

The House reassembled after lunch at two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

**THE TERRITORIAL COUNCILS
BILL, 1956—continued**

SHRI B. N. DATAR: Mr. Deputy Chairman, a number of points were raised by hon. Members though I am happy to find that there has been a general consensus of opinion in favour of the provisions of this Bill. I would not go into the larger questions relating to the political set-up or regarding other matters with which this Bill is not concerned. This morning I pointed out to the House that this Bill gave very large powers to the Territorial Councils, in the first instance, so far as local matters were concerned. I also stated that there were certain special features in the

provisions of this Bill which gave much wider powers to this body than are given to ordinary boards or municipalities. These are the special or significant features of this Bill and along with other functions of this body three functions may kindly be noted in this connection, namely "the superintendence and control of pan-chayats and the making of grants to them; the preservation, protection and improvement of live-stock and prevention of animal diseases, and veterinary training and practice and the prevention of cruelty to animals." So it will be found that, to a certain extent, they will be given larger powers than are given to District Boards and therefore, this is to be welcomed. As I have said this morning, we have modelled this measure, more or less, on the Bombay Municipal Corporation Act which has given very large powers to municipal corporations there. Here also it will be found that substantial powers have been given to the Territorial Councils. An hon. Member on the other side. Mr. Kishen Chand. was needlessly critical of the provisions of this Bill. I am afraid he has thoroughly misunderstood them, because what he has stated is entirely without any foundation. This is not a mockery of democracy at all, but the Erant of substan-

tial local self-government and rights and functions to the Territorial Councils. Moreover, whenever this question is considered, we have to take into account the circumstances and also the functions that this particular body has to carry out. Short of being a legislative body it has got very wide powers and these powers are not taken away by what the Administrator has to do. So far as the Administrator's rights or his power to issue directives are concerned, I should like to point out to this House that it is entirely open to the Council to carry on the administration in the best way possible and there will be no hindrance at all, nor interference. It is only in two or three cases where it would be open to the Administrator to issue directives. One of them, as I stated this morning, is with regard to the curricula or with regard to the work to be carried on in the conduct

i of schools. There is such a special provision in the Bombay Municipal Corporation Act. Also, in the interest of maintaining high standards of education, it was considered necessary that the Administrator should have the power of issuing directives in this respect. Therefore, it would not be proper to say that the Administrator is all in all, and that the Administrator practically, has got all the powers leaving very little to the Territorial Council. This is not a correct view of the matter at all and, therefore, I would submit again that the Administrator would step in only for the specified purpose or purposes which I have pointed out above. The Administrator will also have to step in; under the direction of the Central Government when a question of supersession arises. But supersession, as the House is aware, is an abnormal thing and under certain circumstances it might be absolutely necessary. Therefore, the House will kindly note that it is the Central Government that would order supersession.

My hon. friend Dr. Sapru suggested that there ought to be a provision for the dissolution of this body. So far as this body is concerned, there cannot be a dissolution at all, because this body is a body corporate

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it has perpetual succession, and like this honourable House, this is a permanent body and therefore, in all these cases you cannot have a dissolution. Therefore, I would submit that there cannot be any dissolution of a body like the Territorial Council. He also contended that in certain cases this may be necessary, as for instance, in a case of maladministration. Maladministration can be provided against according to him, only by exercising the powers of dissolution.

I should point out to him in this respect that the Central Government have been invested with powers to supersede and it has been further laid down that after supersession within one year at the longest, elections will have to be held. Thus, the purpose that the hon. Member has in view, namely, having elections again, has been served though in an indirect manner, by the provisions about supersession. I should point out to this House that whatever is necessary has been done and the Administrator has not been over-weighted with powers. In fact, we have given very substantial powers to these Councils as the House will find.

In regard to finance, two questions were raised. One was that these Territorial Councils will not have "sufficient moneys with them for carrying out their own schemes and functions. So far as that is concerned. I should invite the attention of this House not only to the clauses to which some hon. Members made reference but to the whole Chapter V which deals with finance, especially clauses 33 to 37. So far as clause 37 is concerned, it is open to the Central Government to make grants whenever it considers necessary for developing all these territories. They have also been given certain powers of taxation. They are neither of an illusory nature nor rigid. It will be found that these Councils can levy taxes on certain professions, trades, callings, employments, etc., and there may be no difficulty on this score. In addition to this, Sir, there is another matter which my hon. friend, Shri Kishen Chand,

did not fully realise. These Councils I will be entitled to the recoveries from certain taxes levied by the Central Government completely and in some cases a share is given to them. As the hon. Members know, the District Boards all over the country are given a share in the land revenue; in some cases it is five per cent., while in some others it is more. Here, it will be found, Sir, that upto ten per cent., of the land revenue collected can be given to these Territorial Councils. They are also entitled to the net proceeds of the Entertainment Tax including theatre or show tax and to the net proceeds of the tax levied on motor vehicles, passengers or goods and fairs and trades, etc. So, so far as the resources that have been placed at the disposal of these Councils are concerned, they are of a substantial nature. This has been worked out in order to satisfy this House as to whether they would be of an illusory nature and whether they—these Councils—will suffer for want of funds. The various sources indicated in the Bill have been looked into and it has been found, Sir, that approximately, all the three Territorial Councils will have funds more or less sufficient to carry on their functions. So far as Himachal Pradesh is concerned, they are likely to have something in the neighbourhood of at least eleven lakhs of rupees; Manipur will have about five lakhs and Tripura will have about two and half lakhs. That is the rough figure that has been calculated from the various sources. It is not only a thousand or two, as Mr. Kishen Chand said, without properly realising the importance of the various sources of revenue that have been given to these Territorial Councils. I would like to point out, Sir, that this question would again be considered after we gain some experience and whatever is necessary for the proper administration of the Territorial Councils with a view to developing these areas will certainly be done.

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My hon. friend, Dr. Kunzru, raised another question about the provisions regarding the budget. In this I respect he suggested certain things which are already provided for in the

Bill. Now, the budget has to be prepared by the Budget Committee of this Council. Then the Council will consider it and send a copy of this provisional budget to the Administrator. The Administrator sends back the budget to the Council with a view to considering the whole matter from the point of view both of commission as well as of omission. These suggestions will then be finally considered by the Council and the Council has to take a final decision. Dr. Kunzru is perfectly right in saying that the ultimate decision should be taken by the Council. The Council has the advantage of considering the objections or the difficulties pointed out by the Administrator. After considering all these difficulties, it is for the Council alone to take a final decision. That is what exactly has been stated in clause 50(7). "The budget estimate finally adopted by the Council shall be the budget of the Territorial Council" and in the preceding sub-clause, subclause (6), it is stated. "When a budget is returned under sub-section (5), the Council shall consider the proposed amendments, take a decision thereon, and report the same to the Administrator." Therefore, the responsibility as well as the right of taking a decision rests solely with these Territorial Councils. We have given them the right to take their own decision after they have considered the suggestions or the difficulties pointed out by the Administrator. The Administrator comes in only for the purpose of scrutinising them properly and advising them so far as the contents of the budget estimates prepared by them are concerned. If, after considering all these suggestions made by the Administrator, the Territorial Council takes its own decision, it will be its own decision and the matter has been left there. Under these circumstances, Sir, my submission is that this is a substantial right which has been given. As he stated, the question is ultimately whether the powers should vest with the Central Government or the Administrator or whether there would be any difficulty so far as the carrying out of the duties of this body is concerned. Inasmuch as this body

I has been created, the body, we felt, should also have some important right in respect of finances and budget and, therefore, that right has been given.

SHRI P.N. SAPRU: I understood Dr. Kunzru as saying that the Administrator should, in this case, have a right to over-rule the Council.

SHRI B. N. DATAR: He must be placed in a position to implement his own recommendation. That was his point and that was also one of the views that Government considered but we came to the conclusion that so far as these Councils are concerned, they should have the final say. After the Administrators had pointed out the difficulties in the way, the last word should always rest with these Councils because it is their business, it is their right as well as privilege. If the Administrator or the Central Government were to take overriding powers in this respect, perhaps objection might be raised and people would say that these Councils have got only illusory powers and that ultimately, they will carry out not their own wishes or plans in this respect but the plans either of the Administrators or of the Central Government. That is the reason why these powers have been left to them ultimately.

Then, Sir, something was said: about the nominated members. So far as these nominated members are concerned, Dr. Kunzru contended that once they become members, full-fledged members, of the Territorial Councils, both the elective element as well as the nominated element should have the right of Members to the Rajya Sabha. In regard to this there are different views. What he says is correct to a certain extent but the view that was pressed in the other House and the view that ultimately¹ was accepted by the Government is based on this consideration. It is true that the Members of the Rajya Sabha are elected on the basis of indirect elections. That is true, but at least at some stage, at the earliest stage, there ought to be election. That is the reason why as you pointed out very

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rightly in respect of State Legislatures, the members who themselves are elected, have the right to elect Members to the Rajya Sabha. Now, it is this principle—and the principle is perfectly sound—then so far as these nominated members are concerned, this principle is lacking in their case, because they have not been elected on the basis of adult suffrage from the constituency. In the case of the Territorial Councils, the members 41 or 30, as the case may be, are elected directly by the electors on the basis of adult suffrage. Therefore, they have a right to claim to be the representatives of the people. And, therefore, inasmuch as they themselves are elected on the basis of adult suffrage either to the Territorial Council, as in this case, or to the State Legislature, as in the other case, they ought to have the right to elect to the Rajya Sabha Members from that particular State. There must be some measure of the representative character. So far as these nominated members are concerned, I merely pointed out the principle on the basis of which Government accepted this amendment and so far as these persons are concerned, their number is not very large. We wanted four, the other House suggested two, and that is what we have accepted. Now, his further contention was that if this right of nomination has to be used for the purpose of giving representation to interests who were not fully represented or who were inadequately represented, then what would happen to these members? This question is relevant to a certain extent, but after all, the overriding consideration must be the one which Government have to take into account, namely, whether the member of the Territorial Council who ought to have the right to elect Members to the Rajya Sabha, should himself be elected or should be nominated. Therefore, on this basis a distinction has been made and the House will find that it is based on the best principles of democracy.

Then, certain other points were raised regarding social workers. So far as social workers are concerned,

now they can come in as members' of the Territorial Council. They can get themselves elected so far as social workers are concerned. They have touch with the rural life and in all these areas you will find—in all the three territories—that most of the area is rural. And, therefore, to the extent they have contact with the large rural population, they have very good chances of being elected and they need not necessarily depend upon nomination as the door through which they can get into the Territorial Councils.

Then, another question was raised as to why a disqualification has been put in or it has been stated that no person can be a member of a Territorial Council and Parliament at the same time. Here also, there is one point that has to be noted. Now, so far as these Territorial Councils and Parliament are concerned, it is advisable that different persons are there. Otherwise it is quite likely that a charge of monopolisation is likely to be brought against members. If I am a member of the Territorial Council and if again I am a Member of the Lok Sabha, or the Rajya Sabha, then an objection is likely to be raised that in the name of democracy certain persons get all powers concentrated in themselves. It is for this reason that it was considered that a person should not be a Member of both the Houses.

SHAH MOHAMAD UMAIR: But that is not the case in respect of District Boards, municipalities and local boards.

SHRI B. N. DATAR: It is my claim that these bodies are larger than District Boards. They have greater and more substantial powers than mere District Boards; and, secondly, perhaps, without meaning any discourtesy to the membership of the Territorial Councils, I believe we should have better members, with higher equipment for the membership of Parliament than for the membership of the Territorial Councils. After all, their functions are different. But there, Sir, Parliament is the sovereign legislative body for the

whole of India and, therefore, it would perhaps be better to have men who have a better status and who are better equipped so far as the question of their qualification for carrying on this great public work is concerned. Now, these are.....

DR. RADHA KUMUD MOOK-ERJI (Nominated) : May I put a question? To what extent does the principle of nomination correspond to the principle that exists in the Constitution?

SHRI B. N. DATAR: This does not, if I mistake not, come into conflict with the Constitution.

MR. DEPUTY CHAIRMAN Only two members.

DR. RADHA KUMUD MOOK-ERJI: My question refers to the principle of nomination.

SHRI B. N. DATAR: May I point out to the hon. Member that the Constitution has accepted the principle of nomination. So far as the Andaman and Nicobar Islands are concerned, we nominate a Member to the Lok Sabha. So far as the Anglo-Indians are concerned, a Member or Members are nominated to the Lok Sabha.

MR. DEPUTY CHAIRMAN: In this House also there are.

DR. RADHA KUMUD MOOK-ERJI : This is about the new order of things, but I refer to the main principles in the Constitution as regards nomination. There you will find that nomination is made of persons in extra-territorial capacity, that is, persons who are asked to represent in the Legislature certain specific non-territorial interests like literature, science, social services, and so forth. I wish to know whether you are departing from that healthy principle of nomination as it exists in the main Constitution.

SHRI B. N. DATAR: I may point out to the hon. Member that no particular restrictions have been laid

down so far as the nomination of these two members to each of the three Territorial Councils is concerned. And as I state, we might follow a convention that these nominations would be for the purpose of representation or adequate representation of interests not properly represented there.

MR. DEPUTY CHAIRMAN: It is time.

SHRI B. N. DATAR: And therefore, I believe that the principle of nomination does not in any way go counter to the principles in the Constitution.

One word more. The Andaman and Nicobar Islands were brought in, though they are not relevant at all and the contention is that a Territorial Council could be established for the Andaman and Nicobar Islands also. There is a certain difficulty in the way and the conditions in the Andaman and Nicobar Islands are different from those in these three territories. As the House is aware, there is direct election to Parliament to the Lok Sabha from all these three areas. So far as the Andamans are concerned, the Constitution itself has provided that there ought to be a nominated Member in the Lok Sabha to represent the interests of Andamans. That means, the Andaman and Nicobar Islands as well as the Laccadive and other islands have to come up to a higher degree of development before these rights are conceded and in the first place the right of election to Parliament will have to be conceded and then the question of Territorial Council will arise.

MR. DEPUTY CHAIRMAN:
The question is:

"That the Bill to provide for the establishment of Territorial Councils in certain Union territories, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration. There are no amendments.

Clause 2 to 66 and the Schedule were added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI B. N. DATAR: Sir, I move "That the Bill be passed."

MR. DEPUTY CHAIRMAN:
Motion moved:

"That the Bill be passed."

SHRI J. S. BISHT: I do not wish to make any speech. I want to put one question. You have provided in this 23 powers and these have been given to the Territorial Councils and you have also provided for a Chairman and an executive officer. But you have not provided as to what powers will be exercised by the Chairman or the executive officer. Or do you contemplate rectifying this under clause 63?

SHRI B. N. DATAR: They are all enumerated.

MR. DEPUTY CHAIRMAN: They are all enumerated in it. No speech. I am not allowing any speech. I am putting the question to the House. The question is:

"That the Bill be passed."

The motion was adopted.

THE BANKING COMPANIES (AMENDMENT) BILL, 1956

THE MINISTER FOR REVENUE AND DEFENCE EXPENDITURE (SHRI A. C. GUHA): Mr. Deputy Chairman, I beg to move:

"That the Bill further to amend the Banking Companies Act, 1949, as passed by the Lok Sabha, be taken into consideration."

Sir, I am really sorry that the hon. Members had only a very short time. ...

AN HON. MEMBER: For both the Bills.

SHRI A. C. GUHA: I think they can understand the reason. We cannot leave the Act as at present. . . .

SHRI B. C. GHOSE (West Bengal): Why did you not bring it earlier?

SHRI A. C. GUHA: It was not possible to bring it earlier. We tried to bring it in the last session.

SHRI BHUPESH GUPTA (West Bengal): What came in the way?

SHRI B. C. GHOSE: Was there no draftsman?

SHRI A. C. GUHA: There were many things in the way. I think that the matter had been before the Members at some time or other, if not formally, at least informally. So, I hop-they will allow me to proceed with this Bill.

The provisions of the Bill may be broadly classified under the following heads:

- (a) Control of high emoluments paid to the managers in banks.
- (b) prevention of concentration oi voting rights in a few hands: and
- (c) enabling the Reserve Bank to prevent managerial irregularities firstly by acquiring the prior approval of the Reserve Bank to the appointment of their chief executive officer; secondly, by deputing an observer or ob servers for obtaining first-hand knowledge of the method or conduct of affairs of any bank ing company; thirdly, by the issue of directions, whenever re quired, in the public interest, in relation to matters of policy of the administration.