

[Mr. Deputy Chairman.]

9. The Central Sales Tax Bill, 1956, as passed by the Lok Sabha (Consideration and Return) 5 hours.
10. The Finance (No 2) Bill, 1956 ~)
11. The Finance (No.3) Bill 1956 >- 6 hours.  
(Consideration and Return) J
12. The Standards of Weights and Measures Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 2 hours
13. The Foreigners Laws (Amendment) Bill, 1956, Consideration and Passing) 1 hour.
14. The Road Transport Corporation (Amendment) Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 2 hours.
15. The Employees' Provident Funds (Amendment) Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 1 hour, 30 minutes
16. The Electricity (Supply) Amendment Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 3 hours.
17. The Sea Customs (Amendment) Bill, 1956 (Consideration and Passing) 30 minutes.
18. The Appropriation Bills relating to Supplementary Demands for Grants—General and Railways (Consideration and Return) 2 hours.
19. The Banking Companies (Amendment) Bill, 1956 (Consideration and Passing) 2 hours.
20. The Territorial Army (Amendment) Bill, 1956, as passed Lok Sabha (Consideration and Passing) 2 hours.

In order to be able to complete the business by the 21st December 1956 (the day at present fixed for adjournment of the House), the Committee has recommended that the House should curtail its lunch recess by thirty minutes and sit one extra hour daily, *i.e.* up to 6 P.M. The Committee has further recommended that the House should also sit on Saturday, December 15, 1956.

# **THE PRESS COUNCIL BILL, 1956 — *continued***

MR. DEPUTY CHAIRMAN: Dr. Keskar.

SHRI JASPAT ROY KAPOOR:  
May I say one word?

I have to bring to your notice, Sir, that this morning I gave notice of an amendment to an amendment; but that has *"not"* yet been circulated to the Members of this House. In this connection, Sir . . .

MR. DEPUTY CHAIRMAN: Yes.  
if there is time it will be circulated.

SHRI JASPAT ROY KAPOOR:  
May I in this connection, invite your attention to sub-rule (2) of rule 81 of our Rules of Procedure where it is stated:

"The Secretary shall, if time per. mits.  
make available to members . . .".

MR. DEPUTY CHAIRMAN: Yes. if time permits.

SHRI JASPAT ROY KAPOOR:

"... from time to time lists of amendments of which notices have been received."

Now, I submit, Sir, that there was time enough from this morning upto now for my amendment to have been typed, cyclostyled and circulated. And this is not the first time, Sir, that this has happened. More than three hours, from morning up till now, can be considered sufficient for the amendment being typed, cyclostyled and circulated.

MR. DEPUTY CHAIRMAN: Yes, it is being done. There are many amendments forthcoming till the last minute . . .

SHRI JASPAT ROY KAPOOR: I am not talking of last-minute amendments. I am talking of a minute which passed some three hours ago this morning.

MR. DEPUTY CHAIRMAN: Yes. yes. Yours is not the only amendment. That is what I have been saying.

SHRI J ASP AT ROY KAPOOR: But mine was given in the morning and

MR. DEPUTY CHAIRMAN: But your amendment was not the only one.

SHRI JASPAT ROY KAPOOR: But there was time and my amendment should have been circulated.

MR. DEPUTY CHAIRMAN: All of us have been working here.

SHRI JASPAT ROY KAPOOR: Then do I take it that it is the wish of the Chair that we should be content with not having received copies of the amendment?

MR. DEPUTY CHAIRMAN: If time permits everything will be done.

SHRI JASPAT ROY KAPOOR: Does the Chair consider there was not time enough from 11 o'clock in the morning till 3 P.M.?

MR. DEPUTY CHAIRMAN: It is a matter of opinion.

DR. B. V. KESKAR: Mr. Deputy Chairman. I have been listening to the debate on this Bill yesterday and today very carefully and I am surprised that hon. Members have, generally speaking, given more importance to the question as to whether this Bill should be referred to a Select Committee or not, than to the question of the Press Council itself. I found the emphasis more on the first question of principle and I would, therefore, like to devote more time to that rather than to the merits of the Bill as such.

When the majority of the Members of a House want to send any Bill anywhere, they have got the right to do it and nobody can stop them. I cannot stop them. But whether a particular measure should be sent and whether it is desirable to send it, that is a matter about which there can be different opinions. On the conventions prevailing up till now and the principles that have been up till now in action, I may be allowed to say a few words. First of all, I must say that this is not a Bill about the principle of which or the pattern of which

there is any question in dispute. If there is some new thing coming before the House about which nobody has had time to think, which is of an extremely complicated nature and about which there might be dispute as to the various points involved in the structure of the Bill, I can understand and it would be quite wrong on our part to try to bring any such thing forward before the House without due consideration.

I would like to bring to the notice of the hon. Members first of all that this thing was before the Press Commission. It is the Press Commission which has thoroughly gone into this question for a matter of two years. The Press Commission considered this question in all its aspects. If hon. Members take the trouble of referring to the evidence tendered and the discussions that took place before the Press Commission, they will find that all the important journalistic bodies and all the important journalistic personalities gave very detailed opinions regarding this question. There is no aspect of this question which has not been covered by the Press Commission. Those of the leading journalistic bodies and other personalities who came before them have thrashed out this question. They have looked at it from every angle and all the questions raised have been replied to and commented upon by the Press Commission in their Report. My point is that we—meaning not only Government but Parliament also because it had approved of the action—said that this question and a number of other related questions regarding the press might be entrusted to the Press Commission. The Press Commission went into it thoroughly and made certain recommendations for the setting up of a Press Council. The Press Commission not only made a recommendation but also suggested a certain pattern for a Press Council; they have suggested what type of a man should be appointed Chairman; they have suggested what should be the composition of the Council and they have also suggested the powers that should be given to this Press Council and I why it should be given. All

[Dr. B. V. Keskar.] that has been done by the Commission. If all these things had not been there, I could have understood the point that the question certainly should be thrashed out in a Committee and brought before this Parliament as otherwise we would be guilty of bringing something completely new before this House. Secondly, during the discussion of the Report of the Press Commission here, hon. Members expressed their views not only regarding the Press Council but also in regard to the other recommendations of the Press Commission. I think practically every Member referred to this question of the Press Council. I have very carefully read all the opinions expressed by the hon. Members here and from that we had the definite impression—I think I am not mistaken—that the Members did want the Government to bring forward a piece of legislation regarding the Press Council based on the pattern suggested by the Press Commission. I might say that there were Members who might have had a different opinion but the general consensus of opinion in both the Houses was of this nature. I might say here also that Government was not very eager to take up all these pieces of legislation. We had entrusted a certain task to the Press Commission. Their recommendations had found the general approval of Parliament and, therefore, it is as a duty that Government is bringing forward this piece of legislation. There is no question of any urgency on the part of Government involved in it. The Press Commission thought that in order to raise the standard of our Press by every possible and desirable means it would be useful to have a Press Council. Members may differ and they may consider that the Council is no good and that the Council will not be able to do anything. As my hon. friend, Prof. Wadia, and some others also expressed the opinion, it might be that without a greater amount of punishment, the Council may not be able to do much. Well, that is quite possible, but we felt that when the Press Commission, after very careful consi-

deration, had recommended the setting up of this Council we would be failing in our duty if we did not try this experiment also. It is quite possible, as some other Members said, that this may not do much good but we felt that simply because there is a chance that this may not do good we should not leave this opportunity of trying to do something to improve the tone of the Press and have a kind of a moral Judge sitting who will bring "to book the erring journalists, if I may say so. No doubt, I have said in the very-beginning that the experience of the Press Council in Great Britain has been rather mixed. A number of people feel that the experiment has not been so very successful as it should have been."Of course, hon. Members should know.

SHRI AKBAR ALI KHAN: It is voluntary.

DR. B. V. KESKAR: It is voluntary. In fact, a number of British papers have made forcible remarks that one of the important grounds why it failed was that it did not have any power and that it was not a statutory body. The Press Commission had the full benefit of considering the British Press Council's work as well as the Report of the Royal Commission on the Press to which they have made a number of references. My point is that all these important points regarding the powers of the Press Council, the composition of the Council and others have been dealt with in detail by the Press Commission and our recommendations, as I said at the very beginning, are based on the pattern enunciated by the Press Commission. At the very beginning, I might frankly say here that Government is doing it as a duty and Government's opinion is that if at all we are to try this experiment of a Press Council, it can only be on the general pattern suggested by the Press Commission. We are not prepared to consider this question *de novo* because that will mean reconsidering the whole question from the foundation. Naturally, if Parliament which is sovereign so desires, it can always do so, but we are not of that opinion. If the hon.

Members express such an opinion and if the majority of them ask for it, naturally Government will do it but I think we will be doing an injustice to the Press Commission who, after going through all these matters for two years, have come to this conclusion. We can't now say, "You said something. We completely disagree with it and we want to have this question considered *de novo*."

DR. ANUP SINGH (Punjab): Mr. Deputy Chairman, I would like to ask the hon. Minister to say whether any one of the speakers so far has even by implication suggested that this should be changed radically or that the new proposals should be something radically different from the recommendations of the Press Commission? We have simply taken objection to some of the clauses, for instance, regarding the question of the selection of the Chairman, the composition and so on and so forth, but nobody has suggested that it should be something entirely new.

DR. B. V. KESKAR: I am sorry I do not agree with Dr. Anup Singh. Two or three Members have suggested that we should be free to look at this question. Of course, they are always free—freedom is there—but our opinion is that there should be no considerable departure from the pattern suggested by the Press Commission regarding the formation of the Press Council. That is our opinion and I am saying this at the very beginning in order to show that we feel that this is a problematic matter. Whether the Press Council will be able to achieve all the laudable objects that we have in view is a difficult matter especially when you think of a new type of Press Council based on new recommendations. For example, you are referring to the question of the composition. I will say that any change in the composition is certainly a fundamental departure from the recommendations of the Press Commission. What I mean is that we have given a thorough consideration to this subject and we have brought forward this Bill on the pattern set out by the Press Commission. Hon. Members

certainly have a right to point out any difference in this that they may have or where they think we have departed from the recommendations of the Press Commission. I am prepared not only to consider the matter very carefully but to go beyond also but my point is that all these questions having been considered, there is no point in sending this Bill to a Committee to be considered again and to thrash out all the various aspects. Members had an opportunity of doing so and, of course, if they like, they can have an opportunity again. Nobody wants to deny them that opportunity but we have had this before us for the last four months. I know my friend was saying, "Well, the Bill was there no doubt for four months but it was not there before me in black and white". Well, Sir, it is not my fault. During these four months I have had the benefit of discussing it with all sorts of Press personalities also and we have received suggestions regarding the Bill. So, nobody can say that the Bill had not been considered or had not been thought about by people or that people have not had time to go into the matter. Really speaking, you will find that none of the important matters are in dispute. There are only three or four points on which there are differences of opinion. Now, Sir, if in a particular matter, on a specific point, there is a difference of opinion or if certain Members differ, that is not a matter to go to a Select Committee. In fact, I am prepared to say that if Members feel that such a Press Council is not good, they can throw it out. Do not think that the prestige of the Government is involved if the Press Council is not set up. It is not involved. So many Members have tried to make out as if the Government is a very hard-hearted person who does not accept this question of reference to a Select Committee. I think the principle should be examined here. Generally the convention has been that if there is a specific point of difference, certainly Members oppose it or make alternative suggestions and they would all be considered. Many Members have spoken and other Members will further speak

[Dr. B. V. Keskar.] and all the points will be considered by the House. My contention is that if there is a difference of opinion on specific points, the place to decide is the House and not the Select Committee. The Select Committees have the function of trying to smoothen out complicated matters and there, there is an exchange of views and there is the spirit of give and take. If you say that the Chairman should be selected this way or that way, there is no question of give and take involved here. If hon. Members do not agree with what has been provided, I take that view into consideration and I also say, 'look, probably what you have said is correct and I am prepared to accept what you say.' If I do not think there is anything involved, then I say that. Now, there are four matters which I feel are specific and about which there is difference of opinion and I would like to say a few words about them.

Those four matters are. firstly the Chairman, the question of the selection of members and the powers of the Council. Fourthly a number of other points have been raised. For example, mention was made that. Members of Parliament, if they become members, it may be considered an office of profit. I am only giving this as an illustration. Now, this is not the only body in which hon. Members become members. The question whether a particular membership of a body is an office of profit or not has been thought of by this House and by the other House so many times and the position is so very-clear that there should be no confusion about the matter. Now, the Report of the Committee on Offices of Profit mentions that the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha are independent of the Executive Government and therefore any nomination by them cannot be said to affect the independence of Members. This is the definite opinion of the Report of the Committee on Offices of Profit. Moreover, suppose a particular Committee or a Council has some Members of Parliament on it. There is a Committee of both the

Houses sitting which will always look into it. The Government and also the Chairman and the Speaker are considering the question as to how to give exemption to Members of Parliament and whether they' can or they cannot continue to be on a particular Committee. Over and above all this, this House has every right, if it so thinks, to decide that this thing need not be left to a Committee for decision and to put in the Bill itself an exemption class that Members of Parliament can be members of this Council. This right the Parliament has always got. This is not a question on which such a detailed discussion is necessary. I agree that the House can decide whether Members of Parliament should be on the Council or not. If they agree on that point, then the question whether they should get an exemption or whether this is an office of profit can be very easily decided. As I said this question has been very thoroughly debated in connection with other Bills and there is no need to go into it again.

Before taking up those three questions to which I made a reference, I would like to mention another small matter which probably was not referred to by me in the beginning but about which a number of Members have spoken. That is about the question of payment to the Council. The Press Commission recommended a levy or a cess for this purpose so that a sum of money out of that levy could be directly made over to the Press Council. In theory it may be all right but we found that constitutionally it was not possible to do so. Any cess or levy, as you know, will be partly in the form of customs duty because most of our newsprint is imported from abroad, and any customs duty realised and any inland revenue realised must be paid into the Consolidated Fund of India and the necessary funds for the Press Council can be allotted only from out of the Consolidated Fund. After having this question examined by legal and financial experts, the Government came regretfully to the conclusion that it would not be possible to make any

direct payment of this type either to the Press Council or to any other body and that money will have to come out of the Consolidated Fund of India, duly sanctioned by Parliament.—There is no other way and that is the only reason why hon. Members do not find any reference to this particular matter here. If at any time we find that it is possible to do such a thing constitutionally, certainly we would do that but I am afraid I will not be able to do that now for that particular reason.

Now, I come to those three important points. The first is about the question of Chairman. The idea that we have always had regarding this matter is that the Chairman should be appointed in such a way that he should be independent. Nobody is more keen than I am that we should have an eminent, desirable and capable Chairman, because much of the success or failure of the Council will depend on the selection of a good Chairman. The original idea of the Chief Justice appointing the Chairman is no doubt a good one but I personally—and many Members have expressed the same opinion—am rather reluctant to drag in the Chief Justice into a matter which may later become a controversial matter in the sense that supposing the Chairman is not able to function or something happens or some action taken by the Council or by the Chairman leads on to criticism, people will not be wanting who will say that the Chief Justice has not appointed a good person and I know that the Chief Justice is rather reluctant to get involved in any such public controversy which will drag in his position as Chief Justice into question. It is for that reason that we have said that the President of India shall appoint the Chairman but I am prepared to consider any other alternative suggestion which will improve upon that. In fact, there are a number of amendments and if hon. Members so desire, I am prepared to accept any good amendment which will certainly ensure the selection of a very good and independent Chairman. I am not against it. Our desire has

always been to see that the spirit of the Press Commission's recommendations and the pattern is kept as it is and as such we will have no objection to considering a better procedure or a better method of selection of the Chairman.

SHRI RAJENDRA PRATAP SINHA (Bihar): What about the qualifications of the Chairman? Some amendments have been tabled about that question also.

DR.B. V. KESKAR: I am coming to that. I have carefully listened to all the speeches and heard all the points of view that have been expressed here and I have not yet been convinced by my friends that a High Court Judge or an ex-High Court Judge alone is the right person. It is quite possible that in the majority of cases probably a High Court Judge would be the choice or ordinarily might be the choice. But to restrict it to High Court Judges alone, I am yet to be convinced about it. Moreover, I find that there is substance in what Pandit Kunzru and Dr. Sapru had put forward regarding this question, though I do not want to express any specific opinion on this because it will require a more thorough consideration and going into details of a matter which is not directly before us here. About this question as to whether High Court Judges or ex-High Court Judges alone should be considered. I would like the House to leave it open. If we impose any such restriction we might be leaving out a large number of eminent people who can be considered for this. After listening to the discussion here I feel that the attitude that we took is on the whole correct. In my opinion if the selectors and the Chairman are unexceptionable there should be no difficulty in leaving the choice to them to select the right person. There are a number of amendments. I am prepared to consider suitable amendments. For example, Pandit Kunzru has made a suggestion which I find quite a good one that the Speaker and the Chairman and the Chief Justice of India might be asked to sit together and make the selection.

[Dr. B. V. Keskar.] I think it is a very good suggestion which can be considered, but if we leave it to these people . . .

SHAH MOHAMAD UMAIR (Bihar): Here the Chief Justice again comes in.

DR. B. V. KESKAR: Of course, this is a guess. My own guess is that if the Chief Justice were asked to be associated with the Speaker and the Chairman, he might agree. Otherwise, there is a danger that he may not agree. It is, of course, my guess. This will, of course, depend on the condition that he accepts. I cannot guarantee, because we have not been able to have his opinion on the matter. But I am saying that *prima facie* this is a very good suggestion, to ask such eminent people to suggest a Chairman. I would suggest that we might leave it to them to select the right person, rather than fetter their discretion, because I am sure that they will certainly take into consideration all these aspects.

DR. ANUP SINGH: May I know whether the hon. Minister has accepted this amendment or he is just considering it?

DR. B. V. KESKAR: I am first of all taking the general and more important question of the committee and after that I am saying I am prepared to accept any such amendment. Of course, the hon. Member has raised a pertinent question. The Chief Justice has not been questioned. That will also have to be considered.

SHRI P. N. SAPRU: Either a Supreme Court Judge might be appointed or a judge nominated by the Chief Justice.

DR. B. V. KESKAR: That will involve a rather complicated procedure, but we can take up this question when this particular clause comes up.

With regard to the selection of members, which means the composition of the Council, now there are only two questions involved. The first is whether it should be done by the

Chairman alone or by the Committee. I do not know—hon. Members have expressed opinion, my Mend, Dr. Anup Singh, quoted from a Press comment by a leading journal. No doubt they are wiser than me. I have thought over the question and I definitely feel that it is putting too great and onerous a responsibility on one person to leave him the choice of selecting 25 people to form a very important body like the Press Council. Even a very wise person would think twice before he takes up such a duty. Naturally, if we load him with that responsibility, he will try to carry it out to the best of his ability. But I maintain that it is better if three wise heads sit together and select the Council rather than leave it to one person alone.

SHRI PERATH NARAYANAN NAIR (Kerala): The panels will be there.

DR. B. V. KESKAR: If there are fifty persons in the panels and twenty persons have to be selected, it becomes a very difficult matter for that particular person to select them, more especially as most of these people are Press people and he will have to go into the merits, or what you call preferential merits of different candidates. I think—at least that is my suggestion to the House—that it is always better in such matters to have the Chairman assisted by two such eminent personalities as the Speaker or the Chairman who are both persons above executive authority and also known for their impartiality. I do not think that there can be a better proposition than this for the selection of the members of the Council.

The third question that might come up, to which reference has not been made very much, will be about the composition of the Council. The composition is exactly as recommended by the Press Commission, excepting that amongst the lay members who have been suggested—among the bodies that have been suggested—we have added that Members of Parliament. About that there has been a discussion. After the discussion also my case is quite definite that the presence of Members of Parlia-

ment as representatives of Parliament is desirable and is good for the working of the Council, because the Council will get a kind of window of public opinion. After all the Council will consider the Press and its relations with public affairs and, therefore, I think such a thing is desirable. It will have a salutary effect and will help the Council in its work. There is nothing wrong about that suggestion.

Now, I come to the very important question of the powers of the Council. A lot of reference has been made; practically every Member has referred to this important question of the powers of the Council and the question of disclosure of information. First of all, let me say that the powers given for investigation are those which have been given generally to many such bodies. For example, the Press Commission itself had exactly the same powers that are now being given to the Press Council. The Press Commission was not asked by Government to do it in a particular way, because the investigation procedure was laid down and they carried it out. As hon. Members know, the Press Commission interviewed thousands of people—Press men, managers of presses, asked them all sorts of questions. A number of questions probably were answered or not even answered. I do not know. It is quite possible that a number of people were not prepared to disclose the information to the Press Commission. I am sure the Press Council which will come into being will be as responsible a body as the Press Commission. It never had any trouble. I never heard of any trouble or unpleasantness or any such thing. Matters went off very smoothly. So, I do not see why so much should be made out about this question, because we know that we are appointing a body of responsible and eminent men ! of the profession, who are going to look into the working of the profession. And I am quite sure that they will follow the established procedure in all these investigations—which have been carried out by a number of committees and boards before. And I ! do not see any reason why they will I

do worse than what the others have done. When others have had no difficulty, I see no reason why the Press Council should have any difficulty about this.

Then, questions have been raised about the disclosure of information. Here I agree it is a very important question and we should be quite clear about it. I think it was Diwan Chaman Lall or it was Mr. Dhage who raised the question as to whether the Press Council will be empowered to ask any person, if it desires, to disclose information. I said what is there does not preclude them from putting any questions. I would like to have this question thoroughly looked into. I would draw the attention of hon. Members to the opinion of the Press Commission on this matter, because they had gone into this question very thoroughly. Now, first of all, about the working of the Council, the Press Commission had said this. There are two very important points which they have laid down, which I would like hon. Members to look into carefully . . .

SHRI RAJENDRA PRATAP SINHA: What page?

DR. B. V. KESKAR: This is paragraph 955 (d). "Normally, anonymity is to be respected, but where questions are considered by the Press Council involving fixing the responsibility, journalistic privilege may be waived. Later, they have laid down certain principles of journalistic ethics. The general principles, which they want the Press Council to elaborate further, are given on page 356. This is one of the principles that they have put in—principle No. (8):—

"Confidence shall always be respected and professional secrecy preserved, but it shall not be regarded as a breach of the code if the source of information is disclosed in matters coming up before the Press Council, or courts of law."

Now, this is a very considered opinion of the Press Commission on this matter. They have also said here (paragraph 955 (c)):



[Dr. B. V. Keskar.]

"It shall be open to the Press Council to go into any instance of infraction of the code of ethics or professional conduct. Where, however, proceedings in respect of such publications have been started in court, the Council shall not express any opinion until such proceedings have terminated."

In other words, it shall not be for the Press Council to usurp the functions of a court of law; nor is it intended that the Press Council in pronouncing on matters coming up before them for consideration should follow strict procedures of the court. "It is expected however that in recording its findings on any case of journalistic conduct the Council will set out its reasons." After that they give what he said. "Normally anonymity should be respected, but where questions are considered by the Press Council involving fixing of responsibility, journalistic privilege may be waived." I have looked through other relevant paragraphs of the Press Commission's Report, and they are definitely of the opinion, after very careful consideration, that it should be left to the discretion and good sense of the Press Council, if they desire in any exceptional case to ask any journalist to disclose confidential information. Their argument is that when we have got a Council in which there are nearly nineteen to twenty members of the Press, all eminent people, proprietors, editors, working journalists, etc., it is inconceivable that they will put any improper question to any brother journalist unless the case warrants it and warrants it in such a way that there is no other way for them to fix the moral responsibility in the case. I consider it inconceivable that any body of journalists will put to another journalist questions which he will consider were intended to put him in a very improper position. We have had experience of journalists who have been put on as jurors. I have never seen journalists putting any improper question, and the Press Commission has tried to leave to the Press Council, because it is a body predominantly made up of journalists,

the discretion to see whether in a very exceptional case it is necessary to put such a question. There is also another question involved in this matter. My friend Dr. Sapru was right in raising the question, and that is, can we give an exemption in this case considering that this is a very exceptional case and not be obliged to give exemption in other cases of importance of professional men or body of professional men? He asked what right have we to say that only these people will get and not others. I say that such questions can be put by a body of their own brethren, not by any body of outsiders. I think that it is a very strong point that we should consider, and I feel that the considered opinion of the Press Commission should be respected by the House, and we should leave it to the discretion of the Press Council, when it is formed, whether they think it necessary to put such questions or not. Ordinarily such a situation will not arise, and I am myself doubtful if at all it ever will arise. No doubt the discretion is there if at all they want to put such a question. But I do not think such a situation will arise, and the Press Commission's consensus of opinion is that if in a very exceptional case it has to be done, then discretion should be left to the Press Council to do it, because they feel that the moral authority of the Press Council will be fettered and very much diminished if we do not give them these powers, and it is for them to decide whether to exercise them or not.

Then a number of Members have raised the point whether such powers should be given to it. Why should we give any such power of investigation to the Council? The point is no doubt an important one, but at the same time we have to see that either we appoint a Council with these powers or we do not appoint a Council—we can leave it to the industry to appoint a Council. In that case hon. Members can throw out the Bill, I will not be sorry then. I am doing this as a matter of duty. But if they want a Press Council, then the Press Council should have adequate powers to give

a moral judgment, and if we do not give it the powers, then it is not worthwhile wasting money on the formation of the Press Council. I would like to draw the attention of the hon. Members to the experience that there has been of the voluntary Press Council that has been working in the United Kingdom. Even the papers in the United Kingdom and others have found that the Council is not of much "use because it has got no powers and it cannot even summon witnesses to come and say anything before it. The witnesses can ignore it or they can come at their will. Recently the UNESCO carried out a survey regarding this question and they have got opinions recorded regarding this question. They have expressed the opinion that in other countries, excepting the U.K. and the U.S.A., it is considered in the light of experience, that bodies like the Press Council can only be really effective if they are established by law and legally vested with definite powers. For example, they have said that in France there was already a Bill brought before the French Assembly which gave even more powers than we are proposing here, but the French Government fell and many other complications arose, and the Bill remained where it was.

SHRI AKBAR ALI KHAN: There was a similar suggestion before the Geneva conference also.

DR. B. V. KESKAR : The majority of the countries in which the UNESCO investigated this matter have come to the conclusion that a Council like this will be useful only if it is invested with certain powers and is established by law. Otherwise there is little chance of its doing anything useful. The question now before us is whether we should go to all this trouble to establish a Council if we do not give it any powers to set. Otherwise we might as well leave it to the industry. Of course the House is at liberty to express that opinion. My point is that if you desire that according to the Press Commission's recommendations we should have a Press Council, then that Council should

have these powers. Regarding the debatable point about disclosure of information, in my opinion, we should leave it to the Council. My personal feeling is—and I am saying it on the basis of experience—that such a question will not arise. If it should arise in a very exceptional case, then the Council will have such a tremendous moral urgency before it that if it asked the question, everybody will support it in that. Generally such a question is not likely to arise. We feel that nineteen or twenty eminent Press men have sufficient commonsense to conduct these things in a proper manner. Of course Dr. Sapru was quite right in saying that on questions like this people no doubt can go before the Courts. It is not possible to stop that. If there is a debatable legal point, naturally they will go to the Court, and they can, and there is no doubt that they have every right to do so. but because there might be a legal dispute about particular things we cannot, on that account, stop from passing legislation which is considered desirable and proper. The Press Commission also considered these aspects. We have had an eminent High Court Judge as the Chairman of the Press Commission, and these questions were considered in detail, and after considering all these questions, they came to this conclusion.

Now, Sir, I have dealt with all the important points which have been raised and which, in my opinion, are the points about which there is a difference of opinion and on which hon. Members have expressed their views. I have put forward my contention as to why I feel that it is absolutely essential that if we want to have a Press Council, then it should be of the general pattern suggested by the Press Commission. If there is any other type of Council that we want, of course that is a different matter. Then we can think of the matter *de novo*. Otherwise I do not see what we gain by having a Select Committee to go into the question again.

SHRI RAJENDRA PRATAP SINHA; Let me ask one question.

DR. B. V. KESKAR: Let me first finish, and I am quite prepared to answer questions. In other circumstances, if we had plenty of time to sit again and again to go into this question, I would not mind. Hon. Members should not consider that I am such a stickler for pushing through things. But we are at the fag end of the session, we have no time and everything will have to be done by counting the minutes.

SHRI RAJENDRA PRATAP SINHA: Has the hon. Minister made sure that this legislation will be passed through the other House? My information is, as is evidenced from the meeting of Advisory Committee, that no legislation initiated in this House will be taken up by the other House. Even if you want to finish it during the lifetime of this Parliament, this legislation will have to be taken up at least in the month of March. Then why not have a Select Committee on this ?

DR. B. V. KESKAR: I know what I the hon. Member is saying. But I think he is wrongly informed. The question is, nothing is before the other House until it goes from this House and they are not prepared to say anything in regard to this matter until the question is before them. We are only trying to push through—I mean, we are trying to do . . .

*(Interruptions.)*

MR. DEPUTY CHAIRMAN: Order, order.

DR. B. V. KESKAR: . . . our best. Well, I cannot promise, because the rulers of the House are the Members—neither yourself nor myself—and it is not possible for me. But they have said that they won't consider anything unless it is before them. Not only that, their Committee will not go into the question of any Resolution until the Resolution comes to them. So my point is that we will try this very desirable piece of legislation to go through. If there had been other ways and we wanted to dispose it of . . .

SHRI RAJENDRA PRATAP SINHA: So many Members are anxious that it should go to the Select Committee. Probably, the hon. Minister can have an informal talk with the Committee of the other House or the Parliamentary Affairs Minister and then put . . .

DR. B. V. KESKAR: The points of difference are very clear before us and there is nothing which by debate alone is going to be made clear.

MR. DEPUTY CHAIRMAN: I will now put Shri Perath Narayanan Nair's amendment to the House.

The question is:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of improving the standards of newspapers in India, be referred to a Select Committee of the Rajya Sabha consisting of the following members:—

1. Shri Banarsi Das Chaturvedi.
2. Prof. R. D. Sinha Dinkar.
3. Babu Gopinath Singh.
4. Shri Rajpat Singh Doogar.
5. Shri G. Rajagopalan.
6. Shri N. G. Ranga.
7. Shrimati Violet Alva.
8. Dr. W. S. Barlingay.
9. Diwan Chaman Lall.
10. Dr. H. N. Kunzru.
11. Shri S. Mahanty.
12. Shri B. C. Ghose.
13. Shri P. T. Leuva.
14. Shri V. K. Dhage.
15. Shri P. Narayanan Nair (the mover).

with instructions to report within eight days."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I will now put Shri Rajendra Pratap Sinha's amendment to the House. There is some slight difference. \*

The question is:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of improving the standards of newspapers in India, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:—

1. Dr. H. N. Kunzru.
2. Shri V. K. Dhage.
3. Dr. Anup Singh.
4. Shri P. S. Rajagopal Naidu.
5. Shri Kishen Chand.
6. Shri P. Narayanan Nair.
7. Shri H. P. Saksena.
8. Shri P. N. Saprú.
9. Dr. P. Subbarayan.
10. Dr. Shrimati Seeta Parmanand.
11. Shrimati Savitry Devi Nigam.
12. Diwan Chaman Lall.
13. Shri B. K. P. Sinha.
14. Dr. R. P. Dube.
15. Shri Banarsi Das Chaturvedi.
16. Prof. Humayun Kabir.
17. Shri H. C. Dasappa.
18. Shri B. C. Ghose.
19. Shri G. Ranga.
20. Shri R. P. Sinha (the mover).

with instructions to report on the first day of the next session."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I will now put Diwan Chaman Lall's amendment to the House. The question is:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of improving the standards of newspapers in India, be referred to a Select Committee of the Rajya Sabha consisting of the following members:—

1. Dr. H. N. Kunzru.
2. Shri V. K. Dhage.
3. Dr. Anup Singh.
4. Shri P. S. Rajagopal Naidu.

5. Shri Kishen Chand.
6. Shri P. Narayanan Nair.
7. Shri H. P. Saksena.
8. Dr. P. N. Saprú.
9. Dr. P. Subbarayan.
10. Dr. Shrimati Seeta Parmanand.
11. Shrimati Savitry Devi Nigam.
12. Shri R. P. Sinha.
13. Shri B. K. P. Sinha.
14. Dr. R. P. Dube.
15. Shri Gopinath Singh.
16. Shri Banarsi Das Chaturvedi.
17. Prof. Humayun Kabir.
18. Shri H. C. Dasappa.
19. Shri B. C. Ghose.
20. Shri G. Ranga.
21. Diwan Chaman Lall (the mover).

with instructions to report by the last day of the first week of the next session."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of improving the standards of newspapers in India be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

*Clause 4—Composition of the Council*

SHRI PERATH NARAYANAN NAIR: Sir, I move: . 1. "That at page 2, for line 11, the following be substituted, namely:—

'(2) The Chairman shall be a person "who is or has been a judge of a High Court and shall be nominated by the Chief Justice of India'."

[Shri Perath Narayanan Nair.]

2. "That at page 2, lines 34 to 36, for the words 'shall be appointed by a Committee consisting of the Vice-President of India, the Speaker of the House of the People and the Chairman of the Council', the words 'shall be chosen by the Chairman out of a panel of names submitted by the All-India organisations connected with the Industry' be substituted."

3. "That at pages 2 and 3, lines 37 to 41 and 1 to 4, respectively, be deleted."

SHRI V. K. DHAGE: Sir, I move:

8. "That at page 2, at the end of line 11, after the word 'India' the following be inserted, namely:—

'He shall be a person who is or has been a Judge of a High Court'."

11. "That at page 2, lines 34 to 36, for the words 'a Committee consisting of the Vice-President of India, the Speaker of the House of the People and the Chairman of the Council' the words 'the Chairman of the Council' be substituted."

MR. DEPUTY CHAIRMAN:

Dr. Anup Singh, are you moving your amendments Nos. 12 to 16?

DR. ANUP SINGH: No. Sir. I am withdrawing.

MR. DEPUTY CHAIRMAN: No question of withdrawal. You are not moving any of your amendments?

DR. ANUP SINGH: I am moving .. .

MR. DEPUTY CHAIRMAN: To clause 4.

DR. ANUP SINGH: I move No. 13. Sir.

MR. DEPUTY CHAIRMAN: All right; others are not being moved.

DR. ANUP SINGH: Sir, I move:

13. "That at page 2, line 39, after the word 'such' the word 'national' be inserted."

SHRI H. N. KUNZRU (Uttar Pradesh): Sir, I move:

30. "That at page 2, line 11, for the words 'by the President of India' the words 'by a Committee consisting of the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People' be substituted."

*.(This also stood in the name of Dr. Anup Singh.)*

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI PERATH NARAYANAN NAIR"

Sir, even after listening to the reply of the hon. Minister, I feel not at all convinced why the Government have thought it necessary to depart from such a vital recommendation of the Press Commission. Now, we are not suggesting anything novel. We do not want any new principle to be gone into in this particular thing. But after going into this aspect, the Press Commission has made a recommendation that the Chairman must have some qualifications. He must have legal and judicial experience and the whole frame work of the contemplated Press Council is that it must be a judicial body. My point is that the departure which the Government has made in regard to the appointment of the Chairman of the Press Council has made it to be a political body. A principle is changed, a departure has been made—that is our main point. The whole scope of enquiry, the following of the Code of Civil Procedure, all these go to show that the Press Council must be pre-eminently a judicial body or, as some friend pointed out, must be a quasi-judicial body. And it is only proper that the Chairman of such a body should have legal and judicial experience. Now, I know that, if we have as Chairman a person who is or has been a High Court Judge, the field may be a little restricted and then I am prepared to accept the suggestion that the Chairman shall be a person who is or has been or is qualified for appointment as a High Court Judge.

My friend, Shri Kishen Chand, is not here. I think he has given notice of an amendment to that effect. If he had been here, I would have withdrawn mine in his favour.

SHRI P. N. SAPRU: It will also include advocates of ten years' standing or District Judges.

MR. DEPUTY CHAIRMAN:  
Mr. Sapru, when you speak, you will have to stand up and speak..

SHRI PERATH NARAYANAN NAIR: I am not well versed in the High Court procedure. But I know that certain qualifications are laid down for appointment as High Court

Judges. And one pre-requisite 3 P.M. of that is that he must have

continuous legal experience, experience in the matter of procedure in judicial courts. When things come up for enquiry, the Chairman must have a judicial frame of mind which he must bring to bear on his work. This only people with legal experience will be able to do. So, I do not want to go into the questions raised by the hon. Dr. Kunzru. I do not think that this is such a prize post that we are placing some temptation before High Court Judges, that it will have a demoralising effect on our High Court Judges. I am not convinced that this provision will have any such effect, but I am willing to concede that the field should not be restricted to High Court Judges. Let people who are qualified to be appointed as High Court Judges be accepted. But I am strong on this point that we will be doing something very wrong if we give any political bias to this appointment. It must be a judicial appointment.

SHRI V. K. DHAGE: Yesterday I stated in the course of my speech that I was not in favour of the recommendation made by the Press Commission that the Chairman of the Press Council should be appointed by the Chief Justice of India, but I do feel that a person of the character of the

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Chairman of the Press Council should be one who has sufficient knowledge regarding the procedure to be followed in the matter of enquiries. You will notice that under clause 14—on which there has been a lot of expression of opinion regarding the omission of certain clauses, etc. and there is an amendment in my name also to which I will come later on—the procedure to be followed requires sufficient knowledge of the Code of Civil Procedure and also with regard to the examination of witnesses or documents and so on, the person enquiring must have expert knowledge with regard to the Law of Evidence so as to know what evidence can be admitted and what evidence cannot be admitted. Therefore, the appointment of a High Court Judge seems to me to be very necessary in the matter of the Chairman of the Press Council.

There is another amendment which I have moved to clause 4, No. 11, about a Committee consisting of the Vice-President of India, the Speaker of the House of the People and the Chairman of the Council. I have said that the appointment of the other Members should be left to the Chairman. When a High Court Judge or a person of that kind is appointed by the President as the Chairman of the Council, I think it is not necessary to have another Committee consisting of the Vice-President, the Speaker of the House of the People and the Chairman of the Council. It would be quite enough if the Chairman of the Council, who is a High Court Judge or a person of that kind, has also the power to nominate the other members of the Council.

SHRI H. N. KUNZRU: Sir, I have suggested that the Chairman of the Press Council should be chosen by a Committee consisting of the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People. As hon. Members know, the Royal Commission on the Press appointed in the U.K. some years ago recommended the establishment of a Press Council though on a voluntary basis, and had suggested that the

[Shri H. N. Kunzru.] Chairman should be chosen by the Lord Chief Justice and the Lord President of the Court of Sessions. Here are two eminent judicial officers who, it has been suggested, should appoint the Chairman of the Press Council. I thought therefore that there would be no impropriety in my suggestion that the Chief Justice of India should be a member of the Committee appointed to choose the Chairman of the Press Council. If the Lord Chief Justice of England can be a member of a Committee for the selection of the Chairman of the British Press Council, there is no reason why the Chief Justice of India should not agree to be a member of a Committee appointed to select the Chairman of the Indian Press Council. I do not know what the Chief Justice of India will think of this proposal but there seems to be no reason why he should object to this.

I also pointed out yesterday why I have suggested that the Chairman of the Council of States should be a member of the Committee and not the Vice-President of India. I say that lest the Government should be in a position to ask the Vice-President of India to act in a particular way. It is quite possible that this apprehension may not be well-founded. In the Constitution itself Government has been given no power to issue instructions to the Vice-President or to make recommendations to the Vice-President which must be followed in accordance with constitutional propriety. Anyway, it is better to refer to the Chairman of the Council of States. I am not quite clear what the position is. I think therefore, that it is better to refer to the Chairman of the Council of States rather than to the Vice-President of India. The exact designation is to me a matter of no concern so long as it is clear that the officer concerned will be able to function independently and without having to give effect to the wishes of the Government in the matter.

As regards the proposal for the inclusion of the Speaker of the House of the People in the Committee, I am sure no arguments are necessary to support it. Now, a Committee of this

kind will make the public feel that the method of the choice of the Chairman of the Press Council will be absolutely impartial. We cannot select three more eminent men in this country who will be able to look at this question from a non-political point of view and whose selection will create confidence in the public. I hope, therefore, that the method recommended by me will be preferred to that suggested in the Bill. The Bill suggests that the Chairman of the Press Council should be appointed by the President of India. Now, this may create—I do not say that this will always create—sometimes the suspicion that the appointment has been made on political grounds. By the method that they have chosen for selecting thirteen members of the Council the Government themselves have shown that they are anxious that the Council should be regarded as an impartial body and that the journalists and the public should be able to repose complete confidence in it. I have the same purpose at heart; but I think that the method that I have suggested will serve that purpose better than the one suggested in the Bill.

MR. DEPUTY CHAIRMAN: Has Dr. Anup Singh anything to add?

DR. ANUP SINGH: I have nothing to add.

SHRI P. N. SAPRU (Uttar Pradesh): Sir, I would like to speak a very few words.

MR. DEPUTY CHAIRMAN: Yes, only one or two minutes.

SHRI P. N. SAPRU: Yes, I will take only one or two minutes.

Sir, I agree with the suggestion that in the case of the Chairman of the Council, the nominating body should consist of the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People. If the Chief Justice of India does not agree—I hope he will—then a Judge of the Supreme Court can be considered for this purpose. We may assume that he will agree with the suggestion that he should act as one of the persons on this nominating body. I

think it is undesirable that the nomination of the Chairman of the Press Council should reside in the President which means the executive government. We want to enlarge if possible, the liberty of the Press and for that reason, it is not desirable that the President should be brought in to appoint the Chairman of the Press Council. So far as the other members of the Council are concerned, they should be appointed by the Speaker of the House of the People, the Chairman of the Council of States and the Chairman selected by this panel. I think that is right.

Lastly, I come to the question whether there should be any reservation in favour of High Court Judges. I am not suggesting that a High Court Judge or a Supreme Court Judge should not be the Chairman of this body, the Press Council. But I know that this is a professional body and I hope that in course of time eminent journalists will be forthcoming who will be able to worthily discharge the functions of the chairmanship of this Council. This is a body which is analogous to the Indian Medical Council and I know that there is no such restriction that the Chairman of the Indian Medical Council, a body which has to deal with questions of professional misbehaviour, must be a High Court Judge. You have established *panchayats* in your villages and these bodies, these *panchayats*, have to do justice according to the Civil Code and other laws in many cases. But it has not been considered necessary to lay down that the members of the *pan-chayat* should all be lawyers. I don't think you have made it necessary or obligatory that these members of the *panchayats* should be lawyers. The amendment which was suggested by Mr. Narayanan Nair would make every lawyer of ten years' standing and every Civil Judge or District Judge of five years' standing eligible for the Chairmanship of the Press Council and that will be a real insult to the journalistic profession and I hope, Sir, for the good name of this House, this amendment will be thrown out.

MR. DEPUTY CHAIRMAN: Dr. Keskar.

SHRI RAJENDRA PRATAP SINHA: May I speak a few words?

MR. DEPUTY CHAIRMAN:  
You have not got any amendment.

SHRI RAJENDRA PRATAP SINHA: But still, are we not entitled to speak?

MR. DEPUTY CHAIRMAN: But I have already called the Minister.

DR. B. V. KESKAR: Sir, I have listened to the speeches very carefully. As far as Shri Narayanan Nair's amendment is concerned, I have indicated the reasons in my opening speech why it cannot be accepted. I have listened to the arguments in favour of the view that the choice of Chairman should be absolutely restricted to High Court Judges and though I feel that High Court Judges or ex-High Court Judges would certainly be very desirable as Chairmen, to restrict it only to them would be unfair and we should leave the choice more open and that is why I do not feel, Sir, that it would be possible for me to accept the amendment.

I am certainly prepared to accept the amendment of Dr. Kunzru. I might repeat what I said a few minutes before, that our desire is to have an independent and eminent Chairman, but we are not sticking to any particular procedure and if we feel that by suggesting something better we can get a better choice and create the impression that an independent Chairman is being chosen, we certainly would accept it. Some such thing was also being thought of and I am very glad that the amendment suggested by Dr. Kunzru fulfils that purpose. There was only one thing in my mind which probably withheld me from making such a suggestion and that was that we had no time to consult the Chief Justice of India and take his consent as we have been able to do in the case of the Chairman of the Council of States and the Speaker of the House of the People. But I hope he will accept it and on that condition, that it will depend on his acceptance. I am prepared to accept the amendment moved by Dr. Kunzru.



SKRI J ASP AT ROY KAPOOR:  
What will happen if that assumption proves to be wrong? Will the measure come up here again?

DR. B. V. KESKAR: I do not see any reason why he should not accept it. I do not think, being associated with the Chairman of the Council of States and the Speaker of the House of the People will be something which the Chief Justice would reject. If we throw the onus and the responsibility on the Chief Justice alone, it is quite possible he might not like to get into a controversial matter. But in this case I think I can assume that he will accept it.

SHAH MOHAMAD UMAIR: But what is the flaw that the hon. Minister has found in his own original proposal about the appointment of the Chairman of the Council by the President? That has not been explained.

MR. DEPUTY CHAIRMAN:  
It is now too late.

DR. B. V. KESKAR: With your permission, I might explain that also. There is no flaw in that. But here is a Council which will have a moral authority to bring to bear on the Press and the more it has independence to show in the public eye the better and any way by which that can be done and demonstrated, we are always prepared to accept and I think the suggestion now made is psychologically an excellent one and I am quite sure it will help in having a very good and independent Chairman of the Press Council.

MR. DEPUTY CHAIRMAN:  
What about the other amendments?

DR. B. V. KESKAR: I am prepared to accept only one amendment, and that is the one moved by Dr. Kunzru.

There is however, one small amendment here which is only a consequential one to amendment No. 30.

I move:

30A. "That at page 2, lines 34-35, for the words 'the Vice-President of India' the words 'the Chairman of the Council of States' be substituted."

As it is, the reference in this clause is to the Vice-President of India and it should be the Chairman of the Council of States.

MR. DEPUTY CHAIRMAN  
It should always be "the Chairman of the Council of States" and not "the Vice-President".

DR. B. V. KESKAR: Yes, Sir. That will be logical and with your permission, I suggest that in this place also where there is reference to "the Vice-President of India" the term "the Chairman of the Council of States" may be substituted. It is only consequential.

SHRI J. S. BISHT: Sir, I want to ask just one question. I have no objection to the hon. Minister accepting the amendment of Dr. Kunzru. But the question that I would like to ask is: Is the confidence of the people in any way shaken in the High Courts and in the Supreme Court, merely because the President of India appoints the Judges to these Courts? Or has the confidence of the public been shaken in the Union Public Service Commission merely because the President, on the recommendation of the Government, appoints the Chairman and the members of that Commission? What is the special thing about this Press Council that we should here go out of our way and create a precedent which will be pressed every time such measures are moved?

DR. B. V. KESKAR? This is not exactly the same thing. The Chief Justice of India is a legal luminary and he is there. It is purely a moral body and the more it has this moral authority the better. It is a psychological thing and the more its psychological force is increased the better it is and I personally think if this slight change makes it better and creates a better atmosphere, it is preferable.

SHRI H. N. KUNZRU: I may point out also that nineteen members of the Press Council will be chosen by a committee consisting of the Chairman of

the Council of States, the Speaker of the House of the People and the Chairman of the Press Council.

Now, if a specific method could be chosen for the selection of Members of the Council, there is no reason why a special method should not be adopted also for the selection of the Chairman of the Council so that the Council may be able to win the confidence of the public.

MR. DEPUTY CHAIRMAN: Anyway, he is accepting your amendment.

The question is:

1. "That at page 2, for line 11, the following be substituted, namely:—

'(2) The Chairman shall be a person who is or has been a judge of a High Court and shall be nominated by the Chief Justice of India'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 2, lines 34 to 36. for the words 'shall be appointed by a Committee consisting of the Vice-President of India, the Speaker of the House of the People and the Chairman of the Council', the words 'shall be chosen by the Chairman out of a panel of names submitted by the All-India organisations connected with the Industry' be' substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at pages 2 and 3, lines 37 to 41 and 1 to 4, respectively, be deleted".

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 2, at the end of line 11, after the word 'India' the following be inserted, namely:—

'He shall be a person who is or has been a Judge of a High Court'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

11. "That at page 2, lines 34 to 36. for the words 'a Committee consisting of the Vice-President of India, the Speaker of the House of the People and the Chairman of the Council' the words 'the Chairman of the Council' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

13. "That at page 2, line 39, after the word 'such' the word 'national' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

30. "That at page 2, line 11, for the words 'by the President of India' the words 'by a Committee consisting of the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

30A. "That at page 2, lines 34-35, for the words 'the Vice-President of India', the words 'the Chairman of the Council of States' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

*Clause 5—Term of office and retirement of Members*

DR. B. V. KESKAR: Sir, I beg to move:

23. "That at page 3, line 14, for the words 'The Chairman' the words 'Save as otherwise provided in this Section, the Chairman' be substituted."

24. "That at page 3, after line 21, the following be inserted, namely:—

'(1A) The term of office of a member chosen under clause (e) of sub-section (3) of section 4 shall come to an end as soon as he ceases to be a member of the House from which he was chosen'."

25. "That at page 3, line 26, for the words 'created by the resignation of a member' the words 'under subsection (1A) or' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

DR. B. V. KESKAR: These are all minor corrections, Sir.

MR. DEPUTY CHAIRMAN: The question is:

23. "That at page 3, line 14, for the words 'The Chairman' the words 'Save as otherwise provided in this section, the Chairman' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

24. "That at page 3, after line 21, the following be inserted, namely: --

'(1A) The term of office of a member chosen under clause (e) of sub-section (3) of section 4 shall come to an end as soon as he ceases to be a member of the House from which he was chosen'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

25. "That at page 3, line 26, for the words 'created by the resignation of a member' the words 'under subsection (1A) or' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

*Clause 6—Conditions of Service of Members*

DR. B. V. KESKAR: Sir, I beg to move:

31. "That at page 4, after line 3, the following be inserted namely: —

'(3) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of their House of Parliament'."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. B. V. KESKAR: This amendment has been brought in in view of the doubts and opinions expressed by hon. Members here and it reads, "It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament".

SHRI JASPAT ROY KAPOOR: May I suggest that rather than removing any doubt, it is likely to create a doubt that perhaps this office was originally an office of profit under the Government and, unless this new sub-clause were put in, would be considered as an office of profit under the Government? If there be any doubt, would

it not be better to reframe this amendment in this form—this could go as an explanation. "This office shall not be considered to be an office of profit under the Central Government." That would meet the point.

DR. B. V. KESKAR: It is the same thing.

SHRI JASPAT ROY KAPOOR: Let us not suggest that this would have been an office of profit under Government. Article 102 lays down:

"A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;"

MR. DEPUTY CHAIRMAN: This is what the amendment is doing.

SHRI JASPAT ROY KAPOOR: J That is what I am opposed to. I suggest that in an enactment, Parliament should declare any office of profit not to disqualify the holder from being a Member of either House of Parliament but if initially the office is not an office of profit under the Government, no legislation of the Parliament is necessary. However, for the sake of removing any possible doubt, it would be better if we added an explanation here saying that such an office is not an office of profit under the Central Govt- ' eminent.

SHRI H. P. SAKSENA: Then why the explanation even?

DR. B. V. KESKAR: This has been done under the advice of the Law Ministry. If we make any declaration, it must be a clear declaration and that is why it has been done but the objective of Mr. Kapoor is the same as mine. Practically it is the same. I do not think there is anything new in it.

MR. DEPUTY CHAIRMAN: The question is:

31. "That at page 4, after line 3, the following be inserted namely: —

'(3) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7 to 12 were added to the Bill.

*Clause 13—Power to Censure*

SHRI J. S. BISHT: Sir, I beg to move:

26. "That at page 5, at the end of line 32, after the words 'as the case may be' the words 'and such censure shall be published by all newspapers prominently on the front page' be inserted."

MR. DEPUTY CHAIRMAN: Mr. Kapoor, your amendment is not an amendment to the amendment but is a substantive amendment to the main clause.

SHRI JASPAT ROY KAPOOR: I do not mind your taking it either way but I thought it was an amendment to the amendment.

MR. DEPUTY CHAIRMAN: Anyway, it is not an amendment to the amendment.

SHRI JASPAT ROY KAPOOR: You may take it as you please.

MR. DEPUTY CHAIRMAN: If the House accepts it, I have no objection.

DR. B. V. KESKAR: I think, Sir, you may allow him to express his opinion.

MR. DEPUTY CHAIRMAN: I take it as an amendment to the main clause. You can have your say.

SHRI JASPAT ROY KAPOOR: Sir, I beg to move:

"That at page 5,—

(i) in line 31, after the word 'may' the words 'in the first instance' be inserted;

(ii) at the end of line 32, after the words 'may be' the words 'and such censure shall be published once by all the newspapers on the first page and by the defaulting newspaper \*in three issues on its first page in prominent form' be inserted; and

(iii) after line 32, the following be inserted, namely :—

'if the defaulting newspaper commits the offence for the second time, the Council may in addition to censure, direct suspension of publication of seven issues of the said newspaper, and if the offence is repeated, the Council may order suspension of publication of the newspaper thereafter:

Provided that if the defaulting newspaper fails to carry out the direction of the Council after first or second offence, the Council may order suspension of the publication of the newspaper'."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

SHRI J. S. BISHT: Sir, after the words "as the case may be", I want the words "and such censure shall be published by all newspapers prominently on the front page" to be inserted. I have already said yesterday that it is necessary to arm this Council with certain definite powers; otherwise, as I said, it would be so much of time and money wasted. If this punishment is to have some effect, there should be something which will act as a deterrent on those who are likely to defy the verdict of the Press Council. We are

\* Please see the underlined remarks on col. 2124 *infra*.

aware, Sir, that in this country, there are certain journals which really flourish on certain suits that are filed against them and immediately they raise big money on it and try to gain further notoriety in order to increase their circulation number. Therefore, it is necessary that this censure should not remain anonymous but should be published in the papers of the country so that people of that way may be deterred from acting in that manner. That is the least that can be done.

SHRI JASPAT ROY KAPOOR: Sir, my amendment runs thus:

"That at page 5,—

(i) in line 31, after the word 'may' the words 'in the first instance' be inserted;

(ii) at the end of line 32, after the words 'may be' the words 'and such censure shall be published once by all the newspapers on the first page and by the defaulting newspaper—

here it is three times but I would like to substitute the word s 'in three issues'—

in three issues on its first page in prominent form' be inserted; and

(iii) after line 32, the following be inserted, namely:—

'if the defaulting newspaper commits the offence for the second time, the Council may in addition to censure, direct suspension of publication of seven issues of the said newspaper, and if the offence is repeated, the Council may order suspension of publication of the newspaper thereafter:

Provided that if the defaulting newspaper fails to carry out the direction of the Council after first or second offence, the Council may order suspension of the publication of the newspaper'."

Sir, what my hon. friend, Mr. Bisht, has suggested is well and good, that when a censure is passed that censure should be published in all newspapers of the country. I want to go a step

further in that direction and suggest that so far as the defaulting newspaper is concerned, it must publish the censure on its first page in a prominent form in three issues of its paper, for it is just possible that while all the other papers might publish the censure, the defaulting paper, in order to keep away from its reading public the censure that has been passed against it, may not publish it. So it must be made obligatory on the defaulting newspaper to publish that censure not only once but in three successive issues. It is just possible that some small papers which have not got large circulation ordinarily might have had a huge circulation of the particular issue and when a censure is passed, it may not publish it at all.

Secondly, I suggest that if the defaulting newspaper is guilty of a similar offence for a second time, then it should be open to the Council to order that it shall suspend its publication for a week and then if it were a habitual offender, it should be open to the Council to order suspension of the paper altogether. Sir, I was submitting yesterday that this evil is a growing evil; its magnitude is increasing and this measure will be practically ineffective—if not ineffective at least will not be very effective—unless some strong measures are taken. Even the measures that I have suggested are not very strong or drastic and unless and until at least this little power is given, the Council is virtually reduced to a very ineffective position. Perhaps there may be sometimes very eminent persons and High Court Judges on the Council and they will feel almost helpless when they feel that their censure is not effective at all, when it is not published by the defaulting newspaper or when it goes on committing the offence day after day. Therefore, I would request the hon. Minister to seriously consider this and accept my amendment. It is all in furtherance of the object which he has in view and his object cannot be achieved in any substantial measure unless some such suggestion is accepted.

SHRI H. P. SAKSENA: May I know if the Council will have this authority? Has it got any powers?

DR. B. V. KESKAR: He wants to give that power to the Council; that is all.

SHRI PERATH NARAYANAN NAIR: Sir, I want to oppose his amendments because they go far beyond the scope contemplated by the provisions of the Bill. After all, it is an autonomous body which we are creating and which will exercise a sort of moral pressure. Otherwise we do not take any penal action against the newspapers. The idea is not to take even disciplinary action and the hon. the Mover must understand that the Press Council is not usurping the functions of the Criminal Code in the country.

SHRI AKBAR ALI KHAN: Civil Code.

SHRI PERATH NARAYANAN NAIR: Yes; the Press Council is no substitute for that. Now, with regard to the . . .

SHRI JASPAT ROY KAPOOR: May I ask whether the hon. Member wants that the defaulting newspapers should be allowed to go scot-free?

SHRI PERATH NARAYANAN NAIR: Absolutely not.

SHRI JASPAT ROY KAPOOR: What is the penalty then?

SHRI PERATH NARAYANAN NAIR: The ordinary courts are there. There are so many other suggestions contained in the recommendations of the Press Commission. More than that, a unanimous opinion expressed by their own professional body is bound to have its effect. It is bound to have a very beneficial effect on the tone of the Press; that is my honest opinion. ' Anyway to ask the erring journalist to publish the judgment on the first page, I think, is too tall and too large an order. I do hope they will publish that as news. The sense of public good may impel them to publish it as a news item but to say here that they shall publish it on the front page, is too tall and too large an order and I feel it is not necessary for us to pass any such thing.

SHRI JASPAT ROY KAPOOR: Must they publish it at all?

SHRI PERATH NARAYANAN NAIR: They will publish it as news.

DR. B. V. KESKAR: Though I sympathise with the object behind the amendments of both Mr. Bisht and Mr. Kapoor, I think it will be risking too much if we arm the Council with these powers. In fact, my approach is different. Mr. Narayanan Nair was quite right when he said that we are at present arming the Council with moral powers. Really, it is a question of moral censure. If we give some penal powers to the Council, it will first of all convert the Council into a kind of court and that will raise all sorts of problems and we will have to consider carefully the composition of the Council, its powers etc. Secondly, it will take away much of the psychological sanction and censure which we want by the medium of the Press Council to put on the papers for offending. It is better, though the object is laudable, to leave it as it is.

SHRI JASPAT ROY KAPOOR.  
How do the people and others know that it has been censured?

DR. B. V. KESKAR: They are bound to publish it. I do not think that the papers will be able to black out any censure passed by the Press Council. But I would suggest that we might leave the question of further penalties etc. to the Press Council itself. If, after the formation of the Council, the Press Council itself thinks that this is not sufficient and that it should be armed with some more powers, then it is better to take it up at that stage rather than from the very beginning have all these penal provisions which would lead to complications. It is better to leave out this question of penalty now till we get some experience.

♦Amendment No. 26 of Shri J. S. Bisht and the amendment of Shri Jaspat Roy Kapoor were, by leave, withdrawn.

♦For text of amendments vide cols. 2122-23 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

*Clause 14—General Powers of the Council*

SHRI PERATH NARAYANAN NAIR:  
Sir, I move:

4. "That at pages 5 and 6, lines 40 to 45 and 1 to 4, respectively, be deleted."

5. "That at page 6, lines 5 to 7 be deleted."

DR. ANUP SINGH: Sir, I move:

20. "That at page 5, line 40, after the word 'Act' the words 'or performing its functions under clauses (e) and (i) of sub-section (2) of section 12' be inserted."

SHRI V. K. DHAGE: Sir, I move:

19. "That at page 5, line 40, for the words 'holding any inquiry under this Act' the words 'performing its functions under clauses (e) and (i) of sub-section (2) of section 12' be substituted."

21. "That at page 6; after line 4, the following proviso be inserted, namely:—

'Provided however that nothing in sub-sections (1) and (2) shall be deemed to authorise the Council to call upon any person to disclose the source of his news'."

22. "That at page 6, line 5, for the words 'Every inquiry held by the Council' the words 'Any proceeding under sub-section (2)' be substituted."

*(The amendments also stood in the names of Diwan Chaman Lai? and Dr. Anup Singh.*

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI PERATH NARAYANAN NAIR: So much discussion has taken place on this clause 14 which deals with the powers granted to the Press Council. Especially sub-clauses (2) and (3) of clause 14 require the discovery and production of documents, authorise the summoning of witnesses and other things. Now, especially on the point of demanding journalists to disclose the source of information, the Minister has said, has admitted that such a thing is not contemplated under the provisions of this Bill, such a procedure may not be adopted by a body consisting of such eminent journalists as are to be included in this Council. If that be so, if that be the intention of the hon. Minister also, I think that particular thing must be made explicit there. Again, I would have been satisfied with the amendment given notice of by Mr. Kishen Chand, but he is not here, which makes a specific provision that they may not be compelled to disclose the source of information. He is not here, so I press my amendment.

SHW V. K. DHAGE: There are two amendments of mine. One refers to what exactly is an inquiry and the second refers to the source of the news. Now, in the objects of the Council which are enumerated in clause 12 (2) it is stated:—

"(a) to help newspapers to maintain their independence;

(b) to build up by all possible means a code of conduct for newspapers and journalists in accordance with the highest professional standards."

Now, all these sub-clauses which are there, except sub-clauses (e) and (i) refer to something positive to be done by the Council itself and the matter of inquiry to be held in clause 14 will be germane only to sub-clause (e) and sub-clause (i). Therefore, I would rather have it specified than have a general thing. For the words "holding any inquiry under this Act," the words "performing its functions under clauses (e) and (i) of sub-section (2) of section 12" should be substituted. That seems I

to be quite precise and logical in the context of the provisions of this Bill. I, therefore, feel that the amendment should be accepted.

My other amendment is with regard to the source of the news. It seems to me to be rather a fundamental one. Any good that is being done under the provisions of this Bill with regard to the establishment of the Press Council seems to have been robbed away completely by the provision in this clause. To me it appears to be a retrogressive step rather than a progressive one. Now, it may be possible somehow to say that the Members of Parliament if they like, may waive their privileges. "Would Parliament be a party to the passing of legislation which would amount to taking away the privilege which Members now enjoy with regard to being Members of Parliament? I said yesterday that in every profession there is a privilege enjoyed by that profession and to say that the journalist will not be able to exercise that privilege after the establishment of the Press Council seems to me rather very injurious and a derogatory measure. I feel that the hon. Minister has been very considerate and he said last time, to remove any kind of a doubt with regard to this and to maintain the right, the privilege which the journalist now enjoys, he will still continue to enjoy after the promulgation of this law. I hope he will be sympathetic to accept this amendment. I do not think any great harm will be done by accepting this amendment. In fact, we shall be assuring that the professional privilege is being maintained by such a provision in this Bill. I, therefore, appeal to the hon. Minister to accept my amendment and give us more assurances that even our privileges, will not be taken away.

DR. ANUP SINGH: Sir. I have suggested that at page 5, line 40, after the word "Act" the words "or performing its functions under clauses (e) and (i) of sub-section (2) of section 12" be inserted. Sub-clause (e) reads:—



[Dr. Anup Singh.]

"to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance and also the arrangements made for the reproduction in India of material obtained from other countries;" and sub-clause (i) reads:—

"to study developments which may tend towards monopoly or concentration of ownership of newspapers and if necessary, to suggest remedies therefor;"

To my mind, these two functions are very important. But I find that in the Bill itself no specific power is given to the Council to discharge this duty. That is why I am suggesting that it should be specifically laid down that while performing its duties with respect to (e) and (i), it should have powers to implement them. The way it stands now, it covers the whole ground—inviting witnesses, forcing them to disclose, this, that and the other. But as I am more particularly concerned with the checking of monopolistic tendencies I am suggesting to the hon. Minister to find some way of ensuring that this part of the duties laid upon the Council will be carried out and I think that unless the words I have suggested, or something to that effect is introduced, the purpose that we have in mind will not be fulfilled.

SHRI H. P. SAKSENA: It may be a mere text amendment or anything else, but it conforms completely with my own views and from the very time I learnt the art and profession of journalism I have held a very strong view with regard to this privilege of journalists regarding the disclosure or the non-disclosure of the source of the information. And I still hold to that view. It is a very valued and respected privilege I have enjoyed and I strongly and emphatically appeal to the hon. Minister to accept the amendment—and it satisfies my conscience—to the effect that the journalists should in no case be compelled to disclose the source of the information in respect of the news or anything connected with their professional work, that they have published in the newspaper.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, I stand to support the amendment moved by my learned friend, Mr. Dhage, amendment No. 21, that is to say, there should be a provision in clause 14, namely:—

"Provided however that nothing in sub-sections (1) and (2) shall be deemed to authorise the Council to call upon any person to disclose the source of his news."

Now, the hon. Minister has also agreed that generally this privilege of the journalist should be respected and he also considers that because the Press Council is composed of a large number of journalists, the Press Council will not put awkward questions to their brother journalists. And, therefore, he wants that the clause as it is should be allowed to continue and in support of his contention he has referred to the recommendations of the Press Commission. He has referred to sub-paragraph (8) at page 356. Now, I think that the reference to this clause is quite irrelevant. Now, what is this clause? This is in respect of the main paragraph 957, which reads:—

"We should consider the formulation of a code bearing all these principles in mind to be one of the prime duties and responsibilities of the Press Council when it is established. We would like them to keep in mind the following principles which we consider should find place in a code of journalistic ethics: —

Now they have given a number of hints and suggestions which may form part of that code. Out of those No. 8 has been referred to, and it says "confidence shall always be respected and professional secrecy preserved", that is to say, the journalists will always respect confidence and their professional secrecy will be preserved; "but it shall not be regarded as a breach of the code if the source of information is disclosed in matters coming up before the Press Council, or courts of law"; that is to say, it will not be a breach of these ethics or of the code if the journalist himself volunteers to say something, to disclose some information

before the Press Council or a court of law. If a journalist has received information and if he discloses it to me, it is a breach of the privilege which he enjoys. But if the journalist chooses to disclose that information before the Press Council, it will not be a breach of privilege or breach of confidence reposed in that particular journalist by the particular person. The reference to this is quite irrelevant, to my mind.

Now, my learned friend, Dr. Keskar, referred to (d) of paragraph 955 at page 355. This paragraph deals with the working of the Council. Here I find that there is a very hesitating, halting and weak recommendation that in some exceptional cases the Press Council may waive this privilege, but they have qualified that also by saying "normally, anonymity is to be respected". That is a very weak, halting and qualified support that they have given to this proposition that a journalist may be asked in certain exceptional cases to disclose the source of information. The privilege may be waived—that is how they have put it. My submission is this that my hon. friend chooses to accept those recommendations which suit his purpose, and finds it convenient not to accept those which are not to his liking. I have got every regard and respect for the Members of this Press Commission. But here I beg to differ from them. Yellow journalism has to be condemned as emphatically as it could possibly be done. But the cure that we are applying to it is worse than the disease itself. We are making a very serious inroad into the very sacred privilege of journalism, and my fear, Sir, is that if we permit this to happen, our standards of journalism will be weakened in this country. My hon. friend himself has stated that it will be only in very very exceptional and rare cases that the Press Council will make use of this power that is vested in them. But there is another fear that has already been expressed that in spite of the fact that the Press Council may not like that certain information should be disclosed, the journalist may be compelled to do so outside the Press Council, in the High Court or the Supreme Court,

under whose jurisdiction this court of arbitration, the Press Council lies. To that Court he may be dragged, and even then if the Press Council does not want the information to be disclosed, the journalist will be compelled to disclose the information. That is a most dangerous thing that is going to come out as a consequence of this measure.

Sir, my submission is this. Let us wait for the report of the Press Council itself. Let us see how things shape, let us see whether the Press Council can create enough moral force to stop this yellow journalism or not. If they succeed in doing that, then there is no necessity of giving this power to the Press Council. If they disclose in their annual report that they cannot effectively control this menace, then they may recommend and Dr. Keskar can come at any time he likes and the House will be too happy to give this power to the Press Council. But to presuppose that without this power the Press Council cannot function effectively is too premature. It is almost the unanimous wish of this House, practically every Member has desired it barring one or two, that this important privilege of the journalist should not be attacked.

Therefore, I submit that Dr. Keskar will accept the amendment of my friend.

SHRI P. N. SAPRU: Sir, I wish to speak very briefly on this question. There is an assumption underlying Mr. Sinha's argument that there is a privilege known to law which enables a journalist to say in a court of law, if he is asked a question "what is your source of information?", "I refuse to disclose that source of information". You cannot ask me my source of information". There is no such privilege known to the law of the land, and journalists in this matter are in no higher position than any other class of persons. In fact in an eloquent passage Professor Dicey in his Introduction to the Law of the constitution says that the freedom of the Press does not involve any special privilege for the Press. I cannot elaborate that theme here at length, but what I would like

[Shri P. N. Sapru.]

to say is this that the apprehensions that are entertained by Mr. Sinha are of an unreasonable character. I put it as strongly as that. The Press Council will be a body of professional men. It will be jealous of the dignity and the traditions of the profession. There is no reason to apprehend "that it will unnecessarily ask any witness before it or any editor before it to disclose the source of information. It may be that in some exceptional cases it might do so, and if it does so and the editor declines, then undoubtedly a complaint can be lodged by the Press Council under section 179 of the Indian Penal Code, and the editor can be proceeded against under that section. But remember that no court will be able to take cognizance of a case under section 179 save on a complaint made by the Press Council, and it is unthinkable that the Press Council would act so unreasonably as that.

Sir, apart from this, this question has a connection with the question of the privileges attaching to other professions in the country. Take the medical profession. A patient's relations with a doctor are of a most confidential character. In the course of his examination of a patient a doctor comes to the conclusion that the patient is suffering from some virulent form of venereal disease. Or he comes to the conclusion that he is suffering 4 P.M. from some form of dangerous leprosy or some, other similar disease. Let us assume that there is a matrimonial suit in which that doctor is summoned by one of the parties in the case. The doctor cannot be allowed to say that he was a consultant of that particular patient and therefore he must be excused from disclosing the facts relating to the patient whom he had treated. He cannot take the plea, if the Medical Council hauls him up for disciplinary action for professional misbehaviour, that he could not disclose this particular fact or that particular fact, because the relationship between himself and his patient would not permit him to do so. You can have ample instances like that from other profes-

sional bodies like the Bar Councils or J the Chartered Accountants body These are domestic tribunals and to allow certain privileges to be created before them would indeed be to profoundly modify the ordinary law of the land. Therefore, this question requires to be considered from a wide angle. It is not possible to have an isolated provision of this character in the interests of journalists. It requires to be considered from the point of view of men who are practising other professions as well. And therefore, I would say very strongly that this provision should not be deleted. However, I would say one thing. I would not mind a deletion of the entire clause 14 because, even if that clause is deleted, the professional body which we are setting up . . .

MR. DEPUTY CHAIRMAN: Anyhow, there is no amendment to that.

SHRI P. N. SAPRU: And I tell you the objections . . .

MR. DEPUTY CHAIRMAN: You can oppose the whole clause if you want.

SHRI P. N. SAPRU: The point that I have in mind is that to omit clause 14 may deprive the Council that we are setting up of the dignity and status which it should possess in the interest of the future of journalism.

SHRI KISHEN CHAND (Andhra Pradesh): Sir, I fully support the amendment brought by Shri Dhage and I was rather surprised that an eminent judge who has spoken before me . . .

SHRI P. N. SAPRU: He knows his law.

SHRI KISHEN CHAND: Yes, an eminent judge—and I am not saying about his knowing the law—is trying to bring in a parallel between the professional misconduct that may be performed by a doctor when he is disclosing something as a result of the examination of a patient and the disclosure of the source of information of a journalist. Sir, I am rather surprised that these two are put on the same footing.

SHRI AKBAR ALI KHAN: There is no privileged member in law.

SHRI P. N. SAPRU: YOU cannot be compelled to do it.

SHRI KISHEN CHAND: Sir, what I am submitting is that these two things are quite apart. There, it is only a question of an individual patient who was really examined by a doctor. Here, it is the entire liberty of the press that is at stake. Because journalists enjoy the fullest confidence that the source of their information will not be disclosed. Knowing fully well that the journals will not disclose secret things—there may be high officers, persons doing business putting confidence in them—when they have that security

MR. DEPUTY CHAIRMAN: What Mr. Sapru made out is that there is no such special privilege.

SHRI KISHEN CHAND: Sir, I am coming to that aspect. My contention is, when there is this privilege and if we deprive the journalists of this privilege, it will go against the liberty of the press. Mr. Sapru tried to show that before law, there is no exception. If some journalist is summoned in a law court under some section of the Civil Procedure Code or the Criminal Procedure Code and is asked to disclose or not to disclose something, that is a quite different thing. We are now bringing forward the Press Council Bill and in it the hon. Minister lays the greatest possible stress on the moral aspect of the question. It is the moral pressure that is going to be brought; it is not the pressure of a law court. If it is a law case, he will be tried under the Penal Code. But here it is not a trial under the Penal Code. It is a sort of an enquiry into the conduct of a journalist and if he has been disseminating good or bad news during the course of that enquiry by the Press Council, the question of disclosure of the source of news comes in. This is quite different from a disclosure of source of news in a law court.

I beg to submit that the whole difficulty has arisen because hon. Members are making no distinction between an enquiry before a law court and an enquiry by the Press Council. These

two things are quite different. I think, when there is only a moral pressure to be brought and the whole thing is on a moral plane, the professional etiquette should be given due weight. If he is a criminal, there is the law court and there are other considerations. But on a moral plane, a word of honour should carry very great weight and it is a word of honour given by a journalist that this source of information will not be disclosed, which, I think, the hon. Minister should accept.

DIWAN CHAMAN LALL (Punjab): Sir, I want to be very brief in regard to this matter, merely to put the record right. I do not know, what action my hon. friend, the Minister will take, and I take this opportunity of saying a good word for him. He has kept his promise in bringing this measure before this House, I presume, at as early a date as he could do so. The record should be put right.

My learned friend, Mr. Sapru, with his great judicial experience, is quite right in saying that there is no law today under which any such so-called privilege can be pleaded either by a lawyer or by a medical practitioner or any member of any other profession claiming such a privilege. There is no such thing. But there is this that, whenever cases of this nature have arisen, ordinarily journalists, medical practitioners as well as lawyers have taken the stand that they will not disclose the information given to them in their professional capacity on any account. And my learned friend, Mr. Dhage referred to that great, brilliant journalist, that great Indian patriot, Mr. B. G. Horniman, who had suffered the consequences for standing up to this particular principle which he considered to be vital in the furtherance of his own profession.

SHRI H. P. SAKSENA: Mr. Devdas Gandhi.

DIWAN CHAMAN LALL: Well, I dare say many others too including Mr. Devdas Gandhi. It is, in fact, a great honour and a great tribute to this profession that many a journalist faced with this possibility of being asked to

[Diwan Chaman Lall.] disclose the source of his information has refused to do so. I would not like to take the name of any other journalist in the company of the name that I uttered—Mr. Horni-man—who was unique in his own way. And I had the privilege of his friendship and I pay this tribute to him. I think my learned friend is perfectly right, but let me, as I said, try to put the record right. According to this measure—I believe it is clause 14—there is nothing which prevents the Press Council from calling upon a journalist to disclose his source of information.

SHRI P. N. SAPRU: I admitted it.

DIWAN CHAMAN LALL: My learned friend admits it. That is why I am trying to put the record right. In fact, if this Press Council is so inclined as to demand the source of information from any journalist, that journalist will be called upon to disclose that source of information.

SHRI J. S. BISHT (Uttar Pradesh): But in what circumstances will he be asked to do it?

DIWAN CHAMAN LALL: I do not know what my learned friend is talking about. He asks, 'In what circumstances?'

SHRI J. S. BISHT: What I submit is this: If in any circumstances a journalist is asked to disclose his source of information, it would be always in his defence. If he has published something and he is asked, "Why did you do this? Is there any explanation?", he can show the source. There is nothing to compel him to do it. If you want to deprive him of this defence, then it is a different matter.

DIWAN CHAMAN LALL: I think my learned friend is saying something which is not very clear to me and I do not think it is clear to other Members of this House either. The question is very simple. The journalist says, "I am prepared to give you the information you ask for". *i.e.* when called upon by

the Press Council. Next he will be asked, "What is your source of information?" He is within his rights, the rights that he claims not under the law but under his professional rights, in refusing to disclose that source of information, whether it is in his defence or whether it is in explanation, or whether it is in offence. I do not care which aspect of the matter my learned friend takes up. But the fact remains that he can be asked under clause 14 to disclose his source of information. Remember that judicial proceedings under this clause are governed by sections 193 and 228 of the Indian Penal Code; that is to say, he can be proceeded against for perjury.

SHRI P. N. SAPRU: On a complaint made.

DIWAN CHAMAN LALL: It is a serious enough matter and therefore, the proceedings being judicial proceedings, it becomes all the more necessary to see whether he can be safeguarded in regard to this particular matter. My learned friend, the hon. Minister, said in the course of his speech yesterday:

"If I may correct what is said, I said, and I again repeat it, that my friend is perfectly right when he says that as far as the legal provisions there are concerned this does not prevent the Council from calling for such disclosures but I said that it is not intended to do so. The Press Council is a body whose main object has been defined and it is composed of journalists—all India—

it need not necessarily be all Indians -

".....and such people are not likely to do anything against a colleague and we hope also that commonsense will always prevail in the Council. If it does not, it is no use trying to bring such commonsense simply by legal provisions. They will do some thing which probably they are not meant to do."

Now, the hon. Minister states two points: First, that the law as it stands under clause 14, contemplates the possibility, in fact the imminent danger, of a journalist being called

upon to disclose his source of information, but my learned friend says that, "Although this is the law, yet look at the composition of the Commission. You must realise that the composition of the Council is such that this question will never arise." Secondly, even if it does arise, commonsense is the thing that you must look to and common-sense is a thing that you cannot legislate for. But even if they do take action under the provisions of this law, my learned friend says, "They will be doing something which probably they are not expected to do". In what way, are they not meant to do it? From the commonsense point of view, they may not be meant to do it, but from the legal point of view, they are meant to do it. They have been charged to do this. All that my learned friend suggests is that there is enough safeguard in the composition of the Council, and therefore, this fear is rather far-fetched.

DR. B. V. KESKAR : I am prepared to explain the anomaly which my friend thinks there is.

DIWAN CHAMAN LALL: I am glad that my hon. friend says that he will explain the anomaly that I say is there. The anomaly is not in the measure itself. The measure is clear, plain and simple. The point is that, if the Press Council is so minded, it can call upon a journalist to disclose his source of information. There is no anomaly as far as that is concerned, but my learned friend says that the composition of the Council is such that this contingency will never arise. If it does arise, the Council is not doing something which it was meant to do, but that is exactly what my friends who have moved this amendment have been suggesting. Let us make it perfectly clear that the Council is not meant to do a particular thing, namely, to ask a journalist to disclose his source of information. Now, if my learned friend is satisfied that on no single occasion will such a contingency ever arise because of the composition of the Council, then I have nothing more to say in regard to this matter. Since he is also of the opinion with the rest of the Members of this House that the source 5—54—Raj ya Sabha/56

of information should not be disclosed, if he is in agreement with this proposition, that in those circumstances is this Council meant to force a journalist to disclose his source of information, then something has got to be done to take it out of the purview of this Council and to make it impossible by this measure for the Press Council to call upon a journalist to disclose his source of information. That is the simple proposition before us.

MR. DEPUTY CHAIRMAN: The clause as it stands, there is nothing in it to show that they need disclose their source of information.

DIWAN CHAMAN LALL: I am glad you have pointed this out. It would be clear . . .

MR. DEPUTY CHAIRMAN: On what particular occasion will they call upon a journalist to disclose his source of information?

DIWAN CHAMAN LALL: Let me read this clause:

"For the purpose of performing its functions under this Act, the Council may require the publisher of any newspaper to furnish to it information on such points or matters as it may deem necessary."

That is to say, if it deems it necessary to get at the source of the information, it can do so.

MR. DEPUTY CHAIRMAN: Since it is a judicial enquiry, they are bound to furnish any information that may be required.

DIWAN CHAMAN LALL: That is the point. That is exactly what we are saying. Supposing they ask for the source of information, can you refuse to give it?

SHRI P. N. SAPRU: That can be done under sub-clause (a) "summoning and enforcing the attendance of persons and examining them on oath."

DIWAN CHAMAN LALL: And (b) \* also. I was reading the first part of this clause,

MR. DEPUTY CHAIRMAN: In all enquiries, the witnesses or the parties are bound to disclose any information that the enquiring agency requires.

DIWAN CHAMAN LALL: Quite right.

MR. DEPUTY CHAIRMAN: He may refuse to disclose his source of information if there is anything which incriminates him. That is the right of the accused.

DIWAN CHAMAN LALL: Here there is no question of incrimination in disclosing the source of information anyway.

MR. DEPUTY CHAIRMAN: As long as there is no legal privilege, why should the law provide for it?

DIWAN CHAMAN LALL: What I am saying is that the hon. Minister himself stated yesterday that this is not designed for that particular purpose, that there is a safeguard and that it will never happen. Why will it not happen? Because of the composition of the Council it will never happen. Secondly, if it does happen, then it will be a breach of commonsense. Thirdly even if it is a breach of commonsense, the Council will be doing something which it is not designed to do. I say that is not the correct approach.

MR. DEPUTY CHAIRMAN: If the amendment is accepted, it will be creating a privilege which the law does not recognise now.

DIWAN CHAMAN LALL: That is perfectly correct. That is the point I was coming to. I do not know how far my learned friend would go in regard to that matter. I agree that it is a particular privilege in this law. Having accepted that position, that the source of information will never be disclosed under the provisions of this Act, we are depending upon three things: First we depend on commonsense. Secondly we depend upon the composition of the Council and thirdly we depend upon the determination of the hon. Minister that this disclosure will never take place. May I make one

suggestion? My suggestion is this. If that principle is accepted, then let us try to find out ways and means of achieving the end that the hon. Minister and everybody on the floor of this House has at heart, namely to prevent the disclosure of the source of information as far as journalists are concerned.

MR. DEPUTY CHAIRMAN: Dr. Keskar.

SHRI JASPAT ROY KAPOOR: Sir, may I say a few words?

MR. DEPUTY CHAIRMAN: I have already called the Minister.

DR. B. V. KESKAR: Sir, the hon. Member who is a very shrewd and brilliant lawyer has put his case so very ably, and he has also quoted what I said yesterday. Even in the Press Commission's Report they have very clearly accepted that it is not intended that the Press Council should try to ferret out things like this generally. But can it be stopped legally? Can it be said that in no case, never never shall this happen? Then the question of principle will come up exactly as Mr. Sapru has pointed out. Can we on principle give this to any body of professional men anywhere, this legal exception or privilege in contradistinction from any other professional body? That is not possible.

AN HON. MEMBER: What about bankers and medical men?

MR. DEPUTY CHAIRMAN: I think you will have to amend the Evidence Act for it, it is substantive law.

DR. B. V. KESKAR: And the Press Commission when considering this matter had gone into it very carefully, because it was also presided over by a High Court Judge—and a very shrewd "High Court Judge at that—and they have said that confidence shall always be respected, that professional secrecy should be preserved and it shall not be regarded as a breach of the code if the source of information is disclosed in matters coming up before the Press Council or courts of law. If

in any exceptional case it becomes necessary for the information to be disclosed, then in the opinion of the Press Commission this should be permitted. So my point is quite different. Of course, my hon. friend Diwan Chaman Lall and myself agree that generally this should not happen. But there is this point of principle, this difficulty of principle which might arise if we tried to give any body of professional men such a kind of an exceptional privilege. Secondly, as a body of pressmen, this body will never do it, and that is the reason also why the Press Commission has given this power to the Press Council and they say that if at all at any time it becomes necessary, the Press Council might be allowed to do it, because there are about nineteen eminent journalists sitting in this body. This is most unlikely to arise. I will give only one example. This very power was given to the Press Commission. In fact, the Press Commission had to investigate many more unpleasant things than the Press Council will ever have to do. Some of the questions that they had to put were extremely unpleasant and I know as a matter of fact that dozens and dozens of times, the witnesses refused to answer and they said, "No, we refuse to say. We do not want to say. You do what you like." The Press Commission could have proceeded against all those witnesses for not disclosing the information that had been asked for. But they were a body of men who had sufficient commonsense and even in particular matters where it was desirable and the public would have applauded them for going to court to force these people to disclose the information, the Commission did not do so for they said, "From an overall point of view, we think it better not to take this question to a court, because we feel that it will lead to a lot of unpleasantness which we do not want". My hon. friend has put it correctly as a question of privilege. That is quite right. None of these privileges of a profession are written privileges or privileges sanctified by a law. There they are all the same and the journalists are bound to plead them before the Press Council. I am quite sure what-

ever decision is taken by the Press Council will be such that it will receive the unanimous approval of the public and the Press. I say this because here you have a body of nineteen pressmen, men eminent in the profession and it is inconceivable to me that these people will take any other decision than what my hon. friend Diwan Chaman Lall if he were on the Council, would himself take, and he is naturally bound to take a very reasonable decision. When I say that this is not intended to do so, I mean, it is generally not intended to do so. But when we arm the Council with this power and if we try to make an exception in this one particular respect, then they will say that this Council was going to ask most journalists to disclose the source of the information. This, I am sure, is not intended. Neither are they going to do it. But the Press Commission after very careful consideration felt it necessary that the Council in a very very exceptional case may feel, that all these nineteen eminent journalists may feel and come to the conclusion that this is such a bad case that we should ask for it, well, in that case the power is there if they want. It might never be used. But we should not try to pass an exceptional exemption here. It is not necessary. So I hope what I said has no anomaly, because practically there is no contradiction in what I am saying.

The other point which he wants to stress and that is the one he pressed most, was that there is a case for giving a special exemption to this profession here. I feel that in equity and in parallel with other professions, there is no need to give it and there is no apprehension that a body like the Press Council will ever allow such a contingency to arise. I am quite sure of that. Of course, my hon. friend is right in saying that in theory it may be possible, but in actual practice I am quite sure it will never happen.

SHRI H. P. SAKSENA: And it should be remembered that the Press is the Fourth Estate.

DR. B. V. KESKAR: And the nineteen members on this Council will also be part of that Estate.



MR. DEPUTY CHAIRMAN: The question is:

4. "That at pages 5 and 6, lines 40 to 45 and 1 to 4, respectively, be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 6, lines 5 to 7 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

19. "That at page 5, line 40, for the words 'holding any inquiry under this Act' the words 'performing its functions under classes (e) and (f) of sub-section (2) of section 12' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

20. "That at page 5, line 40, after the word 'Act' the words 'or performing its functions under clauses (e) and (f) of sub-section (2) of section 12' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN. The question is:

21. "That at page 6, after line 4, the following proviso be inserted, namely:—

'Provided however that nothing in sub-sections (1) and (2) shall be deemed to authorise the Council to call upon any person to disclose the source of his news!'

(After a count) Ayes—5: Noes—15.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

22. "That at page 6, line 5, for the words 'Every enquiry held by

the Council' the words 'Any proceeding under sub-section (2)' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

*Clause 15—Payments to the Council*

MR. DEPUTY CHAIRMAN:

Mr. Narayanan Nair, your amendment No. 6 is out of order because it requires the sanction of the President. So there is no amendment to clause 15 of the Bill.

SHRI PERATH NARAYANAN NAIR : May I ask, on a point of information from the hon. Minister whether this cess on newsprint cannot be taken at the consumption level and not at the import level?

DR. B. V. KESKAR: I think my hon. friend was not present when I spoke on this point. What I explained was that constitutionally it is not possible for anybody but the Government to levy a cess. For example, most of the cess will come from customs because newsprint is imported.

Even if it is an internal cess, only Government can levy a cess; no private body can be permitted to levy a cess and any such money realised has to come to the Consolidated Fund of India. We had examined it and would have had recourse to it if it was possible but it was not possible and that is why we were forced to do it in this way.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clauses 16 to 21 were added to the Bill.

*Clause 22—Power to make rules*

SHRI J ASP AT ROY KAPOOR: Sir, if you permit me, I might put my amendment No. 27 in a slightly amended form as I am advised that the new form that has been suggested would be better and would perhaps be more easily acceptable to the Minister. So, I move it in this amended form:

27. "That at page 7 —

(/) in line 25, after the words 'be laid' the words 'for not less than thirty days' be inserted; and

(<0 at the end of line 27. after the words 'so laid' the words 'or the session immediately following' be inserted."

28. "That at page 7, line 18, after the words 'of the' the words 'members or' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

SHRI J ASP AT ROY KAPOOR: I need hardly say anything about these amendments because I have already pointed this out in my previous remarks and I understand this amendment is going to be accepted by the hon. Minister. I have to express my happiness that after all this long debate, the result has been that he has been softened at least to the extent of showing us some small mercies.

I have, Sir, another amendment standing in my name and that is as follows:

"That at page 7, line 18, after the words 'of the' the words 'members or' be inserted."

I hope this will also be acceptable to the hon. Minister, for, the simple object of this amendment of mine is that the conditions of service of the Members of the Council should be prescribed by rules made by the Government. It has been provided already that the allowances or fees which shall be paid to the Members of the Council for attending the meetings of this Council shall be prescribed by rules. That is all right but, in addition to

that, it is provided in the next following clause, clause 23(c) "specifying the conditions of service of the members of the Council" shall be by regulations. My simple point is that the rules should provide for both the salary and allowances as well as the conditions of service of the Members of the Council. That is my simple suggestion. You have provided in clause 22(2) (d) that the conditions of service of the employees shall be prescribed by rules. So, obviously, conditions of service and allowances and fees are two different things. That being so, I want that all these three should be provided by the rules and that the conditions of service should not be left to be provided for by the Council. It is as it ought to be because let it not be left to the Council to prescribe the conditions for its own Members. If conditions of service are to be prescribed, let them be prescribed by the Government. It does not look well that the Council itself should be empowered to prescribe the conditions of service of the Members. That is the simple thing. If for a humble *c/iapras* you provide that the rules should specify the conditions, why should you leave it to be regulated by regulations which never come up before the Parliament for our scrutiny. That is all that I have to submit, Sir.

DR. B. V. KESKAR: I think there is some misunderstanding. As far as the question of laying on the Table is concerned, I am prepared to accept Mr. Kapoor's amendment. It tries to better the form in which it is put in the Bill and it is quite good I have no objection to accepting it.

He has said about the terms and conditions of the Members. What we have done is to say that the terms and conditions of service of the employees shall be laid down by the Council.

SHRI JASPAT ROY KAPOOR: I am not opposed to it. Let it remain as it is. I want to say that the terms and conditions of service of the Members of the Council shall also be regulated by rules under clause 22 and not by regulations under clause 23\*. When we come to clause 23, I will move my

[Shri Jaspat Roy Kapoor.] amendment suggesting the deletion of clause 23(c), "specifying the conditions of service of the members of the Council". I want this portion to be transplanted in clause 22, a sort of changing places.

MR. DEPUTY CHAIRMAN: He wants that done so that it may be placed before the Parliament.

DIWAN CHAMAN LALL: But you have already got clauses 5 and 6 relating to terms of office and retirement of Members, conditions of service of members, etc. They are already there.

DR. B. V. KESKAR: I am not in a position to accept amendment No. 28 unless some further clarification is forthcoming. I am not able to understand the hon. Member's point at all.

SHRI H. P. SAKSENA: Formerly it used to be only fourteen days. Why this departure from fourteen days to thirty days? I do not understand it.

MR. DEPUTY CHAIRMAN: It is acceptable to the hon. Minister.

MR. DEPUTY CHAIRMAN: The question is:

27. "That at page 7 —

(i) in line 25, after the words 'be laid' the words 'for not less than thirty days' be inserted; and

(ii) at the end of line 27, after the words 'so laid' the words 'or the session immediately following' be inserted."

The motion was adopted.

SHRI JASPAT ROY KAPOOR: Sir, I beg for leave to withdraw my amendment No. 28.

\*Amendment No. 28 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 22, as amended, stand part of the Bill."

The motion was adopted.

\*For text of amendment *vide* col. 2149 *supra*.

Clause 22, as amended, was added to the Bill.

#### *Clause 23- Power to make regulations*

MR. DEPUTY CHAIRMAN: Since your amendment number 28 has not been accepted, do you want to move this now?

SHRI JASPAT ROY KAPOOR: Yes, Sir, I want to move it. I move:

29. "That at page 7, lines 34 and 35 be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

SHRI JASPAT ROY KAPOOR: I understood that this was not necessary. My friend, Diwan Chaman Lall, said that there are some other clauses which provide for this particular matter. If it is so, then this portion becomes redundant and it may be deleted. You cannot have it both ways.

DR. B. V. KESKAR: I think, Sir, it is better to leave it as it is.

SHRI JASPAT ROY KAPOOR: I do not want to snatch it away from him at all. I beg for leave to withdraw the amendment.

Amendment No. 29 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 23 stand part of the Bill."

The motion was adopted. Clause 23 was added to the Bill. Clause 1, the Title and the Enacting Formula were added to the Bill.

DR. B. V. KESKAR: Sir, I beg to move:

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

MR. DEPUTY CHAIRMAN: Motion moved:

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

DR. B. V. KESKAR: I may say only one word. We have had a very keen discussion and from . . .

MR. DEPUTY CHAIRMAN: \*I have put the motion to the House. You can reply later on. Yes, Mr. Narayanan Nair.

SHRI PERATH NARAYANAN NAIR: Mr. Deputy Chairman, at least in one respect there has been some improvement effected in this Bill and that is in regard to the appointing authority of the Chairman.

[THE VICE-CHAIRMAN (SHRI P. S. RAJA-GOPAL NAIDU) in the Chair]

After all the discussion the feeling is still left in my mind that the Bill could have been improved upon in other respects also but that does not prevent me from congratulating the hon. Minister for having brought this piece of legislation before this House. This matter has come up before us in many other respects also and other pieces of legislation have been brought in to implement certain other recommendations of the Press Commission relating to the working journalists, the price-page schedule, etc. I just want to bring to his notice that the smaller papers are quite uneasy over the non-publication of the schedule. If the schedule is fixed properly, it will go a long way in helping the smaller papers from unfair competition. At the same time, I want to take this opportunity to impress upon the Minister that other equally important and vital recommendations of the Press Commission which will go a long way in building up an independent and free press in our country are yet to be implemented. There is a salutary recommendation of the Press Commission to control the profits, to plough back the profits above 6 per cent., to the industry, to the benefit of those working there and to attain better standards. That is a recommendation which has to be implemented. Again, there is the question of the news agencies. I do not want to go into the details of these things but the Commission set much store by their recommendation that our national news agencies require to be

re-organised. There have been suggestions galore from the employees of the P.T.I., for example and the U.P.I., from the public and from the Press Commission indicating the broad lines along which the newspapers can be reorganised and how the small papers can be enabled to attain higher standards; and to make them financially self-supporting in the matter of advertisements, the Government have to take up a more reasonable attitude. As the Press Commission has said, telescopic tariff rates have to be introduced. These are some of the things which should be brought in without any further loss of time by the Government. They should bring forward a comprehensive legislation and I think that before long the hon. Minister will come forward with such a comprehensive legislation. That alone will really help to build up an independent and free Press in our country. This concentration of ownership or monopoly has been very much in the minds of the freedom-loving people but that is still left intact and we have not been able to tackle that. All that the hon. Minister has been able to do so far will really bear fruit only if he can persuade himself to bring forward such a comprehensive Bill before this House which I hope he will do before long. Sir, I congratulate the hon. Minister for having brought forward this Bill.

SHRI JASPAT ROY KAPOOR:

Mr. Vice-Chairman, we have now come to the end of our two days' labours and I am glad that this measure will soon be put on the Statute Book though I do not know whether it will be in the same form or whether the other House will in its wisdom consider it necessary to effect some improvements in it. Anyway, so far as we are concerned, we are going to pass it here. I very much wish that it were in a slightly improved form, which improvement could of course have been effected by referring the Bill to a Select Committee. However, it is now all over but that is just the reason for my regret on that account.

The hon. Dr. Keskar said that this Bill has been before us for a pretty

[Shri Jaspat Roy Kapoor.]

long time and that even after the introduction here he had the advantage of having the views of the Press on the subject and so on and so forth. It was all very good that he had had the advantage of those discussions but I do not know whether he could profit by all those discussions.

Yesterday, my hon. friend Mr. Bisht made some rather unkind remarks. I consider it to be rather unkind to the members of this House. What he insinuated was that some of us under the influence of what he called the Press Gallery might be saying something . . .

THE VICE-CHAIRMAN (SHRI P.S. RAJAGOPAL NAIDU): He said Press lobby.

SHRI JASPAT ROY KAPOOR: Yes, Sir. Press lobby; I am sorry. Well, I do not know . . .

SHRI J. S. BISHT: I do not know why my hon. friend is trying to put such an interpretation on a thing which is seen in all the Parliaments of the world and is known everywhere.

SHRI JASPAT ROY KAPOOR: True; it may be all the world over but the insinuation of my hon. friend was that the result of it is or may have been that we have been influenced by that lobby. Surely not; I am sure no Member of Parliament would be influenced in the performance of his duties by any lobbying from outside; not even by any lobbying by Members here. Everybody stands by his own convictions and if he can stand by his own convictions even despite the views of the hon. Minister, surely nobody else in the world will be able to influence our judgment by any kind of persuasion unless that persuasion carries conviction with us. Sir, I was going to say that I am not in the habit of watching the movements of the Press people. Perhaps my hon. friend may be following their movements and may have come to know that some Members of Parliament have been in close association with them in regard to the

discussion of this measure but as I said, I do not know of it because I do not follow their movements. But still I say that if the hon. Minister had taken serious note of the plea of the Members, he could have readily agreed to refer this to the Select Committee because I find in this paper which I was able to get hold of from the Press at my special request this resolution passed at the fifth annual session of the I.F.W.J. held at Lucknow on November 19 and 20, 1956. In this session of theirs they specifically resolved, "that this session is of the view that the Bill should be sent to a Select Committee of Parliament for careful scrutiny and amendment and directs the Working Committee to send a deputation to appear before

such a Select Committee....." which Select Committee of course never having met, they could not have had the advantage of sending their deputation to appear before it and it goes on to

say, ".....and express the views of the Federation. The I.F.W.J. also resolves that the deputation led by the President may in the meantime wait on the Information and Broadcasting Minister to discuss the Bill with him". I do not know whether this deputation ever met the Minister or not. Perhaps it may have; perhaps it may not have; but what I am submitting is that if some regard had been paid to the wishes and views of the Press it would have been better, more particularly for the reason that this is a measure which affects them. Of course, it affects the general public as much but it affects them also and we are banking on their goodwill, their co-operation and their sense of justice and fair-play and all that. That being so, it would have been much better if their views in this matter had been accepted so that they could have had the satisfaction of placing their viewpoint before the Select Committee. However, as I said, it is now a matter of the past, though it is just possible that on cooler reflection and under "moral pressure"—I use the words in inverted commas, because the whole measure is based on moral pressure on the efficacy of moral pressure rather—it

is just possible that the moral pressure in the other House may be stronger, may be more effective and there perhaps a Select Committee might be appointed. However, it is for the other House to look into this question.

DR. B. V. KESKAR: The magic of Select Committee.

SHRI JASPAT ROY KAPOOR: Now, there is only one thing that I would like to point out on this occasion and that is I feel happy that clause 14 has been allowed to remain as it is because I consider that clause which authorises the Council to get such information from the publisher as it may consider necessary . . .

SHRI H. P. SAKSENA: So, you are in support of it.

SHRI JASPAT ROY KAPOOR: Yes, entirely in support of it, because I consider it very much in the interests of the publishers themselves. Now, it gives the publisher an opportunity to disclose the source of information under pressure, where under cross-examination or ^ without any examination by the Council, because in that event the publisher^ would 'Be in a position to exonerate himself to some extent. Now, suppose a very malicious news has been published on the basis of a malicious report. Now, the publisher would not give out the source of the information. He is not expected to do it. It is a matter of confidence. But when pressed by the Council—not of his own will—if he comes out with information, obviously in the public interest—because the question would be put by the Council only in the public interest—then what would be the result? The impression created on the Council would be that this person published this news in a *bona fide* manner. There was no malice in the mind of the publisher. He got the information from a very respectable quarter. Supposing he says I got my information from my hon. friend, Mr. Saksena. Now, the Press Council will say he was very well justified, the publisher was very well justified in publishing this thing. Perhaps then 6—54RajyaSabha,56

they might enquire of Mr. Saksena as to how it all came to be. In that event, Mr. Saksena would be able to clarify his conduct and would be helpful to the publisher. In that case no stigma would attach to the publisher. This clause 14 rather than going against the interests of the publisher, gives him an opportunity to clear his conduct. I am not urging this argument merely for the sake of argument. I do honestly feel that the publisher should be given an opportunity to clear his conduct and if he feels shy, if he feels delicacy in giving out the source of the information, when pressed by the Council if he does so, no disgrace will attach to him. He can very well say to the person who gave it, "What could I do?" I was pressed to do so. If he does not want to disclose the source and wants to take the whole responsibility on himself, he can very well say, as many a publisher has done in the past, "I refuse to answer your question." His position will not be in any way worse than what it is today. Well if he is suffering the consequences today, let him be prepared to suffer the consequences hereafter. The position is not being worsened at all. On the other hand, his position • will considerably improve.

Now, Sir, having said all that, I believe that this measure is a very mild one. I would have very much wished that this were a more stringent measure. And I hope my hon. friend, Mr. Bisht, will not accuse me of trying to please the press, because what I have suggested is that some very drastic action should have been provided in this Bill to be taken against the defaulting press. The evil is a very great one. I hope, I was almost wanting to say 'I am sure', but I would not use that word, because while he expressed that he was in sympathy with my suggestions to make the provisions more stringent, he said he could not accept it, but I am sure if he had known some of these journalists, as I have, he would have readily accepted my suggestion. To a respectable paper a warning or a mere censure is enough. As a matter

[Shri Jaspal Roy Kapoor.] of fact, even before there is an occasion for censure being administered to it, it would feel itself to make proper amends. That is what a respectable paper is expected to do. If out of some negligence it has published some malicious things, it will make amends immediately, publish an apology. But then there are papers who do it all deliberately knowing it full well that they are doing something very wrong. In that case mere censure is nothing. Anyway, I hope that the press will appreciate that we are trying to deal with them in a very, very mild manner. We are placing confidence in their sense of fairplay and I hope they will respond properly to this confidence that is being reposed in them and that things will begin to improve very soon in respect of those papers which have not been behaving well. And their number is not a very small one. That is all I have to submit and I hope that the great power that the press wields will continue to be wielded in the interests of the general public and the better part of the press will exercise its moral influence to the best of its ability on the defaulting part of the press.

SHRI M. SATYANARAYANA

(NOMINATED): Mr. Vice-Chairman, I have a very simple duty to perform, that is. I really congratulate the Minister for Information and Broadcasting for having been able successfully to pilot this measure with determination and perseverance, in spite of the fact that everybody who was in this House was about to feel that this was collapsing. There was such a strong opposition that everybody wanted that it should go to the Select Committee. I myself was not able to understand the way in which he wanted to pilot in spite of this opposition. I said to myself that he must be having good reasons, knowing fully well that press is one of the most powerful things in this country and it has got enormous influence. Anything done against the interests of the press is likely to prejudice his own position as well as the position of the various political

parties. Yet he stood up. From that I understood that he has got very good intentions and very noble intentions for the purpose of protecting such of those activities carried on by the press which are likely to be prejudicial to the well-being and interests of the press itself. And that must be the reason why he stood like a rock against any opposition that was hurled against him for the purpose of moving him from his determination, to send it to a Select Committee. I do not know whether he is depending upon majority. This majority is always there. But you will also see that whenever there was a point which appealed to him, he accepted the point in spite of the fact that if he had not accepted it, the majority was there. Majority or minority he did not mind. Anyway, that was another thing.

With regard to one point regarding the appointment of the Chairman, in spite of the fact that Members said that there should be a High Court judge or a person who is qualified to be appointed a High Court judge, I really congratulate him. I have a feeling and I thought that he was very much determined that he wants to give this position to a gentleman who has qualified himself as one of the best journalists, because in this country we have had journalists of very great reputation. For instance, a man like the late Shri C. Y. Chintamani built a very great reputation as a journalist, who could be said to be in his qualities as well as his erudition, judgment and impartiality, equal to any of the best High Court Judges in this country. And we have still such persons in this country who can occupy the place of Chairman of a Council like this. Therefore, if I am permitted to suggest, efforts should be made, if possible, so that the best journalist who has qualified himself to occupy this position should be called upon to perform the function of the Chairman of this Council.

5 P.M.

Another point I just want to say in this connection is that a distinction has been made in the matter of seats to be occupied or to be given to the

language editors and the English editors. Probably I would have very much liked if this distinction had not been made, because there is no such thing as a language editor or an English editor. They are all editors. I know as a matter of fact a gentleman who is capable of editing an English paper and who is also equally good at editing a language paper. Therefore, why do you make a distinction? As the Press Commission have observed, nearly two-thirds of the newspapers in circulation in this country belong to the language group. Probably the other one-third may dwindle further in the course of five or six years. Therefore, this distinction between language papers and English papers is unnecessary. Normally the seats should go to the journalists irrespective of the language they handle. Therefore, if at all a partiality has to be shown or if the number has to be increased, it should be increased in favour of the language editors. I would very much like it if all of them are appointed only from among the language editors, because the English language, although it is a very important language, will not occupy in future the place which it is occupying today.

With regard to other matters like the disclosure of information and things like that I am really happy at the way in which the Minister has dealt with this question. Probably if he had accepted the amendment that has been suggested, it would have created much more difficulties than what we anticipate anything that had been said on this would smell of certain motives certain intentions behind it. and the protection which we wanted to give, we would not have been able to give. Therefore, it is really a matter for congratulation that he stood his ground well in spite of the fact that the best lawyers tried to draw him into this controversy. He stood this well, and he probably knew his mind very well, and that mind was a very determined mind.

SHRI H. P. SAKSENA: It is a time-honoured privilege that has been sacrificed today.

SHRI M. SATYANARAYANA: If

it is so, the privilege will be recognised by everybody, and if the privilege is breached, then I think the people who are in charge of the privilege are themselves to be condemned. If it is breached, it will be condemned. This is a privilege against which many people stood like a rock in spite of the fact that there were a good deal of inducements as well as apprehensions and fears; still people stood firm that they would not disclose. If that kind of noble course adopted by the editors in the court of law, had not shaken before, it will not shake in the future also. If anybody says that it will shake, that will mean that we are not at all trusting even the journalist to whom we are giving this particular privilege. Therefore, I hope that the privilege will be kept up.

There is one point that, as all or most of the members of the Press Council are journalists, the apprehension is that there is likelihood of jealousy between them and that one particular section of journalists may try, by way of clique to see that the other section is brought to book, to see that they are maligned and their reputation is damaged. That is really an apprehension just behind the mind of those people who have suggested this. That is what I suspect. My own feeling is that we accept all those people who are likely to be there on the Council. When they are selected, they are selected for the virtue they possess, for the integrity they have shown, for the greatness they are likely to show. For instance, my hon. friend mentioned that when a person sits in the position of a Judge, he becomes entirely different and he does not at all remember what he was before. He is expected to perform the duty that is entrusted to him. We have good stories—for instance, Vikramaditya—even an ordinary person placed in position, was able not only to comprehend the law, but was able to keep an impartial mind and even deliver the best judgment possible. So, we need not at all in any way apprehend that it is quite likely that the people who are there in the Council will begin to quarrel regarding what



[Shri M. Satyanarayana.]

they have been doing outside the Council. That will not happen. If it happens, my own feeling is that the privilege about which my hon. friend was talking would not be there either pertaining to journalism or pertaining to a lawyer or pertaining to a witness. Our standards are higher and I do not think that any apprehension need be entertained with regard to disclosure of information or the likely punishment that he will get or on the ground that for the purpose of establishing the case coercion will be used for getting the information.

Sir, although we are passing this measure in the quickest possible time, this is one of the measures pertaining not to any governmental activity but exclusively to outside activity. Probably this is one of the first activities which we are now bringing within the ambit of a law to be passed by Parliament, an activity which is of very great importance, of utmost importance, with which every public man is connected, every business is connected and everybody is connected. Yet it has been found necessary that it should be brought within the ambit of law in order to enable those people to carry out those duties which are entrusted to them in the best interests of the country.

With these words I support the Bill and I congratulate the Minister again.

DR. B. V. KESKAR: Sir, I do not think that a speech from me is necessary at this stage, the final stage of this Bill. We have had from the very beginning a continuous discussion, and a repetition of the discussion, of the main points of the Bill, because it is those very points which have all along been in dispute. Nevertheless, I congratulate the hon. Members for the keenness and the earnestness with which they took up the discussion and for the grasp of details that they showed. It shows that the profession of a journalist is an admirable profession and everybody is keen to see that the profession and the industry run well and are above board.

As I said at the very beginning, we have been keen to get this Press Council, not because the Government had that idea but because the Press Commission was very keen about it and felt, after considering the whole question very carefully, that the existence of such a Council would strengthen the atmosphere for raising the standards of the Press and help it in some way. Therefore we felt—and we were reproached many times for not bringing this measure forward soon enough—that we would be wanting in the duty placed upon us by Parliament if we did not bring this Bill forward. At the same time we were also very keen to see that there should be as far as possible, an atmosphere of impartiality and objectiveness for such a Council, and that is one of the reasons why notwithstanding that we brought our own proposals before the House, we were open to accept those which we felt would improve the Bill, and when my hon. friend, Dr. Kunzru, suggested that we should have, for example, a Committee to select the Chairman, we had no hesitation in accepting that suggestion, because we had no fetish about the President of India nominating the Chairman or any other person as the most fitted to do the job. If that independence or objectiveness of the Chairman will be considered even better by a particular Committee, we were prepared to accept it.

I think, Sir, on the whole by the discussion and the number of amendments that have come, the Bill has been improved and it will certainly enhance the moral prestige of the Press Council when it is formed.

Apprehensions have been expressed about the question of journalistic privilege. Now, we have had a good discussion and I congratulate my hon. friend Mr. Sapru for the very illuminating contribution he has made to the discussion today. The point is that this privilege—journalistic, medical or legal—is an understood privilege, a conventional privilege. It is not a privilege which is embodied in a law. And I think Shri Satyanarayana was quite right in making the point that a privilege loses most of its value if it is

laid down in a law. It is there and I am quite sure that the Press Council will be the first to uphold that privilege. But if we try to hasten and protect by a China Wall the journalists, it is true that people will begin to think that something is fishy about it and that is why all this is required. Others have had that privilege and it has been generally respected and here also will be certainly respected. The cases quoted by my friends, Diwan Chaman Lall and others, were those instances when India was under foreign rule and those people who were convicted were really asked by the foreign government to disclose, or say something about, any political matters. No such instance will ever arise in a free country. Therefore, the illustrations given do not belong to the India of today. I am quite sure of it. Though I sympathise with the question of the journalistic privilege, I say that it is not at all in peril and has not been in peril, though an attempt to make it very sure by a kind of legal laying down, has been made. I think in the interests of journalists, it is good that it has not been put on the Statute Book.

So, I think, for the betterment of the press, for raising the standard of the press and for the public in general, the formation of the Council will certainly be beneficial. Doubts have been expressed here regarding the question of the objectiveness of the Council. It is quite possible, I myself am not sure whether the Council will be able to exercise an active influence on the press so as to raise its standard. It is possible that Mr. Kapoor is very pessimistic; so is my friend, Mr. Bisht, also. The experience of the Press Council in Great Britain is not a very happy one.

SHRI JASPAT ROY KAPOOR:  
Not very pessimistic, not very hopeful.

DR. B. V. KESKAR: In between. But it is possible. We must have two or three or four years' experience before we are able to pronounce any

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judgment regarding this matter. But we have to have this experiment to see whether in this way we will be able to raise the standard of the press. And as the Press Commission, after careful consideration felt that this should be tried, we are quite right in having this experiment of the Press Council. I hope that the Press Council will fulfil in a large measure the object that the Press Commission and all of us have had in view. I trust that Parliament's strong support for the idea of the Press Council will go a long way in putting the Council first and foremost in its successful venture.

I congratulate the House for the very brilliant debate we have had today and I hope that the House will pass this measure with acclamation.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): The question is:

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

The motion was adopted.

#### **ALLOTMENT OF TIME FOR CONSIDERATION OF THE CENTRAL SALES TAX BILL, 1956**

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): I have to inform Members that under rule 162(2) of the Rules of Procedure and Conduct of Business in the Rajya Sabha, the Chairman has allotted five hours for the completion of all stages involved in the consideration and return of the Central Sales Tax Bill, 1956, by Rajya Sabha, including the consideration and passing of amendments, if any, to the Bill.

The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at fifteen minutes past five of the clock till eleven of the clock on Wednesday, the 12th December 1956.