituted, namely :—

“(1) *Provisions as to cisterns and other fittings, etc., to be used for connections with water-works.*—The Commissioner may, whenever it shall appear to him to be necessary, by written notice require the owner of any premises furnished with a private water supply from any municipal water-work to provide such premises within a reasonable period which shall be prescribed in the said notice, with cisterns and fittings of such size, material, quality and description and placed in such position and with such safe and easy means of access as he thinks fit.”

(b) After sub-section (1), the following new sub-section shall be added :—

“(1A) The Commissioner may also in the like manner require the owner of any premises to provide such safe and easy means of access as he thinks fit to any existing cistern which on an examination under section 278 is found to be not easily accessible.”

(c) In sub-section (2)—

(i) for the words “pipes, taps, cocks, and other fittings,” the words “pipes and fittings” shall be substituted ;

(ii) for the word “purposes” the word “purpose” shall be substituted.

(d) In sub-section (3) for the words “pipes, taps, cocks and other fittings”, wherever they occur, the words “pipes, cisterns and fittings” shall be substituted.

[Appendix 8—contd.]

28. *Insertion of new section 274A in Bom. III of 1888.*—After section 274 of the said Act, the following new section shall be inserted, namely :—

“274A. *Provision for keeping cisterns locked.*—(1) The Commissioner may, by written notice, require the owner of any premises furnished with a cistern or in respect of which the Commissioner has required a cistern to be furnished, to provide such cistern with a lock and key of such pattern, material and quality as the Commissioner shall in such notice prescribe, and may in like manner require any lock or key found to be defective on an inspection under section 278 to be replaced.

(2) Every cistern so provided with a lock shall be kept permanently locked and the key shall then be delivered to the Commissioner.”

29. *Amendment of section 275 of Bom. III of 1888.*—In section 275 of the said Act—

(a) in sub-section (1)—

(i) for the words “to keep in efficient repair every pipe” the words “to keep in a thoroughly clean condition and to maintain and keep in efficient repair every supply and distributing pipe” shall be substituted; and

(ii) for the words “every tap, cock or other fitting and every storage cistern” the words “every cistern and fitting” shall be substituted.

(b) in sub-section (2)—

(i) for the word “five” the word “three” shall be substituted; and

(ii) after the word “due” the words “or to become due” shall be inserted.

30. *Amendment of section 278 of Bom. III of 1888.*—In section 278 of the said Act—

(a) in sub-section (1) for clause (b) the following shall be substituted, namely :—

“(b) to examine any supply or distributing pipe, cistern, lock or fitting; or”

(b) for sub-section (2) the following shall be substituted, namely :—

“(2) The Commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in or to clean, any such meter, not being a municipal meter let to him for hire, or any such supply or distributing pipe, cistern, lock or fitting.”

[Appendix 8—*contd.*]

31. *Amendment of section 279 of Bom. III of 1888.*—In section 279 of the said Act—

(1) in sub-section (1)—

(a) in clause (a) after the words “sum due for water” the words “or hire of meter” shall be inserted;

(b) for clauses (b) and (c) the following shall be substituted, namely:—

“(b) if the owner of the premises neglects within the period prescribed in this behalf in any notice given under sub-section (1) or (1A) of section 274 or under section 274A, to comply with any requisition made to him by the Commissioner regarding the provision of any cistern, fitting, lock or key or any means of access to such cistern;

(c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to comply with the terms of such notice or fails to use articles of the kind prescribed under sub-section (3) of section 274;”

(c) for clause (e) the following clause shall be substituted, namely:—

“(e) if the owner or occupier of the premises wilfully or negligently injures or damages any meter, pipe, cistern or fitting or lock thereof in such premises;”

32. *Amendment of section 284 of Bom. III of 1888.*—In section 284 of the said Act—

(a) In clause (b) for the words “or engine” the words “, engine, cistern or fitting” shall be substituted.

(b) After clause (e) the following new clause shall be inserted, namely:—

“(f) except with the permission of the Commissioner, open, break, injure or tamper with any lock furnished under section 274A.”

33. *Amendment of section 286 of Bom. III of 1888.*—For section 286 of the said Act, the following shall be substituted, namely:—

“286. *What persons to be liable for offences under certain provisions of this Chapter.*—If it shall be shown that an offence against some provision of this Chapter or against some bye-law made under this Act at the time in force relating to water supply has occurred on any premises to which a private supply of water is furnished by the

[Appendix 8—contd.]

Corporation, the owner, the person primarily liable for the payment of water tax and the occupier of the said premises shall be jointly and severally liable for the same."

34. *Amendment of section 287 of Bom. III of 1888.*—For section 287 of the said Act, the following shall be substituted, namely :—

"287. *When materials and works may be supplied and done under this Chapter for any person by the Commissioner.*—On the written request of any person who is required under any of the provisions of this Chapter to supply any materials, fittings, cistern or lock and key or to do any work, the Commissioner may, on such person's behalf, supply the necessary materials, fittings, cistern or lock and key, as the case may be, or cause the necessary work to be done ; but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said material, fitting, cistern, lock and key or work."

35. *Amendment of section 287A of Bom. III of 1888.*—In section 287A of the said Act—

(a) in sub-section (1)—

(i) after the word "executed" where it occurs for the first time, the words "or any cistern to be supplied with a lock and key" shall be inserted, and

(ii) after the word "executed" where it occurs for the second time, the words "or supplied" shall be inserted ;

(iii) after the word "doing" the words "or supplying" shall be inserted.

(b) in sub-section (2)—

(i) after the word "done" the words "or of supplying such lock and key" shall be inserted ;

(ii) after the words "such work" the words "or the supply of such lock and key" shall be inserted.

36. *Amendment of section 287B of Bom. III of 1888.*—In section 287B of the said Act—

(1) in sub-section (1) after the word "chapter" the words and brackets "(other than the provision of a lock and key)" shall be inserted ;

(2) for sub-section (3) the following shall be substituted, namely :—

"(3) Where any person causes or permits any pipe, cistern or fitting or other work necessary for conveying a private supply of water from a municipal water-work into any premises to be laid, applied or executed in contravention of sub-section (1), he shall, in addition to being liable to the penalty prescribed for such

[Appendix 8—contd.]

contravention, not be entitled to an independent or branch connection until the defects, if any, in such pipe, cistern, fitting or work are removed to the satisfaction of the Commissioner."

37. *Insertion of new section 313B in Bom. III of 1888.*—After section 313A of the said Act, the following new section shall be inserted, namely :—

"313B. *Licences for use of skill in handicraft or rendering services for purposes of gain in public place or street.*—Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain, use his skill in any handicraft or in rendering services to and for the convenience of the public in any public place or public street."

38. *Amendment of section 314 of Bom. III of 1888.*—After clause (c) of section 314 of the said Act, the following new clause shall be inserted, namely :—

"(d) any tools, implements or other articles used or intended to be used in any public place or in any public street by any person acting in contravention of the provisions of section 313B."

39. *Amendment of section 402 of Bom. III of 1888.*—To sub-section (2) of section 402 of the said Act, the following shall be added, namely :—

"The owner or occupier of a place in which a private market is established shall, for the purposes of this sub-section, be deemed to have established such market."

40. *Amendment of section 402 of Bom. III of 1888.*—In sub-section (1) of section 403 of the said Act—

(i) in clause (a) after the word "open" the words "or permit to be kept open" shall be inserted; and

(ii) in clauses (b) and (c) after the word "use" the words "or permit to be used" shall be inserted.

41. *Amendment of section 471 of Bom. III of 1888.*—In the table appended to section 471 of the said Act—

(a) after the entry relating to section 270, sub-section (2), the following entry shall be inserted, namely :—

"Section, sub-section or clause. 1	Subject. 2	Fine which may be imposed. 3
Section 271, sub-section (2).	Requisition to obtain private water supply and to provide supply and distributing pipes, etc.	Two hundred rupees."

[Appendix 8—contd.]

(b) in column 2 of the entry relating to section 274 for the words "storage cisterns and other fittings to be used for connection with water-works" the words "cistern and fittings or means of access to any cistern" shall be substituted;

(c) in column 2 of the entry relating to section 275 for the words "Communication pipes" the words "Supply or distributing pipes" shall be substituted;

(d) in column 2 of the entry relating to section 278, sub-section (2), for the words "communication-pipe" the words "supply or distributing pipe" shall be substituted;

(e) in column 3 of the entry relating to section 280 for the word "Twenty" the words "One hundred" shall be substituted.

(f) after the entry relating to section 313A the following entry shall be inserted, namely:—

"Section 313B	.. Prohibition in a public place or street, of use of skill in handicraft or in rendering services without licence.	Fifty rupees."
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42. *Amendment of section 472 of Bom. III of 1888.*—In the table appended to section 472 of the said Act, after the entry relating to section 313A the following entry shall be inserted, namely:—

"Section 313B	.. Prohibition in a public place or street, of use of skill in handicraft or in rendering services without licence.	Fifty rupees."
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43. *Amendment of section 489 of Bom. III of 1888.*—In sub-section (2) of section 489 of the said Act, after the entry "Section 271, sub-section (2)" the following entries shall be inserted, namely:—

"Section 272, sub-section (5).

Section 274, sub-sections (1) and (1A).

Section 274A, sub-sections (1) and (2)".

44. *Amendment of section 492 of Bom. III of 1888.*—In section 492 of the said Act—

(1) in sub-section (1)—

(a) after the words "building or land" where they occur for the second time, the words, figures, letter and brackets "or in respect of some work executed or thing done or measure taken for giving

[Appendix 8—*contd.*]

effect to any requisition or order made under sub-section (1A) of section 377" shall be inserted;

(b) after the words "building or land" where they occur for the third time, the words, figures, letter and brackets "or of the premises referred to in sub-section (1A) of section 377, as the case may be," shall be inserted;

(c) for the words "building or land" where they occur for the fourth time, the words "building, land or premises" shall be substituted.

(2) in sub-section (2) for the words "land or building" wherever they occur in clause (a) and for the words "building or land" where they occur in clause (c), the words "building, land or premises" shall be substituted.

45. *Amendment of section 514 of Bom. III of 1888.*—In clause (b) of section 514 of the said Act—

(a) after the figures and brackets "272 (1)", the figures and brackets "272 (5), 274 (1), 274 (1A)" shall be inserted.

(b) after the figures "284" the figures, letters and brackets "287B (1), 287B (2)" shall be inserted;

(c) after the figures "390" the words, figures, brackets and letter "or any bye-laws framed under section 461 (b)" shall be inserted.

46. *Amendment of section 518 of Bom. III of 1888.*—In sub-section (1) of section 518 of the said Act after the figures "225" the figures and letter "381, 381A" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to make various amendments in the several sections of the City of Bombay Municipal Act, 1888, which have been found expedient by the Corporation from the past experience of the working of the Act. The more important of them are designed (1) to give power to take measures for the eradication of malaria as a result of the recommendations of Major G. Covell, who was ordered by Government in 1928 to hold an enquiry into malarial conditions of the City, (2) to rectify certain defects in connection with the water supply which stand urgently in need of removal in order to carry out effectively anti-malarial measures, (3) to give power to the Corporation to issue revised debentures in any case and (4) to extend the powers of the Standing Committee and the Municipal Commissioner in the matter of reappropriation of budget grants. The objects of the various clauses of the Bill are explained in the following notes on clauses.

[Appendix 8—contd.]

Notes on Clauses.

Clauses 2, 39 and 40.—The City of Bombay Municipal Act, 1888, does not contain a definition of the term “market”. In the absence of such definition, the term is given its ordinary meaning and is held to imply common regulation of sellers and control by the owner or occupier of the place (*Bombay Municipality v. Yenkanna Ellappa Balaram*, I.L.R. 52 Bom. 780). The result is that where a place is found to have been used unauthorisedly for the purpose of a market, it is not possible to take action against the owner or occupier of the place under the provisions of the Act, as the said person cannot be proved to have established a market within the meaning of the Act. The Corporation has represented that this defect in the Act should be removed.

Clauses 3, 5 and 6.—The procedure laid down in sub-section (1) of section 30 and sub-section (1) of section 31 of the Act for the election of a councillor by fellows of the University of Bombay or by a chamber or association mentioned in sub-section (1) of section 5 necessitates the convening of a meeting of the Senate of the University or of the chamber or association, as the case may be. This procedure is found to be inconvenient and cumbersome. The Corporation has, therefore, suggested that the procedure for holding these elections should be left to be determined by the bodies concerned in accordance with the statutes or the rules made by them in this behalf. In the case of election of a councillor by fellows of the University, it is further proposed to restrict the right of voting to those fellows who have resided in the city for at least six months preceding the date of the election, and to prescribe a similar residential qualification for candidates at such election.

Clause 4 [section 17 (e)].—Under section 7 of the Act a councillor of the Corporation elected by the Bombay Chamber of Commerce or the Indian Merchants' Chamber or the Bombay Millowners' Association can at present continue to hold office until the day for retirement of councillors, although in the meanwhile he may have ceased to be connected with the association or the chamber, as the case may be. It is therefore proposed to remove this anomaly by further amending section 17 of the Act on the lines of the amendment effected by Bombay Act X of 1936 under which a councillor elected by the fellows of the Bombay University ceases to be a councillor as soon as he ceases to be a fellow.

Clauses 7 to 11.—Under section 17 (b) of the Act a councillor who absents himself during three successive months from the meetings of the Corporation except on account of temporary illness or other cause to be approved by the Corporation, ceases to be a councillor. The effect of this provision is that a councillor can be absent for any length of time on account of illness or other cause approved by the Corporation. It is now proposed to limit the total absence of a councillor to not more than one year as it is not desirable that a constituency should be deprived of representation in the Corporation for an undue length of time by reason

[Appendix 8—*contd.*]

of the absence of its representative from whatever cause. It is proposed to make similar provisions in the Act for the members of the three Statutory Committees, the Standing Committee, the Schools Committee and the Improvements Committee.

Clauses 12 to 14.—There is no provision in the Act empowering the Corporation to issue a renewed debenture in any case. In *Mascarenhas v. Mercantile Bank of India Limited*, I.L.R. 56 Bom. 1, the Judicial Committee of the Privy Council observed that renewed debentures issued by the Board of Trustees for the Improvement of the City of Bombay constituted in form and substance a new and independent obligation and would not protect the Trustees against any claim made in respect of the original debentures in lieu of which the renewed debentures were issued. These observations apply with equal force to all debentures referred to in section 110-A of the Act. Section 110-A is also defective inasmuch as it does not purport to deal with cases in which debentures may be stolen. The Corporation has represented that the Act should be amended so as to give the corporation a similar protection to that given to Government under the Indian Securities Act, 1920. It is intended to give effect to these proposals of the Corporation. It is also considered necessary that the Corporation should have power to prescribe fees on payment of which and the conditions subject to which stock certificates may be issued under section 110-DD of the Act.

Clauses 15 and 16.—These are consequential amendments due to the substitution of a new section 133 for the existing one *vide* clause 20.

Clause 17.—Under sub-sections (1) and (2) of section 123-A of the Act the accounts relating to improvement schemes are required to be kept under a separate heading in the municipal accounts, in accordance with the rules contained in schedule BB and under sub-section (3) of the said section such accounts are required to be published in the *Bombay Government Gazette* every half year. It has been pointed out by the Corporation that since the amalgamation of the Bombay Improvement Trust with the Bombay Municipal Corporation there are several items in the General Municipal accounts and in the Improvements schemes accounts which are interdependent and that if the provisions of section 123-A (3) are to be complied with, necessary adjustments have to be made every six months. This means the closing of municipal accounts also every six months which involves considerable labour and expense. It is, therefore, proposed to amend section 123-A (3) of the Act so as to provide for the publication of the Improvement schemes accounts *once a year* only in the *Bombay Government Gazette*.

Clause 18.—In Government accounts, the Revenue and Expenditure are first classified under a number of major heads. Each major head is divided into minor heads, each of which has a number of subordinate heads which are further divided into what are known as primary units of accounts. The financial transactions of the Corporation on the expenditure side are proposed to be classified on similar lines.

[Appendix 8—contd.]

Clause 19.—The definition of a budget grant in section 130 of the Act as it stands at present is unsatisfactory, for, it includes every item on the expenditure side of a budget estimate and would thus comprise detailed sub-heads of primary units of accounts into which a sub-head might be divided. The result is that reappropriations from one primary unit of account to another require the sanction of the Standing Committee and further if the amount to be reappropriated exceeds Rs. 500, the reappropriation has to be confirmed by the Corporation. Variations in the sub-heads of accounts are bound to occur, however carefully the budget estimates may be prepared. Owing to the large number of such variations and the routine nature of most of them the sanction of the Standing Committee and the Corporation tends to become a matter of form. In consequence the more important items which should require the careful supervision of the Corporation or the Standing Committee are likely to pass unnoticed in the mass of detail. It is, therefore, proposed to amend the definition of “budget-grant” in section 130 to mean the total provision under a major head of municipal service sanctioned by the Corporation.

Clause 20.—The object of the amendment is to simplify the procedure for the reappropriation of budget grants and subordinate heads of accounts and to confer larger powers of transfer within such budget grants upon the Standing Committee and the Commissioner. Having regard to the large number of budget transfers and to the routine nature of most of them, it is proposed that the work of sanctioning such transactions should be distributed according to their nature and importance as is done by Government. This clause gives effect to the suggestion of the Corporation that the Standing Committee may be empowered to sanction reappropriation of a grant from one major, minor or subordinate head to another and the Commissioner to sanction any reappropriation within a grant between heads subordinate to a minor head which does not involve a recurring liability, provided that all transfers between Rs. 500 and Rs. 5,000 made by the Commissioner shall be reported to the Standing Committee, who may pass with regard thereto such order as they may think fit, it being incumbent on the Commissioner to give effect to such order.

Clause 23 (b).—Under the existing law so long as the owner furnishes premises with an adequate supply of water for the persons occupying the same, it is left entirely to his discretion whether such supply is furnished on the ground floor or at any particular place in the building accessible to all the inhabitants. This does not meet the needs of a modern city when structures four and five storeys high with modern sanitary arrangements are erected, and it is essential that the Corporation should be given power to compel the owners of such premises to furnish an adequate supply of water to all parts of the premises. The proposed amendment of section 271 (2) of the Act and the consequential amendments of other sections relating to water supply are intended to give the necessary power to the Commissioner.

[Appendix 8—*contd.*]

Clause 27.—This contains provisions enabling the Municipal Commissioner to insist on cisterns being made easily accessible for inspection purposes.

Clause 28.—It is intended to authorise the Commissioner to call upon the owner of premises furnished with a cistern to provide a lock and key of approved pattern for the same, and to deposit the key with the Commissioner. Unless such a provision is inserted in the Bill there will be no effective means of ensuring that a cistern, although provided with a lock and key, will in fact be kept closed.

Clause 29.—This is intended to remedy an omission in the Act by requiring private water pipes, cisterns, fittings, etc., to be kept clean as well as in efficient repair.

Clause 30 (b).—This is also intended to remedy an omission in the Act by enabling the Commissioner to call upon the owner or occupier of premises to remedy any defect in, or to clean, a private meter or any supply or distributing pipe, cistern or fitting.

Clause 31.—This is intended to empower the Commissioner to cut off the water supply from the premises in cases of (1) failure to pay meter hire for a meter on the premises and (2) failure to provide safe and easy access to a cistern or to provide a lock and key for the same.

Clause 32 (b).—This makes the unauthorised opening or breaking of a lock provided for a cistern under the orders of the Commissioner an offence under the Act.

Clause 33.—This makes the owner of premises and the person primarily liable for payment of water tax also responsible for any offence under the part of the Act which relates to water supply. The object of the clause is to prevent evasion of the provisions of the Act.

Clauses 34 and 35.—These enlarge the power of the Commissioner to have certain works executed by municipal agency.

Clause 36.—The object of the clause is to prevent defective works being carried out in contravention of the provisions of section 287B.

Clauses 37 and 38.—Under section 313A of the Act a licence from the Municipal Commissioner is necessary for hawking or exposing for sale in any public place or in any public street any article whatsoever, whether it be for human consumption or not. Licences to petition-writers, barbers, shoe-blacks, cobblers and others, who use, for purposes of gain, their skill in any handicraft or in rendering services to and for the convenience of the public in public places or public streets in the City have hitherto been issued by the Commissioner under section 313A but a doubt has arisen whether the grant of such licences is covered by the provisions of the said section.

The Corporation consider it expedient that the Commissioner should have the necessary power to require the aforesaid persons to obtain licences and have recommended to Government that legislation should be undertaken with a view to give effect to this proposal of the Corporation.

[Appendix 8—concl'd.]

Clause 41.—This provides appropriate penalties for offences against the new provisions for the eradication of malaria and increases the penalty for an offence under section 280 of the Act.

Clause 44.—Sub-section (1A) of section 377 of the Act provides that if it shall appear to the Commissioner that any private street is overgrown with rank and noisome vegetation or is otherwise in an unwholesome or filthy condition, he may by written notice require the owners of the several premises fronting or adjoining the said street or abutting thereon to cleanse or clear the same, or with the approval of the Standing Committee require them to take such other order with the same as the Commissioner may think necessary. If the requisition is not complied with by any one of the said owners, the Commissioner is empowered under section 489 of the Act to take such measures or to cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition made by him and to recover the expenses thereof from the defaulting owner or owners.

The Corporation have represented that a considerable time generally elapses from the time the Commissioner makes any requisition as aforesaid to the time when the expenses incurred by him become legally recoverable from the owners with the result that it often becomes difficult to realise the said expenses from the owners of the premises owing to the ownership of the premises having changed hands or the owner or owners being not found or, if found, being unable to pay the said expenses. It is, therefore, proposed to empower the Corporation to recover the said expenses from the person or persons occupying such premises.

Clause 46.—This provides for a complaint to Government if the Commissioner's powers to deal with nuisances under sections 381 and 381A of the Act are not duly exercised.

L. M. PATIL.

8th January 1938.

APPENDIX 9.

BILL No. V OF 1938.

A Bill to remove disabilities of Harijans in regard to worship in temples.

(As published in the "Bombay Government Gazette" of the
8th January 1938.)

WHEREAS it is expedient to provide for the removal of disabilities of Harijans in regard to worship in temples; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Harijan Temple Worship (Removal of Disabilities) Act, 1938.

[Appendix 9—*contd.*]

(2) This Act extends to the whole of the Province of Bombay and shall come into force at once.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) “ Court ” means the Court of the District Judge or within the limits of the ordinary jurisdiction of the High Court of Bombay, the Court of the Judge of the Presidency Small Causes Court ;

(2) “ District ” means a district constituted under section 3, of the Bombay Civil Courts Act, 1869, and include the City of Bombay ;

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(3) “ Harijan ” means a member of a caste, race or tribe deemed to be a Scheduled caste under the Government of India (Scheduled Castes) Order, 1936 ;

(4) “ Hindu Community ” includes Jains ;

(5) “ Person having interest ” means a person who is entitled to enter or attend for the purpose of the performance of worship in a temple or who is in the habit of entering or attending for such purpose or of receiving any share in the gifts thereto ;

(6) “ Prescribed ” means prescribed by rules ;

(7) “ Rule ” means a rule made under this Act ;

(8) “ Temple ” means a place by whatever designation known used as a place of public religious worship and dedicated to or for the benefit of or used as of right by, the Hindu Community or any such section thereof, as a place of religious worship ;

(9) “ Trustee ” means a person by whatever designation known in whom the administration of a temple is vested and includes any person who is liable as if he were a trustee ;

(10) “ Worship ” includes attendance at a temple for the purpose of darshan of a diety or deities installed in or within the precincts thereof.

3. *Declaration by trustees opening the temple to Harijans.*—(1) A trustee, or if there are more than one trustee, the majority of the trustees, of a temple which, by anything contained in the terms of instrument of trust, the terms of dedication or a decree of a competent Court relating to such temple or by any custom, usage or law for the time being in force, is not open for the performance of worship to any Harijan may, of his or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms of such instrument, the terms of the dedication, the decree, custom, usage or law, declare in writing that such temple shall from the date specified in the declaration be open to the Harijans to whom such temple was not

[Appendix 9—*contd.*]

open, for the performance of worship, subject to such conditions and the observance of such ceremonies as may be specified in the declaration ;

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only.

(2) The declaration shall be in such form and shall contain such particulars as may be prescribed.

(3) The declaration shall be forwarded to the Court within the local limits of whose jurisdiction it is situate.

(4) The declaration forwarded to the Court shall be accompanied by an affidavit made by the trustee or the majority of the trustees, as the case may be, that he is the trustee or they are the majority of the trustees of the temple in respect of which the declaration is made and also in the case of a temple which is a public trust to which the provisions of the Bombay Public Trusts Registration Act, 1935, apply, by a certified copy of an entry in the Register of Public Trusts maintained under section 7 of the said Act relating to the names and addresses of the trustees of such public trust.

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4. *The publication of declaration.*—On receipt of such declaration, the Court to which it is forwarded shall cause public notice to be given at convenient places on or near the temple in respect of which the declaration has been made and shall cause the declaration to be published in the *Official Gazette* and in a newspaper published in the principal vernacular of and circulating in the district. The declaration so published shall subject to the provisions of section 6 be irrevocable and the publication of the declaration in the *Official Gazette* shall be conclusive evidence that the temple from the date specified therein shall be open to the performance of worship to the Harijans to whom it was not so open and the instrument of the trust, the terms of dedication, the decree, custom, usage or law relating to the temple shall be deemed to have been amended accordingly.

5. *Exclusion of Jurisdiction of other Courts.*—No Court shall entertain any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved in such suit or proceeding or if the passing of such order or decree or if such execution would be inconsistent with the declaration published under section 4.

6. *Suit for the declaration under section 4 being set aside.*—(1) Notwithstanding anything contained in section 5 any person interested in the temple in respect of which a declaration is made under section 4 may obtain a declaration from a competent Court :

(a) that the trustee or any of the trustees making the declaration was not entitled to act as such at the time the declaration was made ;
or

(b) that the trustees making the declaration did not form a majority of the trustees thereof at the time the declaration was made.

[Appendix 9—concl'd.]

(2) On such Court holding that the declaration so made had not been made by a trustee entitled to act as a sole trustee or by a majority of trustees for the time being entitled to act as such the Court shall set aside the declaration made under section 4.

(3) A trustee who has acted as such uninterruptedly for a period of three years prior to the date of the declaration made under section 4 shall be deemed to be a trustee entitled to act as such for the purposes of this Act.

7. *Penalty.*—Whoever obstructs or causes or tends to cause obstruction to any Harijan from the performance of worship in a temple in contravention of the declaration made under section 4, shall, on conviction, be punishable with fine which may extend to Rs. 200 and in the case of a continuing offence, with an additional fine which may extend to Rs. 20 for every day after the first during which he has persisted in the offence.

8. *Power of the Provincial Government to make rules.*—(1) The Provincial Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Rules made under this section shall be subject to the condition of previous publication.

STATEMENT OF OBJECTS AND REASONS.

This is only an enabling Bill. Its object is to remove all legal difficulties in the way of those trustees of public temples, who are convinced of the justice of the claim of Harijans to make use of Hindu public temples and who desire to throw open their temples to them. It enables them to do so, notwithstanding anything contained in the instrument of trust, or the terms of dedication or a decree of a competent court or any custom, usage or law, by filing a declaration in the proper court.

K. M. MUNSHI.

8th January 1938.

APPENDIX 10.

BILL No. VI OF 1938.

A Bill to provide for the temporary relief of small holders in the Province of Bombay.

(As published in the "Bombay Government Gazette" of the 15th January 1938.)

WHEREAS it is expedient to provide for the temporary relief of small holders in the Province of Bombay and for certain other purposes specified herein; It is hereby enacted as follows:—

1. *Short title, extent and duration.*—(1) This Act may be called the Bombay Small Holders Relief Act, 1938.

[Appendix 10—*contd.*]

(2) It shall extend to the whole of the Province of Bombay.

(3) It shall remain in force up to and inclusive of the 31st March 1939.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(1) "Person" includes an undivided Hindu family.

(2) "Small holder" means—

(a) an individual—

(i) who holds land not exceeding five acres of irrigated land or fifteen acres of other land, and

(ii) who cultivates land himself or is an inferior village servant,

(b) an undivided Hindu family—

(i) which holds land not exceeding the limits specified in clause (a) (i), and

(ii) at least one member of which personally cultivates land.

Explanation.—For the purposes of this clause, in the case of a person who holds irrigated as well as other land, one acre of irrigated land shall be deemed to be equal to three acres of other land and *vice versa*.

(3) The words and expressions used in this Act, but not defined, shall have the meanings assigned to them in the Code of Civil Procedure, 1908, and the Bombay Land Revenue Code, 1879, as the case V of
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1879. may be.

3. *Stay of decrees transferred to the Collector.*—(1) Notwithstanding any law for the time being in force, all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the sale of land belonging to a small holder for the recovery of any debt under a decree, the execution of which has been or may hereafter be transferred to the Collector under section 68 of the Code of Civil Procedure, 1908, shall, on the application V of
1908. of the small holder and on the amount of the interest, as specified under sub-section (2) being paid to the decree-holder or deposited with the Collector, be stayed :

Provided that such proceedings shall not be stayed if the Collector for reasons to be recorded in writing is of opinion on the application by the decree-holder that such stay will cause substantial loss to such decree-holder.

[Appendix 10—*contd.*]

(2) The interest under sub-section (1) shall be the amount of interest, if any, due under the decree on the sum for the recovery of which the land is sought to be sold for a period of one year from the date on which the said sum became payable or for a period from the said date up to the date of the application by the small holder for the stay of execution under sub-section (1), whichever period is shorter.

(3) If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land or to the proceeds of the sale of such land are likely to be prejudiced by reason of any proceedings taken under any law for the time being in force relating to the said land, the Collector may direct that the proceedings in execution stayed under sub-section (1) shall continue.

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4. *Possession of property under section 22 of the Dekkhan Agriculturists' Relief Act, 1879.*—(1) Notwithstanding anything in section 22 of the Dekkhan Agriculturists' Relief Act, 1879, every order under the said section directing the Collector to take possession of land belonging to a small holder passed before or after the commencement of this Act shall not take effect before 31st day of March 1939.

(2) Nothing in this section shall affect the power of the Collector to deal under the said section with any land, the possession of which has been taken before the commencement of this Act.

5. *Restriction on private transfer by small holder.*—Notwithstanding anything contained in any law for the time being in force, no private transfer of any land belonging to a small holder, the proceedings for the sale of which have been stayed under this Act or of any interest therein made by him after this Act comes into force, shall be valid except with the previous sanction of the Collector of the district in which such land is situate :

Provided that no such sanction shall be given unless the Collector is of opinion—

(a) that such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors ; or

(b) (i) that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned ; and

(ii) that such transfer does not adversely affect the interests of any creditor of the small holder.

6. *Collector's decision to be final in certain cases.*—If in any proceedings under any of the three preceding sections, a question arises whether a person is a small holder such question shall be decided by the Collector and the decision of the Collector shall, notwithstanding anything contained in any law for the time being in force, be final.

[Appendix 10—concl'd.]

7. *Bar against eviction of tenant.*—Notwithstanding any law for the time being in force or any contract between the parties, no tenant who has been in possession of land used for the purpose of agriculture uninterruptedly from the first day of January 1932 shall, in pursuance of any decree or order of any Court, be evicted from such land, if such tenant tenders to the landlord or any person acting on his behalf all rent due in respect of the land for the year ending with the 30th day of June 1938, and is willing to hold the land thereafter as a tenant on the same terms and conditions on which he was holding the same at the date when the cause of action arose to the landlord for the purpose of evicting him.

8. *Revival of rights, liabilities and obligations after the expiry of the Act.*—Any right, privilege, obligation or liability acquired, accrued or incurred under any enactment, decree or order of any Court, or any contract between the parties immediately before the commencement of this Act or which may be acquired, accrued or incurred, during the period for which this Act remains in force, but the enforcement of which has been stayed by the provisions of this Act, shall immediately on the expiration of this Act, revive and be enforceable as if this Act had not been passed.

9. *Delegation of powers of Collector.*—All powers exercisable by the Collector under this Act may be exercised by the Assistant or Deputy Collector or by such officer as may be empowered by the Collector in this behalf.

10. *Rules.*—The Provincial Government may, by notification in the Official Gazette, make rules to carry out the purposes and objects of this Act.

STATEMENT OF OBJECTS AND REASONS.

The Government have under consideration the question of the relief of agricultural indebtedness and the regulation of tenancies, but the framing of a complete scheme for this purpose requires very careful consideration and the detailed working out of the necessary measures. This obviously requires time. But in the meanwhile Government consider that it is necessary to prevent the sale of the lands of small agriculturists whose redemption from heavy indebtedness is one of the most important responsibilities of Government. The present legislative measure is intended to serve this purpose and to prevent the proposed remedies from being frustrated before the necessary legislation becomes operative.

K. M. MUNSHI

15th January 1938.

MO-II Bk Hb 201-16

APPENDIX 11.

BILL No. VII OF 1938.

A Bill to regulate the transactions of money-lending in the Province of Bombay.

(As published in the "Bombay Government Gazette" of the 17th January 1938.)

WHEREAS it is expedient to make better provision for the regulation and control of transactions of money-lending; It is hereby enacted as follows :—

CHAPTER I.

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Money-lenders Act, 1938.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force on such date as the Provincial Government may by notification in the Official Gazette appoint in this behalf.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

VII of 1913. (1) "Bank" means a Banking Company as defined in section 277F of the Indian Companies Act, 1913, whether incorporated in or outside British India;

(2) "Capital" means a sum of money which a money-lender invests in the business of money-lending;

VII of 1913. (3) "Company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament, or by a Royal Charter or Letters Patent, or by an Act of the Legislature of a British Possession;

(4) "Competent Court" means a Court empowered under section 3 to entertain proceedings under this Act and to pass orders therein;

Bom. VII of 1925. II of 1912. (5) "Co-operative Society" means a society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, or the Co-operative Societies Act, 1912, or any Act of any other Provincial Legislature relating to such society;

(6) "Interest" includes any sum by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act, or any other law for the time being in force by a money-lender for or on account of costs, charges or expenses;

[Appendix II—*contd.*]

(7) "Licence" means a licence or a supplementary licence granted under section 10 and includes a licence granted under section 14 ;

(8) "Licence duty" means the duty payable in respect of a licence ;

(9) "Loan" means an advance, whether of money or in kind and includes any transaction which is in substance a loan but does not include—

(a) a deposit of money or other property in a Government Post Office Bank or any Bank or in a company or with a co-operative society ;

(b) a loan to, or by, or a deposit with any society or association ^{XXI} registered under the Societies Registration Act, 1860, or any other of 1860. enactment relating to a public, religious or charitable object ;

(c) a loan advanced by Government or by any local authority authorised by Government ;

(d) a loan advanced by a co-operative society ;

(e) an advance made on the basis of a negotiable instrument ^{XXVI} as defined in the Negotiable Instruments Act, 1881, other than of 1881. a promissory note ;

(10) "Money-lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in British India, or any place outside British India, or stands to any such body corporate in the relation of a subsidiary body, who or which—

(i) carries on the business of money-lending in the Province ; or

(ii) has his or its principal place of such business in the Province ; and includes a pawn-broker ;

(11) "Money-lending business" or "business of money-lending" means the business of advancing loans either solely or in common with any business ;

(12) "Pawn-broker" means a pawnee as defined in section 172 ^{IX of} of the Indian Contract Act, 1872 ; 1872.

(13) "Prescribed" means prescribed by rules under this Act ;

(14) "Principal" means in relation to a loan the amount actually lent to the debtor ;

(15) "Proceedings under this Act" means proceedings under sub-section (3) of section 10, or sub-section (3) of section 15, or under section 16, 17, 35 or 36 ;

(16) "Province" means the Province of Bombay ;

[Appendix 11—*contd.*]

(17) "Register" means a register of money-lenders maintained under section 7 ;

(18) "Registrar" means the Registrar of money-lenders appointed under section 6 ;

(19) "Rules" means rules made under this Act ;

(20) "Schedule" means the schedule appended to this Act ; and

(21) "Suit to which this Act applies" means any suit or proceeding—

(a) for the recovery of a loan made after the commencement of this Act ;

(b) for the enforcement of any security taken or any agreement whether by way of settlement of account or otherwise, made after the commencement of this Act in respect of any loan made either before or after the commencement of this Act ; or

(c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.

CHAPTER II.

CONSTITUTION AND POWERS OF COURTS IN PROCEEDINGS UNDER THIS ACT.

3. *Competent Courts under the Act.*—The Courts referred to herein as Competent Courts, having jurisdiction to entertain proceedings under this Act and to pass orders therein are :—

(a) In the City of Bombay—

(i) the Court of the Presidency Small Causes Court—in proceedings under this Act to which a money-lender (who carries on the business of money-lending in the City and whose capital is or is intended to be, as the case may be, less than Rs. 10,000 in the year in which the proceedings are held) is a party ;

(ii) the High Court in its ordinary original jurisdiction—in proceedings under this Act to which a money-lender (who carries on the business of money-lending in the City and whose capital is or is intended to be, as the case may be, Rs. 10,000 or more in the year in which the proceedings are held) is a party ;

(b) Outside the City of Bombay—

(i) the Court of the Second Class Subordinate Judge—in proceedings under this Act to which a money-lender (who carries on or intends to carry on the business of money-lending within the

[Appendix 11—*contd.*]

local limits of such Court and whose capital is or is intended to be, as the case may be, less than Rs. 10,000 in the year in which such proceedings are held) is a party;

(ii) the Court of the First Class Subordinate Judge—in proceedings under this Act to which a money-lender (who carries on the business of money-lending within the local limits of the jurisdiction of such Court and whose capital is or is intended to be, as the case may be; Rs. 10,000 or more in the year in which such proceedings are held) is a party.

4. *Procedure in Competent Courts.*—Subject to the provisions of this Act, a Competent Court in regard to proceedings under this Act shall have the same powers and shall follow the same procedure as it has and follows in regard to civil suits.

5. *Appellate Courts.*—(1) Any person aggrieved by a decision or order in proceedings under this Act may appeal—

(a) to the High Court in its appellate jurisdiction from a decision or order passed by the High Court in its ordinary original jurisdiction or by the Court of the Presidency Small Causes Court ;

(b) to the District Court from a decision or order passed by the Court of a Second Class or First Class Subordinate Judge.

(2) Any person aggrieved by a decision or order of a District Court in appeal under sub-section (1) may, subject to the provisions of section 100 of the Code of Civil Procedure, 1908, appeal to the High Court in its appellate jurisdiction. v of
1908.

(3) (a) The period of limitation for appeals under sub-section (1) shall be 30 days and for appeals under sub-section (2) 90 days ;

(b) The provisions of the Indian Limitation Act, 1908, applicable to appeals shall, so far as may be, apply to appeals under this section. IX of
1908.

CHAPTER III.

REGISTRATION AND LICENSING OF MONEY-LENDERS.

6. *Appointment of Registrar.*—The Provincial Government may appoint Registrars of money-lenders for the purposes of this Act and may define the areas within which each Registrar shall exercise his powers and perform his duties.

7. *Register of money-lenders.*—The Registrar shall maintain a register of money-lenders in such form as may be prescribed.

8. *Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence.*—No

[Appendix 11—*contd.*]

money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

9. *Application for licences.*—(1) Every money-lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Registrar of the area within the limits of which he intends to carry on the business of money-lending. Such application shall contain the following particulars, viz.—

(a) the name in which such money-lender intends to carry on business ;

(b) if the application is by or on behalf of—

(i) an individual, the name and address of such individual,

(ii) an undivided Hindu family, the names and addresses of the manager and the adult co-parceners of such family,

(iii) a body corporate, the names and addresses of the director, managers or officers thereof,

(iv) an unincorporated body of individuals, the names and addresses of such individuals ;

(c) the area and the place or principal place of the business of money-lending in the Province ;

(d) the name of any other place in the Province where the business of money-lending is carried on or intended to be carried on ;

(e) whether the person signing the application has himself, or any of the adult co-parceners of an undivided Hindu family, or any member of the body corporate or unincorporated on behalf of which such application has been made has, or have carried on the business of money-lending in the Province in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other co-parcener or any other person in the same or any other name ;

(f) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made.

(2) The application shall be in writing and shall be signed by the individual, or, if the application is made on behalf of an undivided Hindu family, by the manager and the adult co-parceners of such family, or, if the application is made by a body corporate or unincorporated by the managing director or any other person having control of its principal place of business in British India or of its place of business in the area in which it intends to carry on the business or by an agent authorised in this behalf by the individual money-lender himself, or the family, or the body corporate or unincorporated, as the case may be.

[Appendix 11—*contd.*]

(3) The application shall also contain such other particulars as may from time to time be prescribed.

(4) A money-lender may apply for the grant of a licence to the Registrars of more than one area within the limits of which he intends to carry on the business of money-lending.

(5) If during the pendency of the year for which a licence has been granted to a money-lender such money-lender intends to invest additional capital in the business of money-lending in any particular area he may apply to the Registrar for the grant of a supplementary licence.

10. *Entry in Register and grant of licences.*—(1) On the receipt of an application under section 9 and on payment in the prescribed manner of such licence duty as is specified in the Schedule, the Registrar may, subject to the provisions of section 14 and after making a summary inquiry, enter the name of such applicant in the Register and grant the applicant a licence in such form and subject to such conditions as may be prescribed.

(2) If, at any time during a year for which a licence has been granted, the Registrar has reason to believe that a money-lender has invested capital in the business of money-lending in excess of that for which he has paid the licence duty, the Registrar may, after making a summary inquiry, determine the additional amount of the licence duty which the money-lender is liable to pay and may recover the same from the money-lender.

(3) For the purpose of sub-sections (1) and (2), the Registrar shall have ^{V of} and may exercise the same powers as are vested in a Civil Court under ^{1908.} the Code of Civil Procedure, 1908, in respect of the following matters :—

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) compelling the production of documents and material objects ;
- (c) issuing commissions for the examination of witnesses ; and
- (d) proof of facts by affidavits.

(4) The provisions of this section shall apply *mutatis mutandis* to application for a supplementary licence under sub-section (5) of section 9.

11. *Licences to be annual.*—Every licence shall be granted annually but shall expire on the 31st day of March in each year immediately following the date on which it was granted.

12. *Money-lender not to carry on money-lending business for area for which he does not hold licence.*—No money-lender shall after the commencement of this Act carry on or continue to carry on the business of money-lending in any area in the Province for which he does not hold a licence.

[Appendix 11—*contd.*]

13. *Stay of suits by money-lenders not holding licence.*—(1) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit to which this Act applies, and filed by a money-lender, unless the Court is satisfied that at the time when the loan or a part of the loan to which the suit relates was advanced, the money-lender held a licence which was not suspended, cancelled, or which had not expired.

(2) If during the trial of any such suit, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and may require the money-lender within a period of three months to produce a licence on payment to the Registrar of all the arrears of the licence duty payable by him under this Act for the period commencing from the date from which he started money-lending business, or after the expiry of six months from the date on which this Act comes into force, whichever is later, together with penalty not exceeding three times the licence duty payable by the money-lender for the year in which such licence should have been obtained :

Provided that when the Court is satisfied that the failure of the money-lender to obtain a licence was due to any reasonable cause, the Court may direct that no penalty as aforesaid or part of such penalty shall be paid by the money-lender.

(3) The Court may, on sufficient cause being shown, from time to time extend the period during which the money-lender shall be required to produce a licence.

(4) If the money-lender fails to produce the licence required under sub-section (2) within the period specified therein or within such period as may be extended under sub-section (3), the Court shall dismiss the suit. If the money-lender produces such licence within the aforesaid period, the Court shall proceed to hear the suit.

(5) The provisions of this section shall apply to a claim for a set off on behalf of a money-lender.

(6) Nothing in this section shall—

(a) bar suits in respect of loans advanced by a money-lender before the expiry of six months from the date on which this Act comes into force ; or

(b) affect the powers of a Court of Wards, or a manager of an estate taken under management under the Broach and Kaira Incumbered Estates Act, 1881, or the Gujarat Talukdars Act, 1888, or an Official Assignee, a receiver, or a Court under the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, or of a liquidator under the Indian Companies Act, 1913, to realize the property of a money-lender in respect of loans advanced by such money-lender before this Act comes into force.

[Appendix 11—*contd.*]

14. *Entry in register and grant of licence to a money-lender directed to obtain licence under section 8.*—Any money-lender who is required under sub-section (2) of section 13 to produce a licence shall make an application to the Registrar in the manner specified in section 9 and on receipt of such application and on payment of the arrears of licence duty and penalty, if any, directed by the Court to be paid, the Registrar may, subject to the provisions of section 15, and after making a summary inquiry in the manner specified in section 10 enter the name of the money-lender in the Register and grant him the licence in the form and subject to the conditions specified in the section.

15. *Refusal of issue of licence.*—(1) The grant of a licence shall not be refused except on one or more of the following grounds:—

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is by order of a Competent Court disqualified for holding a licence;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence;

(c) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act;

(d) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of his business, or

(ii) has been found guilty of an offence under Chapter XVII or XLV of offences under section 465, 477 or 477-A of Chapter XVIII of the ^{of} 1860. Indian Penal Code.

(2) The Registrar refusing a licence under sub-section (1) shall record the evidence adduced before him and his reasons in writing for such refusal.

(3) An appeal shall lie from the order of the Registrar refusing a licence to the Competent Court.

16. *Application for cancellation of licence.*—(1) Any person may file an application to the Competent Court for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar under section 15 may refuse him the grant of a licence.

(2) On the receipt of such application, the Court shall hold an inquiry and shall ascertain whether the money-lender has been guilty of such act or conduct.

(3) Any person making an application under this section, which is frivolous or vexatious shall be liable to pay to the money-lender against

[Appendix 11—*contd.*]

whom such application has been made, compensation of such amount as shall, in the opinion of the Court, be sufficient.

17. *Court's power to cancel or suspend a licence.*—(1) (i) The Court passing an order of conviction against a money-lender for an offence under this Act, or

(ii) the Court trying a suit to which this Act applies, or

(iii) a Competent Court in a proceeding under this Act,

if such Court is satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending—

(a) may order that the licence held by such money-lender be suspended for such time as the Court may think fit, or cancelled ;

(b) may also, if the Court thinks fit, declare any such money-lender, or if any such money-lender is an undivided family, the manager or any adult coparceners thereof, or if such money-lender is a body corporate, or unincorporated, any person responsible for the management of business of money-lending carried on by such money-lender be disqualified from holding a licence for such time as the Court may think fit ;

(c) shall cause the particulars of the conviction and of any order made by the Court under this section to be endorsed on the licence held by the money-lender convicted or by any other person affected by the order and shall cause copies of its order to be sent to the Registrar by whom the licence was granted for the purpose of entering such particulars in the Register :

Provided that where a licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding a licence under this section, he may, whether or not he is a person convicted, appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order ; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(2) Any licence required by a Court for endorsement in accordance with sub-section (1) shall be produced in such manner and within such time as may be directed by the Court by the person by whom it is held and any person who, without reasonable cause, makes default in producing the licence so required shall, in respect of each offence be liable on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(3) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

[Appendix 11—*contd.*]

18. *No compensation for suspension or cancellation of licence.*—Any person to whom a licence has been granted shall not be entitled to any compensation for the suspension or cancellation of a licence under this Act, nor to refund of any licence duty paid or deposit made in respect thereof.

19. *Persons whose licence is cancelled or suspended debarred from doing business of money-lending.*—Any person whose licence has been cancelled or suspended in accordance with the provisions of this Act shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be deemed to be disqualified for holding a licence.

20. *Person whose licence is cancelled or suspended not to apply without giving particulars of endorsement or of disqualification.*—No person whose licence has been endorsed under section 17 or who has been disqualified from holding a licence shall apply for, or hold a licence, without giving particulars of such endorsement or disqualification.

21. *Licence duty recoverable as an arrear of land revenue.*—All licence duty including the balance of such duty due on the suspension or cancellation of a licence shall be recoverable as an arrear of land revenue.

CHAPTER IV.

REGULATION OF ACCOUNTS.

22. *Duty of money-lender to keep accounts.*—(1) Every money-lender shall keep and maintain at least a cash book and a ledger in such form as may be prescribed and shall write the same in regular course of business.

(2) Every money-lender shall—

(a) deliver to the debtor within a reasonable time after a loan is made, a statement in the language in which he keeps his accounts showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged ;

(b) give to the debtor a plain and complete receipt for all payments made on account of any such loan within a reasonable time after such payments are made ;

(c) upon repayment of the loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation and discharge any mortgage, restore any pledge, return any note and cancel any assignment given by the debtor as security.

23. *Furnishing of statement of accounts by money-lender.*—(1) Every money-lender shall furnish every debtor every year with a legible statement of accounts signed by the money-lender or his agent of any

[Appendix 11—*contd.*]

balance or the amount that may be outstanding against such debtor and such statement shall show—

(i) the amounts of the principal and interest due to the money-lender at the commencement of the year ;

(ii) the amount of any payment already received by the money-lender in respect of the loan during such year and the date on which it was made ;

(iii) the amount of every sum due to the money-lender remaining unpaid, and the date upon which it became due and the amount of interest accrued due and unpaid in respect of every such sum ;

(iv) the amount of every sum not yet due which remains outstanding and the date upon which it will become due.

The statement shall be signed by the money-lender, or his agent, and shall be in the language in which the accounts of the money-lender are ordinarily kept. It shall be in such form and shall be supplied on such date as may be prescribed.

(2) In respect of any particular loan, whether advanced before or after the commencement of this Act, the money-lender shall, on any reasonable demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand a statement in the language in which the accounts of the money-lender are ordinarily kept signed by the money-lender or his agent and showing all or any of the particulars specified in sub-section (1). Such statement shall be supplied in the English language, if the debtor pays the money-lender a fee of Rs. 2 or in any other recognised language of the Province if the debtor pays a fee of Rs. 4.

For the purposes of this sub-section the recognised languages of the Province mean any of the following languages, namely, Gujarati, Marathi, Kanarese, Urdu and Hindi.

(3) A money-lender shall, on a demand in writing by the debtor, and on tender of a prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

(4) For the purposes of this section "year" shall mean the year for which the accounts of the money-lender are ordinarily maintained in his own books.

24. *Debtor not bound to admit correctness of accounts.*—A debtor to whom a statement of accounts has been furnished under section 23 shall

[Appendix 11—*contd.*]

not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the account.

25. *Procedure of Court in suits regarding loans.*—Notwithstanding anything contained in any law for the time being in force in any suit to which this Act applies—

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of section 22 or 23 ;

(b) if the Court finds that the provisions of section 22 or section 23 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due as may seem reasonable to it in the circumstances of the case and may disallow costs ; or in computing the amount of interest due upon the loan, may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections ;

Provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the account, as the case may be, and he satisfies the Court that he had sufficient cause for not furnishing it earlier, the Court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts in the prescribed form and manner, shall be held to have complied with the provisions of section 22 or section 23, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

26. *Provisions of this Chapter not to apply to loans made by Bank, Company, or body corporate, or unincorporated.*—Nothing in this Chapter shall apply to loans advanced by a Bank, or a Company, or any body corporate or unincorporated which the Provincial Government may by notification in the Official Gazette exempt from the operation of this Chapter.

CHAPTER V.

MISCELLANEOUS.

27. *Power of the Court to limit interest recoverable in certain cases.*—Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan advanced before or after this Act comes into force, decree, on account of arrears of interest, a sum greater than the principal of the original loan.

[Appendix 11—*contd.*]

V of
1908. 28. *Power of the Court to direct payment of decretal amount by instalments.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to circumstances of the judgment-debtor and the amount of the decree, it considers fit.

29. *Limitations as to rate of interest.*—Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at the rate exceeding 9 per cent. per annum in the case of a secured loan and 12 per cent. per annum in the case of an unsecured loan shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

30. *Prohibition of compound interest and provision as to defaulting.*—Any agreement made after the commencement of this Act for the loan of money by a money-lender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest :

Provided that provision may be made in any such agreement that if default is made in the payment upon the due date of any sum payable to the money-lender under the contract, whether in respect of principal or interest, or both, the money-lender shall, subject to the provisions of section 29, be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default and any interest so charged shall not be reckoned for the purposes of this Act as part of the interest charged in respect of the loan.

31. *Prohibition of charge for expenses on loans by money-lenders.*—Any agreement between a money-lender and a debtor or intending debtor for the payment by the debtor or intending debtor to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal and if any sum is paid to a money-lender by the debtor or intending debtor as for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the debtor or intending debtor, or, in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and the amount shall be deemed to be reduced accordingly.

Exception.—Nothing in this section shall debar a money-lender from recovering costs of investigating title to the property, costs of stamp, registration of documents and other usual out of pocket expenses in cases where the contract includes a stipulation that property is to be given as security or by way of mortgage and where both parties have

[Appendix 11—*contd.*]

agreed to such costs and reimbursement thereof; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

IV of
1882.

32. Notice and information to be given on assignment of loans.—Where a loan advanced, whether before or after the commencement of this Act, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

(a) give the assignee notice in writing that the loan, agreement or security is affected by the operation of this Act; and

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto,

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention.

33. Application of Act as respects assignees.—(1) Save as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt to a money-lender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except, where the context otherwise requires, references in this Act to a money-lender shall accordingly be construed as including any such assignee as aforesaid:

Provided that—

(a) notwithstanding anything in this Act—

(i) any agreement with, or security taken by, a money-lender in respect of money lent by him after the commencement of this Act shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and

(ii) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid.

(2) Nothing in this section shall render valid for any purpose any agreement, security, or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

[Appendix 11—*contd.*]

34. Reopening of transactions.—Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise—

(a) reopen any transaction, or any account already taken between the parties ;

(b) take an account between the parties ;

(c) release the debtor of all liability in respect of any excessive interest ;

(d) if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof :

Provided that in the exercise of these powers, the Court shall not—

(i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than three years from the date of the suit ;

(ii) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section.

(1) In the case of a suit brought on a series of transactions, the expression “ transaction ” shall mean the first of such transactions.

(2) Excessive interest means the rate of interest which contravenes any of the provisions of sections 29 and 30.

35. Inquiry for taking accounts and declaring the amount due.—(1) Any debtor may make an application at any time to the Competent Court whether the loan to which the suit relates has or has not become payable for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and shall be accompanied by a prescribed fee.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of Chapter IV and this Chapter.

36. Deposit in Court of money due to money-lender.—(1) At any time after a debtor has sent to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest

[Appendix 11—*contd.*]

or both, if the money-lender refuses to accept the sum, the debtor may apply to the Competent Court to deposit the said sum in Court to the account of the money-lender.

(2) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and the money-lender may, on presenting a petition (verified in manner prescribed by law for the verification of plaints) stating the sum then due in respect of the loan, and his willingness to accept the money so deposited, receive the sum.

(3) If the money-lender withdraws the sum deposited by a debtor under sub-section (1), he shall not be bound by any statement made by the debtor in depositing the sum.

(4) When the debtor has deposited in the Court under this section the sum due in respect of the loan, if such money is in payment of the principal or any part thereof, the interest on such principal or part shall notwithstanding any agreement between the parties cease from the date of the service of notice on the money-lender under sub-section (2).

(5) Nothing in this section shall affect the operation of the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, in regard to loans to which the said provisions apply. IV of
1882.

37. Entry of a sum in a bond, etc., greater than the loan advanced to be an offence.—(1) No money-lender shall obtain a decree, whether *ex parte* or by consent or otherwise or an award to which the debtor is a party, or take any power of attorney, any note, promise to pay, or security, which does not state the actual amount of the loan, or which states such amount wrongly or which does not state the time for which it is made and the rate of interest charged, or any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(3) Notwithstanding anything in any law in force, any such decree, award, power of attorney, note, promise or security shall be void and shall not be enforceable.

38. Penalty for molestation.—(1) Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing—

(a) obstructs or uses violence to or intimidates such other person,
or

[Appendix 11—*contd.*]

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be,

shall be deemed to molest such other person :

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

V of
1898. (2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898, an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

39. *General provision regarding penalties.*—Whoever makes default in complying with or acts in contravention of any provision of this Act and if the money-lender is—

(i) an individual, such individual, or

(ii) an undivided Hindu family, the manager and all adult co-parceners of such family,

(iii) a body corporate, the Director, Manager or any officer of such body, or

(iv) an unincorporated body, all members of such body,

who is or are knowingly a party to such contravention, shall, if no specific penalty has been provided in this Act, be punishable—

(a) for the first offence with fine which may extend to Rs. 200,

(b) for the second offence with fine which may extend to Rs. 500, and

(c) for any subsequent offence to rigorous imprisonment which may extend to three months.

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of
1860. 40. *Every officer to be public servant.*—Every officer of the Crown acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

41. *Protection to persons acting under the Act.*—No suit or proceeding shall lie against any officer of the Crown for anything which is in good faith done or intended to be done under this Act.

42. *Rules.*—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

[Appendix 11—*contd.*]

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters :—

- (a) the form of the register under section 7 ;
- (b) the form of the application for a licence and the further particulars to be included therein under section 9 ;
- (c) the form and conditions of the licence, the manner of payment of licence duty and the procedure for a summary inquiry under section 10 ;
- (d) the language, form, manner of the statement of accounts and the details to be included therein under section 23 and the sum of money to be paid for a copy of a document ;
- (e) the fee and the sum of expenses to be paid under section 23 ; and
- (f) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the provisions of this Act.

(3) Rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

Schedule of licence duty.

(Section 10.)

The amount of capital advanced in the previous year ending on 31st of March, immediately preceding the date of the application.	The amount of licence duty payable.
	Rs.
Not exceeding Rs. 2,000	1
Not exceeding Rs. 5,000	10
Not exceeding Rs. 10,000	25
Not exceeding Rs. 50,000	50
Not exceeding Rs. 1,00,000	100
Not exceeding Rs. 10,00,000	500
Exceeding Rs. 10,00,000	1,000

[Appendix 11—*contd.*]

STATEMENT OF OBJECTS AND REASONS.

The money-lenders at present are not regulated by any enactment. There are certain enactments such as the Dekkhan Agriculturists' Relief Act, the Usurious Loans Act, which control some aspects of the transactions of money-lenders. It has been generally recognised that there must be some legislation which will enable Government to have some control over persons who play such a large part in the economic life of the population. Government have, therefore, brought forward this Bill.

2. Broadly it is divided into five Chapters :

Chapter I deals with definitions.

Chapter II deals with power of Courts.

Chapter III deals with the registration and licensing of money-lenders.

Chapter IV deals with the regulation of accounts.

Chapter V is miscellaneous.

3. *Chapter III.*—Every money-lender is required to take out a licence from a Registrar of Money-Lenders, appointed by the Provincial Government for defined areas. From the scope of the Bill are excluded, by the definition of money-lender read with that of loan, deposits of money or other property in a Government Post Office Bank, or any other Bank, or in a Company, or with a Co-operative Society. Loans advanced by or deposits with societies registered under the Act of 1860 are similarly excluded. It is proposed to enforce the Act after the expiry of six months from the commencement thereof. Money-lenders not holding a licence under the Act are precluded from getting a decree from any Court in a suit to which the Act applies. The failure to obtain a licence would not necessarily non-suit the plaintiff money-lender; the Court may require him to produce a licence within three months and may give him more time for such production. Such licence would be obtainable on payment of all the arrears of the licence duty and penalty, subject to a maximum of three times the licence duty payable for the year. The grounds for the refusal of licence by the Registrar are limited to four cases only—

(i) when the applicant is disqualified by the Court to hold a licence ;

(ii) when the applicant has not complied with the provisions of the Act or Rules ;

(iii) when the applicant has made wilful default in complying with the requirements of this Act ;

(iv) when satisfactory evidence has been produced that the applicant has knowingly participated in fraud or dishonesty in the

[Appendix 11—*contd.*]

conduct of his business or has been guilty of an offence under Chapter XVII or section 465, 477 or 477A of the Indian Penal Code.

4. Provision has been made for any person filing an application for cancellation of a licence granted to a money-lender on any of the grounds on which a licence could have been refused as above. Power is given to Court passing an order of conviction against a money-lender to order a licence to be suspended or cancelled.

5. *Chapter IV.*—An important feature of the Bill is the requirement of keeping accounts by money-lenders. Every money-lender is to deliver to the debtor a statement of accounts; a plain and complete receipt for every payment; and on repayment of the loan in full he is required to mark indelibly every paper signed by the debtor indicating payment or cancellation and discharge of any mortgage, etc.

6. Provision is also made for special procedure in Courts in suits regarding loans. In every suit to which a money-lender is a party a duty is imposed upon Courts to see that the money-lender has complied with the provisions of sections 22 and 23. Where he has not, the Court has been given power to disallow the whole or any portion of the interest found due. The provisions regarding accounts are not to apply to banks, or companies, or bodies corporate or unincorporated which may be exempted by the Provincial Government.

7. *Chapter V.*—This chapter deals with general provisions. Interest exceeding in amount the principal of the original loan is prohibited. The Court is also given power to order the amount of any decree to be paid in instalments or subject to such conditions as the Court deems fit, having regard to the circumstances of the judgment-debtor and the amount of the decree.

8. The rate of interest, notwithstanding any agreement between the money-lender and debtor, is limited to 9 per cent. in the case of secured loans and 12 per cent. in the case of unsecured loans. Compound interest is prohibited. Similarly charges on account of expenses incurred by money-lenders in respect of loans are prohibited. It is, however, provided that reasonable costs for the inspection of revenue and registration records including examination of title may be charged by a money-lender.

9. Where a loan is assigned the Bill provides for notice and information to be given to the assignee of the assignment of the loan, to enable the assignee to comply with the provisions of the Act regarding supply of information, copies of documents, etc. The provisions of the Act are made applicable to such assignees.

10. Power is given to the Court to reopen transactions. It is, however, provided that any agreement or adjustments shall not be reopened unless they have been entered into within three years of the date of the suit. It is also provided that the Court shall not reopen a transaction if it affects a decree of a Court.

[Appendix 11—concl'd.]

11. A summary remedy is provided by which a debtor may apply to the Court for taking accounts and for a declaration regarding the amount due to the creditor. It is also provided that if the Court finds that the money-lender has been overpaid the Court shall order refund to the debtor of the sum so overpaid. The order is to be deemed to be a decree and shall be executable as such.

12. If a money-lender enters in a bond a sum in excess of the actual loan advanced, it is proposed that he shall be deemed to have committed an offence punishable with fine up to Rs. 1,000.

13. Another important feature of the Bill is that molestation of a debtor by a money-lender is made an offence punishable with imprisonment of either description up to three months or with fine up to Rs. 500 or with both. Molestation is defined as obstructing or using violence or intimidating or persistently following the debtor, or loitering at or near his house, so as to cause him to abstain from doing or doing any act which he has a right to do or to abstain from doing and it is made a cognizable offence.

14. When the money-lender who commits an offence under this Act is an undivided Hindu family, the manager and all adult co-parceners of such family, when it is a body corporate, the director, manager or any officer of such body, and when it is an unincorporated body, all members of such body are to be deemed to have committed the offence.

K. M. MUNSHI.

15th January 1938.

APPENDIX 12.

BILL No. V OF 1938.

(A Bill to remove disabilities of Harijans in regard to worship in temples.)

REPORT OF THE SELECT COMMITTEE.

We, the members* of the Select Committee appointed to consider Bill No. V of 1938 (A Bill to remove disabilities of Harijans in regard to worship in temples), have the honour to report as follows:—

We have carefully considered the Bill and have made several changes therein. The reasons for the principal changes are given below, against the clauses in which they occur.

Clause 1, sub-clause (2).—As it will be necessary to make rules under the Act before it comes into force, we have amended this clause so as to provide that the Act shall come into force on 1st April 1938.

*Note.—The signatures of Mr. R. B. Thorat and Mr. S. G. Songavkar will be notified when received.

[Appendix 12—contd.]

Clause 2.—We consider that the declaration made under section 3 in the City of Bombay should be filed in the High Court only. We have accordingly amended the definition of the term "Court".

We have also revised the definition of "Trustee" in order to include within this term persons who actually administer the temple.

Clause 4.—We have amended this clause in order to provide that the Court shall not give public notice of the declaration made under section 3 unless it is satisfied that the conditions specified in the declaration do not contravene the requirements of the proviso to sub-section (1) of section 3.

We have also added a new sub-clause giving power to the trustees to alter the conditions specified in the declaration made under section 3 with the previous sanction of the court.

Clause 5.—We consider that it is necessary to lay down the procedure to be followed by the court in making an inquiry under this Act. We are also of the opinion that the decision of the court should be final and conclusive for the purposes of this Act. We have accordingly redrafted this clause.

Clause 6.—This corresponds to original clause 5.

Clause 7.—We are of the opinion that the declaration made under section 3 should take effect on the expiry of three months from the date of its publication by the court under section 4 or, if an application to set aside the declaration is made under section 5, from the date of the decision of the Court on such application. We have accordingly inserted this new clause making this provision.

Clauses 8 and 9.—These correspond to original clauses 7 and 8.

As the Report is to be submitted to the Assembly tomorrow, we are of the opinion that the translation of the Report and of the Bill as amended may be dispensed with. We are not, therefore, making any recommendation as regards the translation of the Report, the minutes of dissent and the Bill, as amended, in any recognised language of the Province.

(Signed) K. M. MUNSHI.

(„) B. R. RANE.

(„) B. D. LALA.

(„) V. N. JOG.

(„) LAXMIBAI THUSE.

(„) R. N. MANDLIK.

(Subject to a minute of dissent.)

(„) S. L. KARANDIKAR.

(Subject to a minute of dissent.)

(„) D. W. RAUT.

(„) B. U. VAGHELA.

(„) DINKARRAO N. DESAL.

[Appendix 12—*contd.*]

(*Minute of Dissent by Mr. R. N. Mandlik, M.L.A., and
Mr. S. L. Karandikar, M.L.A.*)

The provision in the Bill to give full license to the Trustee or majority of them, to ride roughshod over the wishes of the author of the Trust, notwithstanding that they are clearly expressed in the trust-deed, that the temple should be reserved for worship to the Caste Hindus alone, is to say the least immoral. No Government worth the name, least of all the Congress Government under the guidance of Mahatma Gandhiji, the Apostle of Truth, Love and Non-violence, ought to encourage Trustees to commit a breach of trust of this sort. If an Orthodox Hindu desired to build a temple for the exclusive use of the Caste Hindus and entrust same to the Trustees with a stipulation to that effect, this Bill will debar him from doing so. This is a clear invasion of his fundamental civil rights. If the Congress Government really stands for them and respects them, they ought to be the last to force a man by law not to follow his religious principles, as he honestly understands them. One may dislike those principles and even consider them silly! But nobody can have any legal right to prevent him from following them, so long as he causes no actual harm to anybody or transgresses morality or public order, in doing so.

The Bill invests the trustee or majority of them with almost dictatorial powers. We read in the Bible that God said "let there be light" and there was light! Similarly under this Bill, if a trustee or majority of them said "let the temple be open to Harijans" and it will be opened to them, notwithstanding the wishes to the contrary either of the author of the trust or of the bulk of the usual worshippers at the temple. Dictatorship always breeds irresponsibility. Legislature, therefore, ought not to encourage both. A safeguard in the form of referendum, if included in the Bill, will go a long way to satisfy the orthodox Hindus and will also prove a valuable check on the irresponsible tendencies of the trustee.

A trustee is after all human and liable to err. He cannot always be above usual temptations. He may at times be carried by his enthusiasm to open a temple to Harijans. But in his calmer moments or after actual experience of how it works he may like to revise his past decision. But this Bill makes no provision to enable him to do so!

A trustee may also be bribed or intimidated, as a result of which he may make a declaration under this Act to open the temple to Harijans. In such a case there ought to be a remedy through a court of law, to set aside the declaration. But the Bill provides no such remedy. This defect in the Bill ought to be done away with.

My amendments were-mostly meant to meet the orthodox Hindu point half-way. I and the Democratic Swaraj Party to which I belong are entirely in favour of the complete eradication of the untouchability and the opening of temples to the Harijans. But we want to carry our orthodox brethren with us, as far as possible. We would not mind

[Appendix 12—*contd.*]

slowing the speed of reform for that purpose. In any case, we would refrain from forcing it on them by legislation. The bulk of the Hindu population is still orthodox. It is not vocal, it is disorganised. But for that very reason we must win them by love and justice, by intensive and vigorous propaganda. A wonderful progress has been made in this respect among the orthodox Hindus during the last five or ten years and I am confident that if further vigorous and intensive propaganda is carried among them for some time more, the orthodox opposition in this matter will completely vanish before long.

I am sorry that none of my amendments have been acceptable to the Select Committee or the Government. I am afraid that if the Bill is passed by the House as it is, it will either remain a dead letter in the rural areas or cause disturbance of peace and tranquillity therein, since the orthodox and illiterate masses in those areas are not yet quite ready for the reform proposed in the Bill. I trust that the Government and the House will give due consideration to my observations in this minute of dissent and do what they think just and right.

(Signed) R. N. MANDLIK.

27th January 1938.

I agree.

(Signed) S. L. KARANDIKAR.

27th January 1938.

BILL No. V OF 1938.

(LEGISLATIVE ASSEMBLY.)

A Bill to remove disabilities of Harijans in regard to worship in temples.

(As amended by the Select Committee.)

WHEREAS it is expedient to provide for the removal of disabilities of Harijans in regard to worship in temples; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Harijan Temple Worship (Removal of Disabilities) Act, 1938.

[(2) This Act extends to the whole of the Province of Bombay and shall come into force at once.]

(2) *This Act extends to the whole of the Province of Bombay and shall come into force on the 1st day of April 1938.*

[Appendix 12—contd.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

[(1) “ Court ” means the Court of the District Judge or within the limits of the ordinary jurisdiction of the High Court of Bombay, the Court of the Judge of the Presidency Small Causes Court ;]

(1) “ Court ” means the Court of the District Judge and includes the High Court in the exercise of its ordinary original civil jurisdiction ;

(2) “ District ” means a district constituted under section 3 of the Bombay Civil Courts Act, 1869, and includes the City of Bombay ;

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of
1869.

(3) “ Harijan ” means a member of a caste, race or tribe deemed to be a Scheduled caste under the Government of India (Scheduled Castes) Order, 1936 ;

(4) “ Hindu Community ” includes Jains ;

(5) “ Person having interest ” means a person who is entitled to enter or attend for the purpose of the performance of worship in a temple or who is in the habit of entering or attending for such purpose or of receiving any share in the gifts thereto ;

(6) “ Prescribed ” means prescribed by rules made under section 9 ;

[(7) “ Rule ” means a rule made under this Act ;]

(7) [(8)] “ Temple ” means a place by whatever designation known used as a place of public religious worship and dedicated to or for the benefit of or used as of right by, the Hindu Community or any section thereof, as a place of religious worship ;

(8) “ Trustee ” means a person by whatever description known in whom the administration of a temple is vested by any law for the time being in force or the terms of the instrument of the trust, or the terms of a decree or order of a competent Court, relating to such temple, or if there is no such person, any person who has administered the temple for a period of one year immediately prior to the date of the declaration made under section 3 and who is liable as if he were a trustee.

[(9) “ Trustee ” means a person by whatever designation known in whom the administration of a temple is vested and includes any person who is liable as if he were a trustee ;]

(9) [(10)] “ Worship ” includes attendance at a temple for the purpose of darshan of a deity or deities installed in or within the precincts thereof.

3. *Declaration by trustees opening the temple to Harijans.*—(1) A trustee, or if there are more than one trustee, the majority of the trustees of a temple which, by anything contained in the terms of instrument of trust, the terms of dedication or a decree or order of a competent Court relating to such temple or by any custom, usage or law for the time being in force, is not open for

[Appendix 12—*contd.*]

the performance of worship to any Harijan may, of his or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms of such instrument, the terms of the dedication, the decree or order, custom, usage or law, declare in writing that such temple shall [from the date specified in the declaration] be open to the Harijans to whom such temple was not open, for the performance of worship, subject to such conditions and the observance of such ceremonies as may be specified in the declaration :

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only.

(2) The declaration shall be in such form and shall contain such particulars as may be prescribed.

(3) The declaration shall be forwarded to the Court within the local limits of whose jurisdiction [it] *the temple* is situate.

(4) The declaration forwarded to the Court shall be accompanied by an affidavit made by the trustee or the majority of the trustees, as the case may be, that he is the trustee or they are the majority of the trustees of the temple in respect of which the declaration is made and also in the case of a temple which is a public trust to which the provisions of the Bombay Public Trusts Registration Act, 1935, apply, by a certified copy of an entry in the Register of Public Trusts maintained under section 7 of the said Act relating to the names and addresses of the trustees of such public trust. Bom.
XXV
of
1935.

[4. *The publication of declaration.*—On receipt of such declaration, the Court to which it is forwarded shall cause public notice to be given]

4. (1) *On receipt of such declaration, the Court shall, if it is satisfied that the conditions specified in the declaration do not contravene the requirements of the proviso to sub-section (1) of section 3, cause public notice to be given* at convenient places on or near the temple in respect of which the declaration has been made and shall cause the declaration to be published in the *Official Gazette* and in a newspaper published in the principal vernacular of and circulating in the district. The declaration so published shall subject to the provisions of section 6 be irrevocable and the publication of the declaration in the *Official Gazette* shall be conclusive evidence that the temple [from the date specified therein shall] [be] is open to the performance of worship to the Harijans to whom it was not so open and the instrument of the trust, the terms of dedication, the decree or order, custom, usage or law relating to the temple shall be deemed to have been amended accordingly.

(2) *Alteration of conditions in declaration.*—Any of the conditions specified in the declaration published under section 4 may, on the application of the trustee or if there are more than one trustee of the majority of the trustees of the temple be altered, added to or omitted with the previous sanction of the Court.

[Appendix 12—contd.]

5. *Application to Court to set aside declaration.*—(1) Any person interested in the temple in respect of which a declaration has been published under section 4 may, within three months from the date of such publication, make an application to the Court which has caused the declaration to be published for the following reliefs only:—

(a) that the trustee or any of the trustees making the declaration was not entitled to act as such at the time the declaration was made, or

(b) that the trustees making the declaration did not form a majority of trustees of the said temple at the time the declaration was made.

(2) On receipt of such application, the Court shall cause notice to be served on the trustee or trustees who made the declaration or upon any other person to whom in its opinion notice of the application should be given, specifying the date on which the application is to be heard.

(3) On the date so specified, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the applicant and the trustees, if any of them appears and any other person who, it considers, ought to be heard, and shall hold an inquiry.

(4) Such inquiry shall be held in the manner provided by rules made, if any, by the High Court in this behalf with the previous sanction of the Provincial Government.

Save as provided by such rules, the provisions of the Code of Civil Procedure, 1908, shall so far as may be apply to such inquiry.

(5) If the Court is satisfied—

(a) that the applicant is a person interested in the temple, and

(b) that person or persons purporting to act as the sole trustee or the majority of trustees was or were not entitled to act as such at the time the declaration was made, or the trustees who made the declaration did not form the majority of trustees entitled to act as such at such time,

it shall set aside the declaration. If the Court is not so satisfied, it shall dismiss the application.

(6) In deciding such application the Court may make such order as to costs as it thinks reasonable. The provisions of the Code of Civil Procedure, 1908, relating to the execution of decrees shall, so far as they are applicable, apply to the execution and order as to costs.

(7) The decision of the Court, under sub-section (5) shall be final and conclusive for the purposes of this Act.

6. *Exclusion of Jurisdiction of other Courts.*—Save as provided in this Act, no civil Court shall entertain any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved in such suit or proceeding or if the passing of such order or

[Appendix 12—*contd.*]

decree or if such execution would in any way affect or be inconsistent with the declaration published under section 4 or the decision of the Court under section 5.

[5. *Exclusion of Jurisdiction of other Courts.*—No Court shall entertain any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved in such suit or proceeding or if the passing of such order or decree or if such execution would be inconsistent with the declaration published under section 4.]

[6. *Suit for the declaration under section 4 being set aside.*—(1) Notwithstanding anything contained in section 5 any person interested in the temple in respect of which a declaration is made under section 4 may obtain a declaration from a competent Court:]

[(a) that the trustee or any of the trustees making the declaration was not entitled to act as such at the time the declaration was made; or]

[(b) that the trustees making the declaration did not form a majority of the trustees thereof at the time the declaration was made.]

[(2) On such Court holding that the declaration so made had not been made by a trustee entitled to act as a sole trustee or by a majority of trustees for the time being entitled to act as such the Court shall set aside the declaration made under section 4.]

[(3) A trustee who has acted as such uninterruptedly for a period of three years prior to the date of the declaration made under section 4 shall be deemed to be a trustee entitled to act as such for the purposes of this Act.]

7. *Date on which declaration to take effect.*—The declaration published under section 4 shall take effect on the expiry of 3 months from the date of its publication, provided that, if an application to set aside the declaration is made under section 5, the declaration shall take effect from the date of the decision of the Court on such application.

8. [7.] *Penalty.*—Whoever obstructs or causes or tends to cause obstruction to any Harijan from the performance of worship in a temple in contravention of the declaration made under section 4, shall, on conviction, be punishable with fine which may extend to Rs. 200 and in the case of a continuing offence, with an additional fine which may extend to Rs. 20 for every day after the first during which he has persisted in the offence.

9. *Power of the Provincial Government to make rules.*—(1) Save in regard to matters for which the High Court is empowered to make rules under section 5, the Provincial Government may make rules for the purpose of carrying out the provisions of this Act.

[Appendix 12—concl'd.]

[8.] [Power of the Provincial Government to make rules.] (1) The Provincial Government may make rules for the purpose of carrying out the provisions of this Act.]

(2) Rules made under this section shall be subject to the condition of previous publication.

H. K. CHAINANI,
Secretary to the Bombay
Legislative Assembly.

Bombay, 27th January 1938.

APPENDIX 13.

BILL No. VI OF 1938.

(A Bill to provide for the temporary relief of small holders in the Province of Bombay.)

REPORT OF THE SELECT COMMITTEE.

We, the members* of the Select Committee appointed to consider Bill No. VI of 1938 (A Bill to provide for the temporary relief of small holders in the Province of Bombay), have the honour to report as follows :—

We have very carefully considered the provisions of the Bill and have made several changes therein. The reasons for the principal changes are given below, against the clauses in which they occur.

Clause 2, sub-clause (2).—We are of the opinion that persons who hold land not exceeding 6 acres of irrigated land or 18 acres of other land or who hold land the total annual agricultural assessment of which does not exceed Rs. 30 should also get the benefit of this Bill. We have accordingly revised the definition of "Small holder".

Clause 3.—We have redrafted sub-clause (2) of this clause in order to make its meaning more clear.

Clause 5.—We consider that the provisions of the Bill should not apply to maintenance decrees. We have accordingly inserted this new clause containing this provision.

Clause 6.—This is also a new clause inserted by us, providing that decrees for the attachment or sale of milch cattle not exceeding two in number, one dwelling house and the standing crop belonging to a small holder should also be stayed.

*Note.—The signatures of Mr. D. J. Ferreira, Mr. D. W. Raut, Mr. S. L. Karandikar, Mr. R. R. Bhole, Mr. Aziz Gaffur Kazi, Mr. Musaji E. Patel and Mr. A. V. Chitre, will be notified when received.

[Appendix 13—*contd.*]

Clauses 7, 8 and 9.—These correspond to original clauses 5, 6 and 7.

Clause 10.—We are of the opinion that in cases in which on account of famine, drought, scarcity or other causes the payment of land revenue is wholly or partially suspended, the payment of interest under clause 3 or of rent under clause 9 should also be suspended in the same proportion in which the land revenue is suspended. We have accordingly inserted this new clause making this provision.

Clause 11.—We have amended this clause in order to provide that in computing the period of limitation for the enforcement of any right or liability, the period during which the proceedings under this Act are stayed shall be excluded.

Clauses 12 and 13.—These correspond to original clauses 9 and 10.

As the Report is to be submitted to the Assembly tomorrow, we are of the opinion that the translation of the Report and of the Bill as amended may be dispensed with. We are not, therefore, making any commendation as regards the translation of the Report, the minutes of dissent and the Bill, as amended, in any recognised language of the Province.

(Signed) K. M. MUNSHI.

(„) MORARJI DESAI.

(„) MORARBHAI KASANJI.

(„) N. G. VINCHURKAR.

(*Subject to a minute of dissent.*)

(„) A. N. PATIL.

(„) S. R. BHARTIYA.

(„) K. S. PATIL.

(„) S. N. KESHWAIN.

(„) K. B. DESHMUKH.

(„) G. H. DESHPANDE.

(„) VASANTRAO NAIK.

(„) L. M. SHRIKANT.

(„) DINKARRAO N. DESAI.

(*Minute of Dissent by Sardar N. G. Vinchurkar, M.L.A.*)

I am of opinion that clause 9 should be deleted.

Clause 9 (nine) is out of place in this Bill as it affects the rights and privileges of a landlord in respect to his land, the more so in the case of holders of alienated lands. Government have also conceded that the provisions of clause 9 amount to a modification of the right of the landlord

[Appendix 13—*contd.*]

under section 299 (3) of Government of India Act of 1935. It would also appear that a question of fundamental right between the landlord and tenant is indirectly brought in by this Bill whereas it would be appropriate to deal with it exhaustively when the larger Bill, which Government propose to introduce, is brought before the Assembly.

Generally this bar against the eviction of the tenant even for one year will lead to considerable hardship and even to the defeating of landlord's rights to that extent. If a landholder wishes to cultivate the land himself, he should rather be encouraged to do so ; whereas now under this clause he is precluded from doing so. Also if for certain urgent reasons a landlord has to use his land for non-agricultural purposes he is precluded from doing so. In cases where landholders have exhausted all remedies and after showing all latitude towards the tenant they feel it necessary to evict the tenant, on account of the conduct of the tenant, it would be inequitable to deprive the landlords of such a right even to the extent of one year.

There is no urgency for a provision like this.

(Signed) N. G. VINCHURKAR, M.L.A.

Note.—Deletions made by the Select Committee are shown in square brackets.

BILL No. VI OF 1938.

(LEGISLATIVE ASSEMBLY)

A Bill to provide for the temporary relief of small holders in the Province of Bombay.

(As amended by the Select Committee.)

WHEREAS it is expedient to provide for the temporary relief of small holders in the Province of Bombay and for certain other purposes specified herein ; It is hereby enacted as follows :—

1. *Short title, extent and duration.*—(1) This Act may be called the Bombay Small Holders Relief Act, 1938.

(2) It shall extend to the whole of the Province of Bombay.

(3) It shall remain in force up to and inclusive of the 31st March 1939.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) " Person " includes an undivided Hindu family.

[Appendix 13—*contd.*]

(2) "Small holder" means—

(a) an individual—

[(i) who holds land not exceeding five acres of irrigated land or fifteen acres of other land, and]

(i) who holds land not exceeding six acres of irrigated land or eighteen acres of other land, or who holds land of whatever description, the total annual agricultural assessment of which does not exceed Rs. 30, and

(ii) who cultivates land himself or is an inferior village servant ;

(b) an undivided Hindu family—

(i) which holds land not exceeding the limits specified in clause

(a) (i), and

(ii) at least one member of which personally cultivates land.

Explanation.—For the purposes of this clause, in the case of a person who holds irrigated as well as other land, one acre of irrigated land shall be deemed to be equal to three acres of other land and *vice versa*.

(3) The words and expressions used in this Act, but not defined, shall have the meanings assigned to them in the Code of Civil Procedure, 1908, [and] or the Bombay Land Revenue Code, 1879, as the case may be.

V of
1908.
Bom.
V of
1879.

3. *Stay of decrees transferred to the Collector.*—(1) Notwithstanding any law for the time being in force, all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the sale of land belonging to a small holder for the recovery of any [debt] money under a decree, the execution of which has been or may hereafter be transferred to the Collector under section 68 of the Code of Civil Procedure, 1908, shall, on the application of the small holder and on the amount of the interest, as specified under sub-section (2), *subject to the provisions of section 10*, being paid to the decree-holder or deposited with the Collector, be stayed ;

V of
1908.

Provided that such proceedings shall not be stayed, if the Collector for reasons to be recorded in writing is of opinion on the application by the decree-holder that such stay will cause substantial loss to such decree-holder.

[(2) The interest under sub-section (1) shall be the amount of interest, if any, due under the decree on the sum for the recovery of which the land is sought to be sold for a period of one year from the date on which the said sum became payable or for a period from the said date up to the date of the application by the small holder for the stay of execution under sub-section (1), whichever period is shorter.]

[Appendix 13—contd.]

(2) *The interest under sub-section (1) shall be the amount of interest if any, due under the decree on the sum for the recovery of which the land is sought to be sold for one year from the date on which the said sum became payable, or if the period from the said date up to the date of the application by the small holder for the stay of execution under sub-section (1) is less than one year, the amount of interest due on the said sum for the said period.*

(3) If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land or to the proceeds of the sale of such land are likely to be prejudiced by reason of any proceedings taken under any law for the time being in force relating to the said land, the Collector may direct that the proceedings in execution stayed under sub-section (1) shall continue.

XVII
of
1879.

4. *Possession of property under section 22 of the Dekkhan Agriculturists' Relief Act, 1879.—(1) Notwithstanding anything in section 22 of the Dekkhan Agriculturists' Relief Act, 1879, every order under the said section directing the Collector to take possession of land belonging to a small holder passed before or after the commencement of this Act shall not take effect before 31st day of March 1939.*

(2) Nothing in this section shall affect the power of the Collector to deal under the said section with any land, the possession of which has been taken before the commencement of this Act.

5. *Serving of decrees for maintenance.—Nothing in section 3 or 4 shall apply to any proceedings in execution of a decree for maintenance.*

6. *Stay of attachment and sale of dwelling houses, milch cattle and standing crop.—Notwithstanding anything in any law for the time being in force, all proceedings in execution of decrees pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the attachment or sale of the following property belonging to a small holder, shall, on the application of such holder, be stayed: namely:—*

(1) *milch cattle, not exceeding two in number,*

(2) *one dwelling house (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for its enjoyment) occupied by him, or*

(3) *standing crop.*

7. *Restriction on private transfer by small holder.—[5.] Notwithstanding anything contained in any law for the time being in force, no private transfer of any land or dwelling house belonging to a small holder, the proceedings for the sale of which have been stayed under this Act or of any interest therein made by him after this Act comes into force, shall be valid except with the previous sanction of the Collector of the district in which such land is situate:*

[Appendix 13—contd.]

Provided that no such sanction shall be given unless the Collector is of opinion—

(a) that such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors; or

(b) (i) that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned, and

(ii) that such transfer does not adversely affect the interests of any creditor of the small holder.

8. *Collector's decision to be final in certain cases.*—[6.] If in any proceedings under *this Act* [any of the three preceding sections,] a question arises whether a person is a small holder such question shall be decided by the Collector in a proceeding under section 3 or 4 and by the Court in a proceeding under section 6 and the decision of the Collector or the Court, as the case may be, shall, notwithstanding anything contained in any law for the time being in force, be final.

9. *Bar against eviction of tenant.*—[7.] Notwithstanding any law for the time being in force or any contract between the parties, no tenant who has been in possession of land used for the purpose of agriculture uninterruptedly from the first day of January 1932 shall, in pursuance of any decree or order of any Court, be evicted from such land, if such tenant tenders subject to the provisions of section 10, to the landlord or any person acting on his behalf [all] rent due in respect of the land for the year ending with the 30th day of June 1938, and is willing to hold the land thereafter as a tenant on the same terms and conditions on which he was holding the same at the date when the cause of action arose to the landlord for the purpose of evicting him.

10. *Interest or rent not to be paid or reduced in cases in which land revenue is suspended wholly or partially.*—(1) In the case of any land in respect of which, on account of famine, drought, scarcity or other causes, the collection of land revenue for the current year is wholly suspended at any time during the period for which *this Act* remains in force under the general or special orders of the Provincial Government, a small holder to whom such land belongs shall not under section 3, or a tenant who is in possession of such land shall not under section 9, be liable to pay any interest or rent, as the case may be.

(2) If in the case of such land the collection of such land revenue is partially suspended, the amount of interest or rent payable by him under section 3 or section 9 shall be reduced in the same proportion.

11. *Revival of rights, liabilities and obligations after the expiry of the Act.*—[8.] Any right, privilege, obligation or liability acquired, accrued or incurred under any enactment, decree or order of any Court, or any contract between the parties immediately before the commencement of *this Act* or which may be acquired, accrued or incurred, during the period for which *this Act* remains in force, but the enforcement of which has been

[Appendix 13—concl'd.]

stayed by the provisions of this Act, shall immediately on the expiration of this Act, revive and be enforceable as if this Act had not been passed.

In computing the period of limitation for the enforcement of any such right, privilege, obligation or liability, the period during which the proceedings in respect thereof are stayed under this Act shall be excluded, notwithstanding anything contained in any law for the time being in force.

12. *Delegation of powers of Collector.*—[9.] All powers exercisable by the Collector under this Act may be exercised by the Assistant or Deputy Collector or by such officer as may be empowered by the [Collector] *Provincial Government by general or special order* in this behalf.

13. *Rules.*—[10.] The Provincial Government may, by notification in the Official Gazette, make rules to carry out the purposes and objects of this Act.

APPENDIX 14.

AGENDA.

Supplementary Agenda for the first Session of the Bombay Legislative Assembly which commenced on the 10th January 1938
[Vide Standing Order X, 1 (1) (d)].

DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Resolutions by Mr. D. W. Raut, M.L.A.

1. "This Assembly recommends to Government that a Committee consisting of members of this Assembly and some agricultural experts should immediately be appointed to suggest ways and means whereby the actual tillers who are owners of lands at present, will not be ousted from their ownership and the landless tillers will come to own some land."

2. "This Assembly recommends to Government to amend the Bombay Land Revenue Code in such a way that cultivators having an annual income of less than rupees two hundred and fifty from agriculture should be exempted from the payment of land revenue assessment."

3. "This Assembly recommends to Government to amend the Bombay Land Revenue Code in such a way that so much portion of the agricultural produce as is necessary, till the next harvest, for the maintenance of an agriculturist and his family should be exempted from being distrained and sold by Government for the recovery of land revenue or from being attached in execution of decrees or orders."

4. "This Assembly recommends to Government that, with a view to solve the problem of unemployment to some extent in this Province, all appointments to Government and semi-Government posts in this

[Appendix 14—contd.]

Province should be strictly restricted to *bona fide* residents of this Province only."

5. "This Assembly recommends to Government to increase the salaries of the menial staff in Government and semi-Government offices in this Province in such a way as to enable the menial staff to live according to its status in life."

6. "This Assembly recommends to Government that the constitutions of the local bodies such as District Local Boards, Municipalities, Village Panchayats etc., should be so amended that every adult person living in their respective areas shall have the right of voting at any election held therefor."

7. "This Assembly recommends to Government to call for the grievances of cultivators about forest matters from the District Forest Advisory Committees and to take necessary steps to remove the same."

Resolutions by Mr. Kanji Govind Kerson, M.L.A.

1. "This Assembly recommends to Government that a Committee should immediately be appointed to draft a Bill providing for the establishment of an Agriculturists' and Labourers' Loan Relief State Bank in the Province with one branch at each taluka place with Taluka Revenue Officer as its head through which alone private money-lenders may issue loans to agriculturists and labourers and which shall charge 6 per cent. interest to agriculturists and labourers but pay only 4 per cent. to money-lenders retaining two per cent. for the expenditure of the Bank."

2. (As No. 5 of Khan Bahadur Sardar Haji Amirsahab Mohidinsaheb Rais) on the Main Agenda.

3. "This Assembly recommends to Government that in view of the fall in prices of agricultural commodities by more than 50 per cent. they should grant remission of land revenue at least to the extent of 50 per cent. so as to provide the agriculturists with adequate relief."

4. "This Assembly recommends to Government to give encouragement to the Ayurvedic and Unani Systems of medicine by

(a) giving them Government recognition and grants;

(b) appointing a Committee consisting of members of the Assembly and other representatives of those systems to make a survey of all institutions doing education and medical relief work;

(c) opening Ayurvedic and Unani Dispensaries all over the Province;

(d) giving grants to such of the Ayurvedic and Unani Dispensaries as are opened by Local Bodies;

[Appendix 14—*contd.*]

(e) establishing at a suitable place in the province a college of studies in these systems of medicine and arranging for the registration of graduates thereof."

5. "This Assembly recommends to Government that as the incidence of taxation imposed by the Bombay (District) Tobacco Act, 1933, as amended by Bombay Act No. II of 1935, ultimately falls on the agriculturists and labourers, no new Tobacco Bill should be introduced by Government, when the said Act expires on 31st March 1938."

6. "This Assembly recommends to Government that a Committee consisting of members of this Assembly should immediately be appointed to investigate into the causes of industrial, educational and economic condition of Katkari labourers and to suggest adequate and speedy measures for the improvement of their condition."

7. "This Assembly recommends to Government that Government waste lands should be given free of charge to agricultural labourers."

Resolutions by Mr. Jamnadas M. Mehta, M.L.A.

1. (As No. 1 of Mr. K. G. Gokhale on the Main Agenda.)
2. (As No. 2 of Mr. K. G. Gokhale on the Main Agenda.)

Resolutions by Mr. G. K. Phadake, M.L.A.

1. "In view of the inadequacy of the Bombay Nurses, Midwives and Health Visitors Act, 1935, to meet the conditions of the City of Bombay, this Assembly recommends to Government to amend the said Act, at an early date so as to provide for the control of the profession of midwives by the Municipal Corporation of Bombay, the prohibition of working as midwives by unqualified women but safeguarding the interests of the unqualified women at present following this profession and giving instructions to indigenous *dais* and the registration of such *dais* until such time as the profession of trained and registered midwives is financially accessible to all classes of people."

Resolutions by Mr. S. V. Parulekar, M.L.A.

1. "This Assembly recommends to Government to withdraw the Order No. 9639-B (3) issued under the Payment of Wages Act, authorising deductions for payments to the Co-operative Credit Societies registered under the Bombay Co-operative Societies Act, 1925."

2. "This Assembly recommends to Government to withdraw the Order No. 9639-B (1) issued under the Payment of Wages Act, authorising deductions from the wages in respect of the amenities and services supplied by the employer."

[Appendix 14—concl'd.]

Resolution by Mr. V. N. Jog, M.L.A.

1. "This Assembly recommends to Government to move His Majesty's Government to issue an Order in Council creating a new Governor's Province to be called the "Province of Karnatak" by amalgamating all the Kanarese speaking areas of the Provinces of Bombay, Madras and Coorg."

Resolution by Mrs. Lilavati K. Munshi, M.L.A.

1. (As No. 1 of Mr. G. K. Phadke.)

H. K. CHAINANI,
Secretary to the Bombay
Legislative Assembly.

Bombay, 26th January 1938.

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Principles—

Motions for adjournment are meant for obtaining an immediate debate upon grave and serious matters. The test for determining "urgency" within the meaning of the phrase "definite matter of urgent public importance" occurring in the rule allowing adjournment motions, is whether or not the subject-matter of the motion occurred at a period which did not give the member moving the adjournment motion an opportunity of tabling a resolution and thereby bringing the matter up for discussion before the House.

The right to move an adjournment motion is not an absolute right to be exercised irrespective of and without reference to the rights and convenience of the whole House, but it is a qualified right with corresponding obligation of seeing that a mere desire to discuss a subject on the floor of the House does not interfere, as far as possible, with the fixity of the day's programme. ..

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Subject-matter—

An adjournment motion to discuss the correctness or otherwise of the view taken by the Chair is not permissible

579

Motions for adjournment to discuss definite matters of urgent public importance must have some relation to the conduct or default of Government and must be in the nature of criticism of the Government either for having done some action or for having failed to do some action which was urgently necessary at the moment; otherwise they are out of order.

829-31

Position explained

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Assembly etiquette—

It is not permissible for any one who is not a member to enter the House, nor is it permissible for any person who is not a member to cross the galleries and go into the Ayes and Noes lobbies.

The members of the House should see that none of their friends or any other persons come within the House itself or into the lobbies.

If any member wants to see any of his friends, there is a separate place provided for that purpose outside, and it is permissible for members to leave the House and to see their friends there

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When any party makes a statement or remark and intimates a walk-out, it would be proper for it to hear what the opponent has to say in reply to any statement or remark made by the leader of that party. A discussion on the question will not be allowed

503-06

Members should not cross the floor when a member is speaking so as to come between the Chair and the speaking member

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A member is entitled to speak in his own language and to be heard without being laughed down

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A Parliamentary Secretary has the right of speaking on behalf of the Minister to whom he is attached, whether the Minister is present in the House or not. It will be presumed that the Minister has authorised him to speak on his behalf. If any member questions the authority of the Parliamentary Secretary, a declaration by the latter that he has been authorised by the Minister will be sufficient 772

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