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Saturday, December 8, 1962
Agrahayana 17, 1884 (Saka)

LOK SABHA DEBATES

Third Series

Volume XI, 1962/1884 (Saka)

[December 5 to 11, 1962/Agrahayana 14 to 20, 1884 (Saka)]



THIRD SESSION, 1962/1884 (Saka)

(Vol. XI contains Nos. 21 to 26)

LOK SABHA SECRETARIAT
NEW DELHI

C O N T E N T S

[THIRD SERIES VOL. XI, December 5 to 11 1962/Agrahayana 14 to 20, 1884 (Saka)]

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LOK SABHA

Saturday, December 8, 1962/Agrahayna 17, 1884 (Saka)

The Lok Sabha met at Twelve of the Clock.

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

SHORT NOTICE QUESTIONS

Economic aid from U.S.S.R. for the Third Five Year Plan

S.N.Q. 8. Shri Harish Chandra Mathur: Will the Minister of Finance be pleased to state whether economic aid for the Third Five Year Plan is being received from U.S.S.R. in accordance with the various credit agreements?

The Minister of Finance (Shri Morarji Desai): Yes, Sir.

Shri Harish Chandra Mathur: May I know what has actually come during the year and what is on the way?

Shri Morarji Desai: As against the total sum of Rs. 384 crores under the Soviet credits, contracts for Rs. 220 crores for supply of equipment etc. have so far been concluded. A sum of Rs. 115.17 crores has already been utilised, and the rest of the credit is also being utilised by having further contracts.

Shri Harish Chandra Mathur: As the hon. Finance Minister would recall, when the Deputy Premier of USSR was here he was particularly requested regarding the power plants—and our Minister of Co-ordination also met him, and I think 2398 (Ai) LSD—1.

he also met the Finance Minister—to expedite the despatch of these units. May I know what is the position?

Shri Morarji Desai: The power plants which are coming under Soviet credits will be coming according to the schedule. As a matter of fact, they are being expedited somewhat.

डा० गोविंद दास : गये साल हम को जितनी सहायता मिली थी वह क्या पूरी हो चुकी और उस में और इस साल की सहायता में क्या कुछ फर्क है ?

श्री मोरारजी देसाई : यह तो पांच साल की सहायता है और पांच साल में पूरी होने वाली है ।

Shri Tridib Kumar Chaudhuri: May I know whether there has been any suggestion on the part of the Soviet Government, since our trouble with China began, that the aid might not be forthcoming or anything of the kind?

Shri Morarji Desai: There has been not only no such suggestion, but the suggestion is to the contrary, that it will come according to schedule.

C.P.I. Chairman's Travel Abroad

S.N.Q. 9. { Shri Hari Vishnu Kamath:
Shri Bade:
Shri Y. S. Chaudhary:

Will the Minister of Finance be pleased to state:

(a) whether it is a fact that the Chairman of the Communist Party of India has been permitted to travel abroad;

(b) If so, which countries he has been permitted to visit;

(c) the purpose of his visit; and

(d) the amount of foreign exchange sanctioned to him?

The Minister of Finance (Shri Morarji Desai): (a) Yes, Sir.

(b) U.S.S.R. and U.K.

(c) To attend conferences in his capacity as Vice-President of the World Federation of Trade Unions.

(d) Nil.

Shri Hari Vishnu Kamath: With regard to part (c) of the question, is there any truth in certain reports to the effect that the Chairman of the Communist Party, before he left this country on his visit abroad, met the Prime Minister, and perhaps some other Ministers also, more than once, that he has been well equipped with maps and other reports and documents, and that virtually he has gone on a quasi-diplomatic assignment to these countries?

Shri Morarji Desai: I may say that he did not meet me. I do not know whom he met. And there is absolutely no truth in any inference that he is going on any quasi or real or any diplomatic mission.

Shri Tyagi: Very good.

Shri Hari Vishnu Kamath: Can the House take it then that the permit for this gentleman by the Reserve Bank and by the Finance Ministry has been given without any pressure or suggestion from other or higher quarters; and when the Communist Party has been so thoroughly exposed in its true colours in our own country.....

Shri H. N. Mukerjee: Sir, on a point of order....

Mr. Speaker: Order, order. What is the question?

Shri Hari Vishnu Kamath: I am coming to the question. But without the background..... (Laughter). It is no matter for laughter.

Mr. Speaker: It is no matter for laughter, I agree with the hon. Member. But there should be no inferences, no innuendoes, directly or indirectly. He has to put the question.

Shri Tyagi: The colour is already known. It is red.

Shri Hari Vishnu Kamath: It is a serious matter. This cacophonous cackinnation is very unfortunate.

What are the reasons for Government providing an opportunity for the Chairman of the Communist Party of India to rehabilitate himself and his Party with the help of the so-called fraternal parties in foreign countries?

Shri Morarji Desai: I do not know what rehabilitation is meant in this. He goes to attend these conferences every year, and this is as usual; it is allowed. There is no question of any pressure being put on Government. By whom? Who are the quarters higher than Government?

Shri Hari Vishnu Kamath: Pressure on Reserve Bank.

Shri Morarji Desai: The Reserve Bank is not higher than Government.

Shri Hari Vishnu Kamath: No, no....

Mr. Speaker: Order, order. Questions are being put even while sitting.

Shri Bade: Are Government aware that according to earlier reports Shri Dange's scheduled departure for Moscow was cancelled due to the fact that Government then decided that he should not be allowed to leave India? If so, why was he allowed to go at a later stage? In the beginning he was not allowed to go. Then after seeing the Prime Minister, he was allowed to go on condition that Nambudiripad should be released. Was this a fact?

Mr. Speaker: He is presupposing certain things.

Shri Bade: This has appeared in the papers. Why was he allowed to go later?

Shri Morarji Desai: There was no question of his not being allowed. He was allowed. If he did not go at that time, it was his concern.

Shri Bade: Did he see the Prime Minister twice?

Shri Morarji Desai: How do I know whether he saw the Prime Minister?

Mr. Speaker: All interviews given by the Prime Minister may not be known to the Finance Minister.

Shri Bade rose—

Mr. Speaker: He has answered. The hon. Member must resume his seat.

Shri Bade: My submission is that reports have appeared in the Press mentioning this condition....

Mr. Speaker: Does he want to know the reports in the Press or the information with Government?

Shri Bade: It is the responsibility of the Minister. He must be knowing.

Mr. Speaker: Information with Government has been given. What else does he want?

Shri Bade: I want to know whether the reports which have appeared in the Press are correct or not.

Mr. Speaker: I do not think that arises when Government gives the information. If it is not in accordance with what has appeared in the Press, then certainly the press reports are not correct according to Government. Otherwise, they might be correct. I am not responsible for that.

Dr. Ranen Sen: The Finance Minister is not the conscience keeper of the Prime Minister.

Mr. Speaker: Order, order. That has nothing to do with this. Here hon. Members have to solicit and elicit information from Ministers. When that information has been given, what is contained elsewhere is not relevant.

Shri Hari Vishnu Kamath: On a point of order. May I submit that the Finance Minister did not deny that the gentleman did see the Prime Minister? He only said that he did not know. He did not deny the press reports.

Mr. Speaker: All the better if there is no contradiction.

Shri Hem Barua: If the Chairman of the Communist Party did not see the Finance Minister, the reasons are obvious....

Mr. Speaker: We are not going into the reasons. I can only allow a question. Has he any?

Shri Hem Barua: The Finance Minister has admitted that the Chairman of the CPI is going to the U.S.S.R. and U.K. The U.S.S.R. has maintained absolute neutrality so far as this aggression is concerned and so far as the U.K. Government is concerned....

Mr. Speaker: He is not coming to the question. If he does so, after ten minutes, I cannot allow that.

Shri Hem Barua: As regards U.K., it is reported that the Government of U.K. has supported us. In the context of this, what purpose is likely to be served by the visit of the Chairman of the CPI to countries that have either maintained neutrality or have actually supported us?

Mr. Speaker: He is arguing that case. Is there any answer to this?

Shri Morarji Desai: I do not know what answer is expected to this.

Shri Hari Vishnu Kamath: The Prime Minister should have been here.

Shri Harish Chandra Mathur: The Finance Minister has stated that no foreign exchange has been granted to Shri Dange. May I know whether he asked for none? If he did not ask for any, how does the Finance Minister take it that he is going to stay in the foreign countries, more particularly in the U.K., without any

foreign exchange? Is it according to the restrictions which he has already placed that people should not go until and unless he is assured that the man going out has enough of foreign exchange?

Shri Morarji Desai: The corresponding trade unions there meet the expenditure. That is usual every year.

श्री यशपाल सिंह : क्या सरकार को पता है कि श्री डांगे ने यहां पर एन्टी-चाइना लाइन भ्रष्टचार की है और वह सरकार के मश्वरे से वहां गए हैं ; अगर नहीं, तो क्या इस मौके पर उन का वहां जाना मुनासिब था ?

श्री मोरारजी देसाई : वह सरकार के मश्वरे से नहीं गये हैं । वह सरकार की इजाजत से जरूर गये हैं ।

Mr. Speaker: Papers to be laid. Shri Thomas.

Shri Bade: I want to put the question, because my name is there in the Short Notice Question, and I was allowed only one question.

Mr. Speaker: Now he will kindly allow me to proceed. He will excuse me now if I have passed on.

12.11 hrs.

PAPER LAID ON THE TABLE

NOTIFICATIONS UNDER ESSENTIAL COMMODITIES ACT

The Deputy Minister of Food and Agriculture (Shri A. M. Thomas): I beg to lay on the Table a copy each of the following Orders under sub-section (6) of section 3 of the Essential Commodities Act, 1955:—

- (i) The Rice (Madhya Pradesh) Price Control (Second Amendment) Order, 1962 published in Notification No. G.S.R. 1932 dated the 29th November, 1962. [Placed in Library, see No. LT-637/62].

- (ii) The Madhya Pradesh Rice Procurement (Levy) Amendment Order, 1962 published in

Notification No. G.S.R. 1633 dated the 29th November, 1962. [Placed in Library, see No. LT-638/62].

- (iii) The Rice and Paddy (Assam) Second Price Control Order 1962 published in Notification No. G.S.R. 1635 dated the 30th November, 1962. [Placed in Library, see No. LT-639/62].

12.12 hrs.

RE: DISCUSSION ON CEASE-FIRE

Mr. Speaker: Shri Jagjivan Ram.

Shri Hari Vishnu Kamath (Hoshagabad): Before you go on to further business, you are aware that Monday has been fixed for the debate on the border situation, and the debate cannot proceed properly unless the correspondence that has passed between the Government and the Chinese Government on various points raised for clarification is also placed on the Table of the House, or at least the points that have been raised for clarification.

Mr. Speaker: I will ascertain from the Government if the correspondence can be placed.

Shri Harish Chandra Mathur (Jalore): I understand from today's press reports and what the Prime Minister said, that they have prepared in the External Affairs Ministry a good pamphlet giving all the information and the various maps

Mr. Speaker: That the Prime Minister said himself.

Shri Harish Chandra Mathur: What I mean to submit is that I wish it is also made available to Parliament.

Mr. Speaker: The Prime Minister has made clear that there are not as many copies as there are Members, but some copies would be placed in the Library and some others would also get them.

Shri Harish Chandra Mathur: My submission is this, that if these copies are made available today, whatever number may be available, that would be handy and useful for discussion.

Mr. Speaker: I have said that I will see if they are ready.

Shri Hem Barua (Gauhati): I want to draw your attention and seek your guidance on a very important matter. It was only yesterday that our Prime Minister said like this about the Chinese proposals:

Mr. Speaker: Order, order.

Shri Hem Barua: Sir, I am rising on a point of order.

Mr. Speaker: No. He will kindly listen to me first.

I must have the support and sympathy of the House because these proceedings cannot be continued in this manner. If something is related to the business in hand, certainly the hon. Member has got the right, and I am prepared to listen to him. If it relates to the business that is to be taken up, that should only be taken up when the Minister of Parliamentary Affairs makes his statement. At that time, of course, we will devote some time and settle if some other business is to be taken up, why a particular item is not being taken up, or why priority is being given to one or the other. But if any other business or any other thing is unrelated to the business that is in hand or is put down on the Order Paper and an hon. Member wants or desires that he should be allowed to raise it here, he should first see me, inform me of what he is going to raise. I should not be taken unawares at once and driven to some other matters that are quite unrelated and unconnected with this.

I hope the hon. Members would keep that in mind because otherwise we cannot keep discipline and we would not be behaving as the hon. Members of this House. Hence my request, and I solicit the support and the sympathy of the House.

There is also rule No. 377 which says that no unrelated matter should be suddenly raised unless it is a point of order, and that point of order can be taken only in connection with the business that is in hand, not on anything unrelated to it. When a business has been finished, no point of order arises so far that is concerned. When a business has not yet been taken in hand, no point of order can arise in that connection also. In between there is no point of order. Therefore, unless there is a point of order connected with the business, there is no other thing that can be taken up in between.

Members standing up in this manner and saying that before I take up any other business they have to make a statement, does not look nice, and I solicit the support of all hon. Members and the parties also.

Shri Hem Barua: I wanted a clarification because this is a very disturbing news, the Prime Minister telling us yesterday about discussion with China on certain very important matters and a spokesman of the External Affairs Ministry contradicting it.

Mr. Speaker: Order, order. I have received notice about that also. But the day after tomorrow we are taking up a discussion of these things; they would all be discussed here. When there is a discussion fixed specifically, I cannot allow separate discussion or explanation on that.

Shri Hem Barua: May I submit that it has not only disturbed my mind. Possibly it has disturbed your mind, a man noted for mental equipoise. There has been so much of contradictions and therefore we want some clarification before any mischief or misunderstanding spreads.

Mr. Speaker: I cannot take that up separately.

Shri Ranga (Chittoor): Sir, I am speaking for myself and my friends here in the House. We are in agreement with what you have said and

[Shri Ranga]

we shall certainly try and co-operate. But at the same time we wish to draw your attention to one or two points. I do not want to go into details. We give notice of some short-notice questions and calling attention notices also but simply receive a reply that they are not being admitted. Even when the leader of the group takes the trouble to put his signature there, the same answer is being given and even when we make representations to the proper quarters it is the same treatment that is offered to us. Naturally it leaves a sense of dissatisfaction. I would like you to use your influence with whomsoever it may become necessary that at least when the leader of the group takes the responsibility of giving notice of a short notice question or calling attention notice, due consideration is given without simply sending it away as not being acceptable, simply at the secretariat or any other level.

Mr. Speaker: Hon. Member knows he is the leader of a group and an old and experienced parliamentarian. He knows much better than myself that when there is a short notice question the Minister is given the option to accept that short notice question, or not to accept it. If he says that he cannot accept short notice, there is no remedy with me. But I have just now suggested that when a Member or any leader feels dissatisfied he can come and tell me that he wants to take it up here and that he may be allowed. At least this much can be done. That is what I am requesting. When any hon. Member has something in his mind, he must inform me. I am here from one hour before the sitting commences, in my office and any Member can come and meet me and tell me what he wants to raise.

Shri Surendranath Dwivedy (Kendrapara): But the Ministers also should co-operate. We have dispensed with the Question Hour and the only opportunity is the short notice questions. They should not take cover under the rules.

Mr. Speaker: We are having two every day; it is not possible to have more than that.

Shri Tyagi (Dehra Dun): Sir, since your ruling goes down as a convention and it will become part of the procedure, I would like to seek one clarification with regard to the refusal of Ministers to reply to short notice questions: whether they can refuse to answer short notice questions when it is not possible for them to collect information or even otherwise. After all, a question once admitted by you becomes admissible: short notice or long notice need not come in the way. If the information is readily available, then the Minister might accept it; if not it might go as a long notice question.

Mr. Speaker: That would require the amendment of the Rules. If the hon. Member comes to me and suggests what ought to be done, we can call the Rules Committee. That is a different thing. If the discretion has to be taken away from the Minister, the rule shall have to be amended. He may kindly see the rules and suggest any modification he likes.

Shri Hari Vishnu Kamath: I want to submit just one word. If I remember aright, you did lay it down that when the Minister refused to accept a short notice question, a written answer will be given to the questions. But even that is not being done.

Mr. Speaker: There was some qualification with that also. When the Minister refuses to accept a short notice question and when I am satisfied that the subject is of sufficient importance, information should be given. In that case I will ask the Minister to give a reply, written reply. I am sticking to that. The list has been issued of some questions whose replies would be placed here on Tuesday. They are being placed here; I am sticking to that.

12.21 hrs.

**DELHI MOTOR VEHICLES
TAXATION BILL**

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur): Sir, I beg to move*:

"That the Bill to impose a tax on motor vehicles in the Union Territory of Delhi and for other matters connected therewith, be taken into consideration."

Sir, as we know, in the Union Territory of Delhi, taxes on motor vehicles are levied under the Punjab Motor Vehicles Taxation Act, 1924, as extended to Delhi in 1933. In Punjab, the rates have been increased in 1954 and in 1956. In Delhi, the rates continue as they were in 1933. The rates that apply to motor vehicles in Delhi at present are lower than those prevailing in other States, especially U.P. and Maharashtra.

In Delhi, the Delhi Municipal Corporation also does not levy what is known as the wheel tax that is levied in Bombay. Meanwhile, the cost of construction and maintenance of roads has been steadily going up and it is time that we took some steps to meet that. The objective, therefore, is firstly to augment the resources of the Delhi Municipal Corporation and also the New Delhi Municipal Committee; and to rationalise the existing basis for assessment of taxes, particularly taxes on goods vehicles.

At present, the taxes on goods vehicles are levied on the basis of their unladen weight. In the case of cars, and public service vehicles, it is on the basis of seating capacity. It is proposed in the present Bill that on private cars, the tax be levied on the basis of unladen weight and on motor cycles, scooters, scooterettes, auto-cycles and tricycles, it should be on the basis of flat rates calculated on the basis of unladen weight. This

is according to the recommendations of the Motor Vehicles Taxation Enquiry Committee. On the goods vehicles, it is proposed that the tax should be based on the registered laden weight and in the cases of buses and taxis, it should be on the basis of the seating capacity.

The Punjab Motor Vehicles Taxation Act, 1924 was once amended in 1954 by the then Delhi State Legislature. If we want to make any changes in the present scheme of things, it is necessary that we should come to Parliament to amend the relevant legislative measure. Therefore, we have been obliged to come here. We have also taken this opportunity to effect certain improvements in the Act.

At present, the distribution of the proceeds of these taxes between the Delhi Municipal Corporation and the New Delhi Municipal Committee has been provisionally fixed in the ratio 6 : 4, i.e. of the net revenue. The net revenue is calculated by deducting the cost of collection of the taxes from the gross realisation of these taxes. The basis of this division or distribution is the number of vehicles. It is proposed by the Delhi Municipal Corporation that the taxes should be distributed on the basis of road-mileage in the respective areas under the jurisdiction of the Delhi Municipal Corporation and the New Delhi Municipal Committee. This point will have to be considered by the Home Ministry in consultation with the Ministry of Transport and a final decision taken on the basis of which rules will be framed. When the rules are prescribed, they will be laid on the Table of the House for its consideration.

So, the present proposals are meant to augment the taxes, to rationalise the structure or basis of the taxes and also to provide for certain other matters. It is calculated that as much as Rs. 41 lakhs per annum will be the

*Moved with the recommendation of the President.

[Shri Raj Bahadur]

increase in the revenue realised from these taxes.

I think, Sir, this is a very necessary measure. Even with the slight adjustment of these taxes which have been suggested here, the taxes in Delhi will remain much lower than those prevailing in Madras, Andhra and other States. It is not proposed to increase the taxes on private cars or private carriages or motor cycles and other vehicles.

Sir, I commend this measure for the consideration of the House.

Mr. Speaker: Motion moved:

"That the Bill to impose a tax on motor vehicles in the Union territory of Delhi and for other matters connected therewith be taken into consideration."

Shri Hari Vishnu Kamath (Hoshangabad): Sir, I rise on a point of order. May I invite your attention to the Financial Memorandum attached or incorporated in this Bill as well as the revised Financial Memorandum? There are two documents here. We have got two statements. One is the Financial Memorandum printed with the Bill itself and the second is the typewritten or stencilled statement giving the revised Financial Memorandum. The printed Financial Memorandum says:

"No new expenditure apart from what is already being incurred on the administration of the existing law is contemplated by reason merely of the passing of this legislation."

The revised Financial Memorandum gives an idea of the expenditure that was incurred. It says:

"Expenditure amounting to Rs. 2,60,698 was incurred on the assessment and collection of the tax under this Act during 1961-62."

Then it goes on to say:

"No additional expenditure is contemplated by reason merely of the passing of this legislation."

Sir, in this Bill, there are two clauses, clauses 20 and 25, which are clauses covered by our Rule 69 of the Rules of Procedure which deals with clauses or provisions in Bills involving expenditure from public funds. May I say, that the revised Financial Memorandum makes reference only to clause 20 and not to clause 25 though both are printed in thick type as required by Rule 69. Clause 20 only is mentioned in the revised Financial Memorandum and there is no reference to clause 25 at all as being a clause which comes within the ambit of Rule 69.

Then there is another point. Here, as the Minister just stated, the Bill seeks to raise the rates of taxes. Though the figure of expenditure incurred on the assessment and collection of taxes in the previous year has been given in the revised Memorandum—not in the original Financial Memorandum—

Mr. Speaker: When they have given their revised Financial Memorandum, is there any need to refer to the original one?

Shri Hari Vishnu Kamath: I only referred to it in passing. But, here, Sir, the Government are not in a position to give the House an estimate of the expenditure. How is it that the Government is not in a position to give an estimate of the expenditure that will be incurred by raising these taxes, because the present taxes they know, the present taxes they are well aware of, they are well conversant with them and they have given an idea of the expenditure incurred last year, and if the taxes are raised by a particular amount the Government must be in a position to tell the House the approximate figure relating to the extra expenditure incurred and the

extra revenue realised by raising the taxes.

Then, Sir, I will come to the last point, and that is about Rule 69 of the Rules of Procedure. I am making this point for the fourth time, that it would be in the interest of parliamentary democracy and the procedure and traditions that go along with it—and that must be upheld in the House, in our country, in our sovereign democratic republic—that when a particular rule is not applicable to all cases, there should be a saving clause. Rule 69(1) says that the financial memorandum:

“shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law.”

I have raised this point three times so far, and last time I was told that it was not possible to give an estimate. In that case, is it not possible to amend the rule at some time so as to cover cases in the circumstances of which it is not possible to give an estimate? As long as that is not done, this rule is applicable and if no estimate of the recurring and non-recurring expenditure is mentioned the Bill cannot be in order.

Shri Bade (Khargone): The Financial Memorandum says:

“No new expenditure apart from what is already being incurred on the administration of the existing law is contemplated by reason merely of the passing of this legislation.”

Even then, according to May's Parliamentary Practice, the old or existing rate should be given. If it is not a new recurring expenditure, what is the expenditure already existing? That should be given as a matter of course. Otherwise, how can we criticise the Bill?

Mr. Speaker: Can the Minister explain why only clause 20 is referred

to in the Financial Memorandum and not clause 25, even though that is also printed in bold letters?

Shri Raj Bahadur: May I just invite the attention of the hon. Member to the Notes on Clauses? A reference was made to clause 25. It is only a consequential amendment arising from the amended clause 20. The note says:

“The clause provides for the amendment of section 184 of the Delhi Municipal Corporation Act, 1957 which is only consequential to clause 20.”

I think that answer should suffice.

So far as the question of giving an exact estimate of the expenditure is concerned...

Shri Hari Vishnu Kamath: Not exact, only an estimate.

Shri Raj Bahadur: We have stated that Rs. 2 lakhs will be the approximate expenditure. I do not know what more we can do at the present stage. We can only give an approximate estimate.

So far as any question of repercussion as a result of the augmentation of taxes is concerned, I do not think any big upward revision of the machinery, or strengthening of the machinery, is contemplated. Therefore, no additional expenditure will arise therefrom. I would say that the existing machinery for collection would suffice even for the increased collection of taxes. As such, I do not think any change is necessary in this particular measure.

Shri Bade: What is the existing expenditure?

Mr. Speaker: So far as the requirements of rule 69 are concerned, I agree that the Bill should give those details according to those requirements. So, the recurring and non-recurring expenditure should be put down there.

[Mr. Speaker]

If there really be a case where it cannot be ascertained, then there ought to be some explanation as to what the difficulties are so that at least some attention is drawn to the rule. An attempt must be made to tell at least this much to the hon. Members so that they can consider whether the ground given is justified or not. Simply ignoring or overlooking the rule is not fair. I remember, I have said once before also that these requirements should be complied with and always an effort should be made to mention the recurring and non-recurring expenditure.

Shri Bade is making some running commentary on my observation.

Shri Bade: No, Sir.

Mr. Speaker: Then he should listen to me.

At least an attempt should be made to calculate and put the recurring and non-recurring expenditure. If it cannot be done because of certain circumstances, at least some explanation should be there that because of those reasons it is not possible to mention it, so that hon. Members might appreciate that.

Then, it has been stated by the hon. Minister clause 25 is a corollary or a consequential amendment because of clause 20. Both these clauses have been printed in bold types and they come within the ambit of the rule. Therefore, by the bold print it has been conceded by the Government that it comes under the rule. So, I think some explanation ought to have been given there also.

So far as the demand of Shri Kamath for the amendment of the rule so that it can cover cases where it cannot be complied with is concerned, I will certainly consult hon. Members and see whether really an amendment is necessary under the existing circumstances because cases have come to

our notice where it is not possible to mention in the Financial Memorandum the anticipated expenditure in so many rupees and naye Paise. Therefore if any amendment is called for, that also would be made.

So far as the revised memorandum and the first memorandum are concerned, Government is not to blame. The memorandum was given first and we pointed out that there ought to be some modification. On our asking that revised memorandum has been put in. We asked the Government to put in a revised memorandum and that has been done.

Shri U. M. Trivedi (Mandsaur): On a point of order, Sir. The thing is that twice within the life of the Third Lok Sabha that point has arisen. Once it arose when the hon. Minister of Community Development, Shri Dey, moved a Bill. The hon. Deputy-Speaker was in the Chair then and a latitude was given. It took nearly two hours before the financial memorandum could be prepared and the House had to enter into a discussion on this matter. So, it should now be made clear that though these rules cannot be made penal, at the same time, they must be taken as mandatory and they should not be treated merely as a directive so that the hon. Minister concerned can talk anything he likes and we are left in the lurch. That is why I say that some force must be shown behind it. In that case I would suggest that at least today this House may refuse to consider this Bill till the whole thing has been complied with. It may even be for one hour if you like. Something must be done. It is not that it is against Shri Raj Bahadur. What I am suggesting is that it must be brought home to the hon. Ministers that they should not repeat these mistakes.

Shri Hari Vishnu Kamath: We are grateful to you for having upheld the

point of order. As a natural consequence of your ruling, is it not possible for the Government to take this Bill up later in the day? In the mean time they may attempt to give us the figures. It may be taken up at 4 o'clock or so and the other Bills can be taken up now. That has been done before in this House. There is a precedent. I do not remember the exact Bill, but it was done. The hon. Minister gave the figures an hour later and the House proceeded with the Bill an hour later. We can give him four or five hours from now and he can come with the Bill later on.

Shri Bade: We want to know the recurring and non-recurring expenditure involved.

Mr. Speaker: I do not think that will help so much as they are insisting. It might be for the information of hon. Members and that might be quite useful. But that would not affect the consideration of the Bill at all.

Shri Raj Bahadur: I entirely appreciate the position and have no doubt about the ruling that you have just now given. I am quite sure that it should and would be respected in every case. So far as this particular measure is concerned, I would only invite your attention to one thing. Since no new expenditure was contemplated or is visualised, we thought that whatever the figures of expenditure are there they should be presumed to be known to the House.

Mr. Speaker: Hon. Members cannot be expected to know the expenditure figures. I will request the hon. Minister to get those figures and give them to hon. Members. Meanwhile, the discussion will proceed. **Shri Elias.**

Shri Mohammad Elias (Howrah): Sir, I rise to welcome this Bill because it is on the basis of the recommendations of the Motor Vehicles Taxation Enquiry Committee which recommended the basis of this new taxation in 1950. After that in 1951

the Transport Advisory Committee accepted this proposal. Later on, it was endorsed by the Taxation Enquiry Commission in 1954. Government took a long time to bring forward this Bill for this new basis of taxation.

The taxation which is proposed under this Bill is also welcome because it does not increase it much. I do not think it will at all be too much of a burden to the users. I also think that, not only in Delhi, this basis mentioned in the report of the Motor Vehicles Taxation Inquiry Committee should be adopted in other States. While welcoming this Bill, I want to make only one or two remarks with regard to one or two clauses of this Bill.

In this Bill, under clause 13, there are provisions for the exemption of certain classes of vehicles and particular vehicles. It is proposed that where the registered owner or the person having possession or control of a motor vehicle is an agriculturist and that motor vehicle has been designed for agricultural operations and is used solely for such operations in relation to his own land, then, that vehicle shall be exempt from the payment of the tax. In clause 14 also, it is proposed that vehicles which are owned by co-operative farms will be exempted from paying certain taxes. Thus, after providing all these classes, what is the use of Government giving special power to the Chief Commissioner to exempt more classes of vehicles? That, we do not understand. In page 6, under this clause, it is mentioned:

"Where the Chief Commissioner is of opinion that it is necessary or expedient in the public interest so to do, he may, by notification in the Official Gazette, and subject to such conditions as he may specify in the notification, exempt either totally or partially any class of motor vehicles other than those falling under sub-section (1) or any motor vehicles belonging to any class of persons from the payment of the tax."

[Shri Mohammad Elias]

We do not think that this power should be given to the Chief Commissioner or it should be taken by the Government to exempt certain classes of vehicles from paying taxes. Because, in this Bill, it is very clearly mentioned which classes of vehicles should be exempted from payment of taxes. That is why I would request the Government not to give such power to the Chief Commissioner to exempt certain classes of vehicles. If this power is given, we think that it will not be properly used. It will be mis-used and it will go against the interests of the public.

There is another clause which provides for the distribution of the collected taxes under this Act. This is clause 20. It is said that it will be distributed between the New Delhi Municipal Committee and the Delhi Municipal Corporation. Under the present system, these taxes are distributed on the basis of 40 per cent and 60 per cent between these two committees. It is not fair at all because, so far as my knowledge goes, many times, the Delhi Municipal Corporation has requested the Central Government to distribute it on the basis of road mileage. But, many people say that the New Delhi Municipal Committee is a pet child of the Central Government and that is why they get more facilities than the Municipal Corporation of Delhi, but more burden is borne by the Municipal Corporation of Delhi. That is why I say that this distribution should be clearly mentioned here. Nothing is mentioned. It is left to the Home Department and the Central Government to fix how much will be distributed to the Delhi Municipal Corporation and how much to the New Delhi Municipal Committee. My view is, the collected taxes under this Bill, when collected, should be distributed on the basis of the proportionate area controlled by these two Committees. This should also be prescribed in this Bill, for which I have tabled an amendment.

I hope that the Minister will accept these two amendments, with regard to the exemption and with regard to distribution of the collected taxes.

While I welcome this Bill, at the same time, though it is not so relevant, I would like to say one or two words with regard to the transport system of Delhi. It is known to all Members here how difficult it is for the common people to have proper transport facilities. Although taxis are available in good number, they are beyond the reach of the common people. Only those who can afford to pay can go by the taxis, but the common people cannot have this facility. With regard to buses and scooters, I think that no city runs its transport system in so worse a manner as Delhi which is the capital of India. So, I would request Government to see that the transport system of Delhi is improved, and it goes within the reach of the common people of Delhi.

श्री श्रीकार सिंह (वदाय) : अध्यक्ष महोदय, सरकार इस बिल को कारपोरेशन की जो जरूरत बढ़ रही है उन को पूरा करने के लिये इस सदन में लाई है। इस सिलसिले में मुझे यह कहना है कि सरकार ने यह एक मिसाल दी है कि पंजाब सरकार ने बार बार टैक्स बढ़ाया है हमने नहीं बढ़ाया है लेकिन साथ ही इस मिसाल को नहीं रक्खा कि मध्य प्रदेश में इंदौर कारपोरेशन ने वहां साइक्ल टैक्स खत्म कर दिया है। बिज के नाम से ऐसा मालूम होता है कि यह टैक्स मोटर मालिकान पर पड़ेगा लेकिन वास्तव में मुझ तो ऐसा मालूम होता है कि यह टैक्स मालिकों पर नहीं पड़ेगा बल्कि ग्राम जनता पर पड़ेगा। टैक्स के बढ़ते ही मोटर मालिकान अपना किराया बढ़ा देंगे, तो जब किराया बढ़ा देंगे तो टैक्स किस पर बढ़ा, ग्राम जनता पर बढ़ा या मोटर मालिकान पर बढ़ा ?

इस बिल में कहीं इस बात की गारन्टी नहीं दी गई है कि इस टैक्स के लगने के बाद किराया नहीं बढ़ाया जायेगा। ऐसी दशा में, अध्यक्ष महोदय, मैं आप के द्वारा सरकार से यह प्रार्थना करता हूँ कि जब आम जनता पर टैक्स पड़ेगा तो यह जनतंत्रीय सरकार गरीब जनता के हित में भी कोई बात सोचे। जैसे इंदौर कारपोरेशन ने साइकिल टैक्स बंद कर दिया, खत्म कर दिया तो साइकिल टैक्स यहां भी खत्म कर दे क्योंकि वह एक गरीबों का वाहन है और गरीब मजदूर साइकिल अपने पैरों से चला कर मीलों सँदी, गरमी और बरसात को बर्दाश्त करके काम पर पहुंचते हैं। इसलिये अगर साइकिल टैक्स को खत्म कर दिया जाये और इस बात की गारन्टी हो कि इस मोटर टैक्स का बिल पास होने के बाद किराया नहीं बढ़ेगा तो मैं इस बिल का स्वागत करता हूँ।

साथ ही साथ मुझे यह भी निवेदन करना है कि रुपये की जब कारपोरेशन में आवश्यकता है तो कारपोरेशन का ५० लाख रुपया सरकार पर टैक्स का बाकी है, सरकार उस को क्यों नहीं अदा करती? जो २ करोड़ रुपया कारपोरेशन का बकाया में पड़ा हुआ है वह क्यों नहीं वसूल हो रहा है? उस के वसूल करने की व्यवस्था क्यों नहीं की जा रही है? १ करोड़ रुपया कारपोरेशन का इनक्रेचमेंट का वसूल होने के लिये है, उस तरफ भी सरकार का ध्यान नहीं हो रहा है कि उस को वसूल करें। अगर यह सारा रुपया वसूल हो तो कारपोरेशन के लिये कुछ सुविधा हो सकती है या नहीं?

कारपोरेशन का जो बजट है उस बजट को देखने से पता चलता है कि वहां का ६० फीसदी बजट कारपोरेशन के कर्मचारियों पर सर्फ हो जाता है, खर्च हो जाता है। ४० परसेंट बचता है जो कि अबाम के फायदे के लिये इस्तेमाल होता है। उसमें भी वसूल नहीं हो पाता है तो सरकार का ध्यान उस

तरफ जाना चाहिये कि कारपोरेशन के या तो वहां के कर्मचारी लोग जो हैं वे इस में ढीले हैं वसूल करने में, या वहां कोई दोस्ती निभाई जा रही है। आखिर क्या कमजोरी है, जिस की वजह से यह रुपया वसूल नहीं हो रहा है? सरकार को इस तरेफ ध्यान देना चाहिये। जहां टैक्स लगाने की तरफ सरकार का ध्यान है, वहां जो रुपया लोगों की तरफ बाकी है, सरकार उसको वसूल करने की तरफ भी क्यों नहीं ध्यान देती है?

मैं आप के द्वारा सरकार से फिर प्रार्थना करता हूँ कि यह जनतांत्रिक सरकार साइकिल-टैक्स को हटा दे, ताकि गरीबों को कुछ फायदा हो सके।

अध्यक्ष महोदय : माननीय सदस्य ने एक दफा साइकिल-टैक्स के बारे में कह दिया है। वह उसी पर ही जोर दिये जा रहे हैं। इस बिल से उस का कोई ताल्लुक नहीं है।

श्री ओंकार सिंह : इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

Shri Bade rose—

Mr. Speaker: I have already called a representative from the hon. Member's party.

Shri Bade: I thought you called me, Sir.

Mr. Speaker: I was only telling the hon. Member that one Member from his party has already spoken.

Shri Bade: Two names have been given, and Mr. Onkar Singh has spoken only for five minutes.

Mr. Speaker: If three names are given, I will have to call all the three?

Let us see

Shri Bade: I want to deal with certain clauses of the Bill which require consideration.

Mr. Speaker: Then why did not his party nominate him? Let me see. Any other hon. Member wishing to speak? None. Then, Mr. Bade. Shri Mohan Swarup does not get up.

श्री बड़े : माननीय अध्यक्ष महोदय, जो बिल सदन के सामने रखा गया है, उस के उद्देश्यों तथा कारणों में कहा गया है कि चूंकि दिल्ली कार्पोरेशन और नई दिल्ली म्यूनिसिपल कमेट्री को रुपये की जरूरत है, इस लिये मोटर व्हीकलज पर टैक्स को बढ़ाया जा रहा है। मैं निवेदन करना चाहता हूं कि जहां तक टैक्स बढ़ाने का सम्बन्ध है, उस के बारे में मेरा विरोध नहीं है।

उद्देश्यों तथा कारणों के विवरण में यह भी लिखा गया है कि इस समय दिल्ली में पंजाब मोटर व्हीकलज टैक्सेशन एक्ट, १९२४, एज एक्सटेंडिड टु देल्ही इन १९३३, के अधीन मोटर व्हीकलज पर टैक्स वसूल किया जा रहा है और पंजाब में पहले १९५४ में और फिर १९५६ में टैक्स के रेट्स को बढ़ाया गया था, इस लिये यहां भी उन को बढ़ाना आवश्यक हो गया है। जैसा कि मैंने पहले कहा है, इस बारे में कोई विरोध नहीं है। लेकिन इस के साथ ही यह लिखा हुआ है :

"The proceeds of tax collected in Delhi are being utilised by the Municipal Corporation of Delhi and the New Delhi Municipal Committee and they are spent for the performance of their functions."

इस का अर्थ यह है कि इस कानून के द्वारा जो टैक्स वसूल होने वाला है, वह दिल्ली कार्पोरेशन और नई दिल्ली म्यूनिसिपल कमेट्री को दिया जायेगा। मेरा कहना केवल यही है कि जब कार्पोरेशन को रुपया देने के लिए यह बिल लाया गया है, तो फिर

शासन को इस तरफ भी ध्यान देना चाहिए कि कार्पोरेशन किस प्रकार से कार्य कर रही है। मैं आपको बताना चाहता हूं कि आज कार्पोरेशन में बहुत घोटाला और अव्यवस्था है। उसका एडमिनिस्ट्रेशन इतना टाप-हैवी है कि साठ से सत्तर परसेंट रुपया उसके एडमिनिस्ट्रेशन पर खर्च किया जाता है। शासन ने इस तरफ कभी ध्यान नहीं दिया है।

लेकिन इसके साथ ही मुझे अभी इस प्रकार की जानकारी मिली है कि सरकार की तरफ भी कार्पोरेशन का पचास लाख रुपया पड़ा है, जो कि उसने अभी तक नहीं दिया है। चूंकि कार्पोरेशन इस वक्त मानिटरी डिफ्रीकल्टीज में है, इस लिए शासन को वह रुपया दे देना चाहिए, ताकि कार्पोरेशन की कठिनाइयों में कमी हो।

जैसा कि मैंने पहले कहा है, टैक्स बढ़ाने के बारे में मुझे कोई आपत्ति नहीं है, लेकिन मुझे केवल यह कहना है कि जब शासन कार्पोरेशन को रुपया देता है, तो उसको यह भी देखना चाहिए कि वह रुपया वहां पर किस प्रकार खर्च होता है।

डा० भा० श्री० अणे (नागपुर) : कार्पोरेशन से सरकार को कितने लाख रुपया लेना है ?

श्री बड़े : वह तो उसने दे दिया है। सरकार उसको छोड़ती नहीं है। क्लॉज १५ में यह कहा गया है :

"Where in respect of a motor vehicle the tax payable under the law relating to taxation on motor vehicles in force in any State has been paid in that State for any period and that motor vehicle is brought into Delhi for use during that period, then no tax under this Act shall be payable in respect of that motor vehicle."

इसका अर्थ यह है कि अगर कोई मोटर व्हीकल किसी दूसरी स्टेट में रजिस्टर की गई हो, तो यहां पर उस पर टैक्स नहीं लगाया जायेगा। कब तक ? जिस दिन से वह मोटर व्हीकल दिल्ली में लाई जाये, उस दिन से ६० दिन तक। अगर कोई मोटर व्हीकल ६० दिन यहां पर रहने के बाद एक दिन और रहेगी, अर्थात् ६१ दिन रहेगी, तो उससे टैक्स लिया जायेगा। लेकिन अगर वह ६०वें दिन राजस्थान या मध्य प्रदेश में चली जाय और उसके दो तीन दिन बाद वापस आ जाये, तो फिर उस पर टैक्स नहीं लगेगा। मैं समझता हूं कि इस व्यवस्था से टैक्स इवेजन होगा। अगर उसके बजाय यह प्राविजन रखा जाता, जैसा कि मध्य प्रदेश के ऐक्ट में रखा गया है, कि जो मोटर व्हीकल यहां पर टेम्पोरेरली आयेगे, उन पर टैक्स नहीं लगेगा, तो उचित होता। जुडिशल कोर्ट का इस विषय में डिसिजन है कि टेम्पोरेरी क्या है, पर्मानेंट कौन है और इसका रजिस्ट्रेशन कैसे होता है, आदि। मैं समझता हूं कि वर्तमान प्राविजन गलत है।

इसके बाद शिड्यूल १ के पार्ट ४ में यह लिखा हुआ है :

(f) Vehicles licensed to carry more than 18 passengers (excluding driver and conductor).....

The rates specified in (e) above plus Rs. 60 for every passenger in addition to 18 passengers which the vehicle is so licensed to carry subject to a maximum of Rs. 2,200 per annum.

शिड्यूल में १८ पैसेंजर्स को ले जाने वाले व्हीकल का टैक्स ४०० रुपये रखा गया है और अगर १८ पैसेंजर्स के अलावा एक पैसेंजर और ले जाया जाये तो ६० रुपया और टैक्स लगाया जायेगा, इस प्राविजन का मतलब यह है कि अगर एक व्हीकल एक ५० पैसेंजर्स को लेकर ५० मील जाये, तो उस पर २२०० रुपये प्रति वर्ष टैक्स लगाया

जायगा और अगर कोई और व्हीकल ५० पैसेंजर्स को लेकर १०० मील जाये, तो उस पर भी २२०० रुपये प्रति-वर्ष टैक्स लगाया जायेगा। मैं निवेदन करना चाहता हूं कि इस प्रकार का प्राविजन दूसरी स्टेट्स के ऐक्ट्स में नहीं है। इस सम्बन्ध में पैसेंजर्स और माइलेज दोनों को दृष्टि में रखना चाहिए, इन दोनों का कोअर्डिनेशन होना चाहिए। इस बिल में ऐसा न किए जाने से एक इनामोलस पोजीशन पैदा हो गई है। ५० पैसेंजर्स को लेकर ५० मील तक जाने वाले व्हीकल को भी २२०० रुपया टैक्स देना पड़ेगा और ५० पैसेंजर्स को लेकर १०० मील तक जाने वाले व्हीकल को भी २२०० रुपये टैक्स देना पड़ेगा। इस स्थिति में १०० मील जाने वाले व्हीकल को कम खर्च पड़ता है और ५० मील जाने वाले व्हीकल को ज्यादा खर्च पड़ता है और उसको नुकसान होता है। शासन को एक्सप्लेन करना चाहिए कि इस प्राविजन का जस्टिफिकेशन क्या है।

पुलिस की पावर्ज के बारे में एक बड़ी विचित्र क्वालिफिकेशन रखी गई है। यदि कोई पैसेंजर बस या व्हीकल किसी पब्लिक प्लेस पर हो, तो पुलिस उसको एरेस्ट कर सकती है, लेकिन अगर वह बस किसी प्राइवट जगह या शोड में हो, तो उसको एरेस्ट नहीं किया जा सकता है। मोटर व्हीकल के ड्राइवर आदि को तभी गिरफ्तार किया जा सकता है, अगर वह किसी पब्लिक प्लेस में हो। मैं समझता हूं कि यह प्राविजन गलत है और यह मेरी समझ में नहीं आता है। मैंने दूसरी स्टेट्स के ऐक्ट्स से इसको कम्पेयर किया है और मैं देखता हूं कि ऐसा प्राविजन वहां नहीं है। उनमें इस प्रकार का प्राविजन है कि अगर कोई पैसेंजर बस या व्हीकल स्टेट में किसी भी जगह विदाउट परमिशन हो, तो भी उसके ड्राइवर को एरेस्ट किया जा सकता है।

जैसा कि अभी मेरे मित्र ने कहा है, इस बात की तरफ ध्यान रखना चाहिए

[श्री बड़े]

कि यदि पैसेंजर बस का टैक्स बढ़ाया जाय, तो उसका किराया न बढ़ने पाय। अगर किराया बढ़ेगा, तो शरीर ग्रामीण जनता को हानि होगी। टैक्स बढ़ाने से जो पैसा आयेगा, वह सब दिल्ली कार्पोरेशन की एडमिनिस्ट्रेशन पर, जिसको कि ब्वाइट एसीफेंट कहा जाता है, खर्च हो जायेगा और ग्रामीणों को कोई फायदा नहीं होगा। मैं तो केवल इतना ही चाहता हूँ कि किराया न बढ़ने पाये। साउथ एबेन्यू से यहाँ तक आठ आने मील के हिसाब से एक, सबा या डेढ़ रुपया पड़ता है। हम लोग तो उसको दे सकते हैं, लेकिन साधारण शरीर जनता नहीं दे सकती है। इस लिए इस बात का ध्यान रखना चाहिए कि टैक्स के बढ़ने से किराया न बढ़ने पाये।

जहाँ तक साइकल टैक्स का प्रश्न है, मेरे मित्र ने अभी फोर्सफुली नहीं कहा है, इसलिए मैं निवेदन करना चाहता हूँ कि मैं इन्दौर का रहने वाला हूँ और वहाँ जनसंघ, कम्युनिस्ट पार्टी और सोशलिस्ट पार्टी का मोर्चा था। हमने पूरुमनसुज व्हीकल अर्थात् साइकल पर से टैक्स को एक दम खत्म कर दिया, जिससे जनता में बहुत संतोष हुआ। हमने चालीस हजार साइकल से टैक्स को हटा दिया। इसके बाद मोटर-मालिकों पर टैक्स लगाया गया, लेकिन किराया नहीं बढ़ाया गया, इसका श्रय कामन मोर्चे को था।

अध्यक्ष महोदय : क्या यहाँ पर तो मोर्चे का खयाल नहीं है ?

श्री बड़े : यहाँ पर मोर्चा नहीं है। यहाँ ये यह स्थिति है कि कार्पोरेशन में रूलिंग पार्टी के जो लोग हैं, वे केवल यही देखते हैं कि जिन लोगों ने एनक्रोचमेंट किया है, उनसे पैसे वसूल नहीं होते हैं और जिनसे टैक्स लेना है, वह वसूल नहीं होता है। हर रोज शासन का दरवाजा खट-

खटाय जाता है कि हमारे पास सफि-शेंट पैसा नहीं है, इसलिए टैक्स बढ़ाये जायें। कार्पोरेशन में बिरोधी दलों की शक्ति अधिक न होने से यहाँ पर साइकल टैक्स कभी भी कम या खत्म नहीं होगा। यदि शासन कार्पोरेशन को पर्सुवेड करेगा, उस पर जोर देगा कि साइकल-टैक्स को कम या खत्म किया जाये, तो मैं उसको धन्यवाद दूंगा।

13 hrs.

Shri S. M. Banerjee (Kanpur): I support the measures taken by the Government, but there are certain apprehensions in my mind, which I am sure will be much more in the minds of the common people, and I therefore wish what these points may be kindly clarified by the hon. Minister to my satisfaction, which will be to the satisfaction of the people.

It is true that these measures are absolutely necessary when we consider the various recommendations of the Motor Vehicles Taxation Enquiry Commission, but the whole difficulty is this, that we expected the hon. Minister to give us or this House something more about the transport system.

Let us take Delhi only. I am sure that Members of Parliament who use Delhi transport vehicles known as DTU buses must have come to the conclusion as some of the people in Delhi who have started calling the DTU buses as "don't trust us" buses, because you can never trust them. You do not know whether a bus which has left Vinay Marg will safely reach the destination. Naturally, the condition of the whole system of the buses is so bad because of lack of repairs and maintenance, that it deserves a complete overhaul. I am sure that at least the buses that give out foul smoke, which is injurious to the

health not only of the passengers but of the unfortunate passers-by, must be changed. I want a clear assurance from the hon. Minister that all steps will be taken to remove them because they are actually a public nuisance. I hope he will throw some light on the efficiency which has been achieved recently by introducing a certain system in the DTU, and the improvement in this regard.

Then the other question comes about this tax in relation to the fares. This House wishes to have an explanation, a definite assurance from the hon. Minister, that after this taxation, after the passage of this Bill, the fares will not be increased anywhere. In case the bus fares are increased—according to me and according to many in Delhi these are much more than in Bombay or Calcutta—the lot of the people travelling, using these buses for office and other purposes, will become worse as they will be heavily taxed. So, I hope the hon. Minister will kindly assure the House that this will not result in any further increase of the taxes.

The Delhi Corporation, we know, is interested in increasing its resources. In today's papers we read that from April, 1963 they are going to increase electricity charges, and they may also be seriously thinking of increasing the bus fare for mobilising resources, and I am sure that will not be permitted by the hon. Minister. This House supports this Bill on the definite understanding that there will be no fare increase. So, I want an assurance in this regard.

Coming to the various provisions of the Bill, my attention has been drawn to the amendment moved by my hon. friend Shri Elias regarding the distribution by the Centre of the tax collected. His amendment is definite.

About exemption, this should not be left to the Chief Commissioner. The clauses which are in the Bill are enough to safeguard the interests of any one, and I do not think the Chief Commissioner should come into the

picture. I hope that an assurance will be given that the Chief Commissioner will have nothing to do with this and it will be the same as embodied in this Bill. With these words I support the Bill. I surely want two assurances: one about the improvement and efficiency of the D.T.U. buses and secondly, there will be no increase in fares after the passage of this Bill.

श्री मोहन स्वरूप (पीलीभीत) :

अध्यक्ष महोदय, जो बिल हमारे सामने आया है उसके मुतालिक स्टेटमेंट ऑफ ग्रान्जेक्ट्स एंड रीजन्स में बतलाया गया है कि पंजाब में चूँकि टैक्स बढ़ गया है लिहाजा दिल्ली में भी बढ़ना चाहिये। और उसीके अनुसार यहां टैक्स को बढ़ाने और उसके मुताबिक रेगुलराइज करने का प्रयत्न किया गया है।

इसके क्लाजेज में परिवर्तन करने के लिये जो प्रोविजन्स रखे गये हैं वे वास्तव में अच्छे हैं। मिसाल के तौर पर क्लाज १४ में कोऑपरेटिव सोसायटीज के मुतालिक दिया गया है कि अगर कोऑपरेटिव सोसायटी में ७५ परसेंट आदमी हैं या उसके नीचे है, और ५० परसेंट आदमी एक दूसरे से रिलेटेड हैं, तो उनको आधा टैक्स देना पड़ेगा। यह अच्छा प्राविजन है लेकिन मैं चाहता हूँ कि उस में थोड़ा और परिवर्तन किया जाय ताकि इस देश में कोऑपरेटिव मूवमेंट को बढ़ावा मिले। यहां पर जो रिलेशन वाली बात है उस को थोड़ा लिबरलाइज करके ठीक किया जाना चाहिये।

उसी के साथ साथ एक क्लाज में दिया हुआ है कि अगर कोई मोटर व्हीकल एक महीने के समय के लिये किसी पब्लिक प्लेस में इस्तेमाल न की गई तो उस समय से संबंधित फीस का रिफंड हो सकता है। यह प्राविजन अच्छा है, लेकिन कई चीजें ऐसी हैं जिन पर मुझे इतराज है। मसलन धारा १३ में एग्जेंशन क्लाज है। आज की स्थिति में जब कि हम सोशलिस्टिक पैटर्न की सोसायटी बनाने पर जोर देते हैं, इस किस्म का एग्जेंशन

[श्री मोहन स्वर्णा]

कुछ शोभा नहीं देता है। मैं समझता हूँ कि चाहे प्रेजिडेंट हो चाहे गवर्नर हो, चाहे कोई और हो, हर एक के लिये कानून एक सा होना चाहिये। खास कर चीफ कमिशनर को इतना बड़ा अधिकार दे देना कि वह जिसे चाहे एग्जेंशन दे और जिसे चाहे न दे, यह अच्छा बात नहीं है। इसमें कुछ परिवर्तन होना चाहिये और इस धारा को उसमें से निकाल देना चाहिये।

मैं कुछ चीजें और भी कहना चाहता हूँ। कुछ सुझाव देना चाहता हूँ। मिसाल के तौर पर मैं चाहता हूँ कि मोटर व्हीकल्स ऐक्ट में कैटेगरीजेशन की व्यवस्था होनी चाहिये। हमारे सामने जो यू० के० का ऐक्ट है उसमें हम देखते हैं कि कैटेगरीज किया गया है। उसमें कुछ कैटेगरीज इस तरह से हैं:

"motor car, delivery van, light transport vehicle, heavy transport vehicle, locomotives, tractors, road rollers, invalid carriage, motor vehicles of specified description."

इस तरह की कैटेगरीज हमारे यहां भी होनी चाहियें और उसके अन्तर्गत कुछ कम बढ़ करके हर एक चीज फिक्स होनी चाहिये। हमारे बिल में यह चीज नहीं है।

इसके अलावा मैं चाहता हूँ कि लांग टर्म लाइसेंस की व्यवस्था भी की जाय, जैसी कि दूसरे देशों में है। इंग्लैंड में है। अमरीका में है, पांच साल या दस साल की। इस सम्बन्ध में मैं चाहता हूँ कि मोटर व्हीकल्स की तीन कैटेगरीज ए, बी और सी कर दी जायें। जो उम्दा किस्म की हों उनको ए में रखा जाय जो उससे कम अच्छा हों उनको बी में रखा जाय और खराब हालत में हों उनको सी में रखा जाय। जो ए कैटेगरी में गाड़ियां हों उनको तीन साल के लिये, बी कैटेगरी की मोटर व्हीकल्स को दो साल के लिये और सी कैटेगरी की

गाड़ियों को एक साल के लिये रखा जाय। हमारे बिल में छः महीने की व्यवस्था की गई है और साल भर की है। अगर इस तरह से लांग टर्म के लिये व्यवस्था हो तो ख़ामखाह हर साल लाइसेंस रिन्यू कराने की दिक्कत दूर हो जायेगी। जो गाड़ियां अच्छी हालत में हों उनको हर साल परेशान करना कोई माने नहीं रखता।

इसी के साथ साथ मैं यह चाहता था इस बिल में लाइसेंस के ससपेंशन का कोई प्रावीजन होना चाहिये। मैंने देखा है कि दूसरे देशों में इस तरह का प्रावीजन है कि अगर कोई मोटर व्हीकल खराब दशा में है या पब्लिक प्लेस पर आब्स्ट्रक्शन पैदा करती है तो उसका लाइसेंस ससपेंड किया जा सकता है। मैं चाहता हूँ कि इस कमी को पूरा किया जाय।

इसी के साथ साथ मैं यह कहना चाहता था कि जीप्स और स्टेशन वेगन्स ज्यादातर देहात में चलती हैं और पक्की सड़कों पर भारी भीड़ में उनका इस्तेमाल कम होता है। इनकी एक कैटेगरी बनानी चाहिये और इन पर लाइसेंस फी आधी होनी चाहिये।

एग्रीकल्चरल परपोजेज के लिये जो व्हीकल्स इस्तेमाल होती हैं उनके लिये लाइसेंस फी तो नहीं है, लेकिन उनके लिये इसमें रजिस्ट्रेशन की कैंद रखी गयी है। मुझे इसमें कोई ऐतराज नहीं है। लेकिन मैं चाहता हूँ कि रजिस्ट्रेशन जो हो वह एक दफा हो जाय और उसके बाद उसको बार बार रिन्यू न कराना पड़े। मैं चाहता हूँ कि ट्रेक्टर्स आदि के रजिस्ट्रेशन की बार बार की दिक्कत न हो। एक बार रजिस्ट्रेशन हो जाये यह काफी है। अगर कोई दिक्कत पैदा हो या किसी किस्म का रूल का कंफ़्लिक्शन हो तो पूछ गछ की जाये, वरना नहीं।

इसी के साथ मैं देखता हूँ कि ट्रेलर पर भी रजिस्ट्रेशन की कैंद लगी हुई है। अक्सर

लोग जीप के पीछे एक छोटा सा ट्रेलर लगा लेते ह, उससे कोई दिक्कत नहीं होती और न कोई आब्दृक्शन होता है, वह पीछे जुड़ा हुआ चला जाता है ।

अध्यक्ष महोदय : सड़क की घिसाई तो होती है ।

श्री मोहन स्वरूप : घिसाई तो उससे क्या होती होगी । मैं चाहता था कि ट्रेलर्स की बड़े, मझले और छोटे इस किस्म की कैटेगरी बनायी जायें और मेरा सुझाव है कि छोटे ट्रेलर्स के रजिस्ट्रेशन की कैंद नहीं होनी चाहिये।

इसी के साथ साथ मैं एक और चीज पर जोर देना चाहता था कि रजिस्ट्रेशन के डिपार्टमेंट में जो बड़ा करप्शन है उसको दूर किया जाना चाहिये । कई बार ऐसा देखा जाता है कि मोटर व्हीकल खराब है, लेकिन पालिश करके वहां ले गये और उसका लाइसेंस मिल गया, बाद में वह दिक्कत पैदा करती है । मैंने ऐसी बसेज और लांरियां देखी हैं जो घंटों खड़ी रहती हैं, कहीं उनमें कारबुरेटर खराब है, कहीं कोई चीज खराब है । मैं चाहता हूं कि इस डिपार्टमेंट में जो करप्शन है उसको दूर करने की तरफ प्रशासन जोर दे । अक्सर ऐसा देखा गया है कि रजिस्ट्रेशन कराने गये और पैसे दे दिये गये, तब तो एक मिनट में रजिस्ट्रेशन हो गया, और अगर पैसे न दिये गये तो महीनों हो जाते हैं रजिस्ट्रेशन नहीं हो पाता । तो मैं खाम तौर से इस तरफ आपकी तबज्जह दिलाना चाहता हूं और प्रशासन से इस बात की प्रार्थना करता हूं कि इस करप्शन को दूर करने के लिये वह सक्रिय कदम उठाये ।

इन शब्दों के साथ मैं इस बिल का स्वागत करता हूं । इसमें कोई कम्प्लेक्शन चाज नहीं है । इसलिये मैं इसका समर्थन करता हूं ।

Shri Raj Bahadur: Sir, I am very grateful to the hon. Members who have participated in this discussion and for the support they have generally given to the measure. Certain

doubts, however, have been expressed about certain points and it is my duty to explain them.

The first point made in this behalf was by Shri Elias. He seems to think that the power of exemption given in respect of taxation, etc. with regard to certain class of vehicles to the Chief Commissioner may be misused. I would like to point out that there is nothing new that is being done now. First of all, let me assure him that it is not a power to be exercised in favour of individuals. It is to be exercised in favour of organisations and classes of persons, as for example, non-commercial motor vehicles which are owned by the Central Government, Delhi Administration and local bodies, motor vehicles owned by officers of foreign diplomatic missions—this is, of course, on a reciprocal basis—school buses, ambulances, mobile dispensaries, etc. The need for exemption of such vehicles from these ordinary taxes is quite obvious.

It has to be recognised that it is only this power that has been given to the Chief Commissioner. Apart from that, this power already exists under the present provisions of the Punjab Motor Vehicles Taxation Act, 1924 which at present apply to Delhi. Similarly, it shall also have to be recognised that these powers are also there with the State Governments in their respective Acts. The Motor Vehicles Taxation Acts in force in all the State Governments and administrations also empower the concerned authorities in their respective areas or territories i.e. the authorities named in those enactments, to exempt such vehicles. So I think any doubt expressed in this behalf should be set at rest. We cannot, however, give an exhaustive list of all the organisations and the institutions deserving this exemption. Therefore, we have got to have a saving clause also which should from time to time enable the Chief Commissioner to exercise his discretion in favour of vehicles owned by an organisation which is of a

[Shri Raj Bahadur]

character which may be termed to be of public or general use or benefit. Therefore, this power is necessary.

Then, about the distribution of the proceeds of these taxes Shri Elias seems to think that the New Delhi Municipal Committee area is a favoured area and something out of the way has been done for it or will be done for it. As a matter of fact, there was a definite basis for this distribution, and that basis so far has been the number of vehicles which are registered in the respective areas—the New Delhi Municipal Committee area and the Delhi Municipal Corporation area. That basis is now under review, whether it should be retained or a new basis should be found is the question. A proposal has been made that it should be based on the length of the roads in the two respective areas and not on the number of cars. Shri Elias says that it should be on the basis of the area covered by the two, the New Delhi Municipal Committee and the Delhi Municipal Corporation. I would say that this is a matter which shall have to be decided in consultation with the Delhi Administration by the Home Ministry and the Transport Ministry. That is why we have kept it open. But this question will be fully thrashed out, fully considered, and after taking into account all aspects and factors involved a decision will be arrived at. On the basis of that decision rules will be framed and prescribed. The prescribed rules will be placed on the Table of the House so that the final word will in all cases rest with this House to say what should be done about this matter ultimately.

Shri Onkar Singh said that we should exempt cycles from taxes. I can only say that cycles are not involved in motor vehicles taxation. He also said that we should ask the Municipal Corporation authorities to realise the outstanding arrears of certain taxes. That also, I think, is not relevant to this particular matter. But I think it is a question which

always engages the attention of the concerned authorities and they would be taking such steps as they can in the situation that they are faced with.

Shri Bade thinks that the power of exemption contained in the provision that we have made in clause 15 may be misused. He says that a particular vehicle can be here in Delhi for 90 days and on the 91st day it can be taken back to its original State and again enjoy some exemption there before coming back here. I think that is not that easy because the words that have been used are that this exemption is for such period or for a period of ninety days from the date on which the motor vehicle is brought to Delhi, whichever is shorter. So a vehicle cannot remain without paying tax either in Delhi or outside Delhi in a contiguous State. It has to have that token which is given as an evidence of payment of tax or exemption from payment of tax. Therefore, this cannot be misused.

Shri Banerjee referred to the efficiency of DTU and said that it has come to be called as "Don't Trust buses". I think it should not be for Shri Banerjee to say that, particularly because of all people he should defend the workers who, no doubt, in these days are trying to give their best to improve the efficiency of the services. Otherwise, instead of "Don't trust buses", it will come to "Don't Trust Unions", and you would be casting reflection on the trade unions.

Shri Mohammad Elias: He was referring to the authorities, not to the workers.

Shri Raj Bahadur: It is not at all applicable to the authorities. After all, the question of repairs and maintenance depends on the skill, perseverance, industry and efficiency that are brought to bear on this work by the workers. So, it will be a reflection on the workers. I think Shri Banerjee has revealed himself by saying that he is not at all for the workers by trying to cast a reflection on their efficiency and work.

Then he said that there should be no reflection in the fares as a result of the upward revision of taxes on certain vehicles. This is a matter which depends upon the fiscal policies of the Corporation, which is an autonomous body, on whose behalf I cannot give any assurance. But I can say that this autonomous body is a fully democratic one, elected by people on adult suffrage, and it is for the representatives of the people to take such decisions in this behalf as they think necessary and expedient in the public interest.

Shri Mohan Swarup has raised a very valid point, and we are in sympathy with him. But we cannot say anything about it at this stage, because that is not covered by this measure. He has suggested that instead of registration every year, it should be for a period of three or five years. At this stage, I can only say that we will consider it sympathetically and try to take such action as may be desirable, of course, in consultation with the State Governments, who are autonomous in this particular matter.

He has also expressed certain doubts about the powers given to the Chief Commissioner. I need not repeat what I have already said on this point.

He said that vehicles used for agricultural purposes should also be enabled to be registered for a number of years. I think my earlier remarks will apply to this also.

Then he suggested that trailers need not be registered. I think registration is necessary in the national interest, in the public interest, because we should know the number of trailers we own so that at any moment we can....

Shri Mohan Swarup: Small trailers can do no harm.

Shri Raj Bahadur: Whatever it may be, we should know what number we have got, what capacity we have got and what capacity has got to be built

up further by the addition of new trailers and more trailers. So, they should be registered. I hope Shri Mohan Swarup will appreciate that point. With these words, I commend the motion for consideration.

Mr. Speaker: The question is:

"That the Bill to impose a tax on motor vehicles in the Union Territory of Delhi and for other matters connected therewith, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take up clause by clause consideration of the Bill. The question is:

"That clauses 2 to 12 stand part of the Bill."

The motion was adopted.

Clauses 2 to 12 were added to the Bill.

Mr. Speaker: We will now take up clause 13. What about amendment No. 3.

Shri Mohammed Elias: I am not moving it.

श्री ह० च० सोय (सिंहभूम) : अध्यक्ष महोदय, क्लॉज ३ जो कि लैबी आफ टैक्स से सम्बन्धित है, रेट टैक्स, शैड्यूल १ में दिये गये हैं और उस में दिया गया है कि किस किस तरह की गाड़ी को कितना कितना टैक्स लगना चाहिये। इस सम्बन्ध में मुझे कहना है।

Mr. Speaker: On what clause is he speaking?

Shri H. C. Soy: Clause 3.

Mr. Speaker: That was passed long ago. He may speak on that during the third reading. The question is:

"That clause 13 stands part of the Bill."

The motion was adopted.
Clause 13 was added to the Bill.

Mr. Speaker: What about amendment No. 4? Is it being moved?

Shri Mohammed Elias: No, Sir.

Mr. Speaker: The question is:

"That clauses 14 to 25 stand part of the Bill."

The motion was adopted.

Clauses 14 to 25 were added to the Bill

Shri Hari Vishnu Kamath: I would only like a small clarification with regard to one point—I am not speaking on the Bill—about clauses 20 and 25 as they stand.

It says:—

"the proceeds of the tax, reduced by the cost of collection".

but in the financial memorandum that has been submitted along with the Bill says:—

"Expenditure amounting to Rs. 2,60,698 was incurred on the assessment and collection".

So, is it not necessary to state that it will be reduced by the cost of assessment and collection? Otherwise, there will be a lacuna in this provision, unless you mention also the cost of assessment. That also leads to some cost. Expenditure will be incurred on assessment also. That also will have to be reduced.

Shri Raj Bahadur: Collection is a wider term.

Shri Hari Vishnu Kamath: Here you have used two separate words in the financial memorandum, that is, assessment and collection. So far abundant caution....

Mr. Speaker: The hon. Minister says that both are included in it.

Shri Hari Vishnu Kamath: How? You know better than the hon. Minister.

Mr. Speaker: The hon. Minister is responsible.

Shri Raj Bahadur: No collection is possible without assessment. Assessment is a part of collection. Therefore collection covers both.

Shri Hari Vishnu Kamath: Government themselves use these two words distinctly in the financial memorandum. Please see the revised financial memorandum. It says:

"Expenditure amounting to Rs. 2,60,698 was incurred on the assessment and collection"

Mr. Speaker: The financial memorandum is not so very essential. It might use loose or unguarded language also.

Shri Hari Vishnu Kamath: No, Sir. As most of us are aware, the machinery for collection and the machinery for assessment are separate. Separate machineries are there in every Government. The assessment machinery is not necessarily the same as the collection machinery of a tax. They are two different things and cost will have to be incurred on the two separately.

Shri Raj Bahadur: The only word that we have used in the main body of the clause is 'collection' and we have used it in the wide generic sense which includes all the processes involved in collection. Assessment is a part of collection.

Shri Hari Vishnu Kamath: Do you agree with the hon. Minister's view?

Mr. Speaker: It is his responsibility. There is no question of my agreeing to it.

Shri Hari Vishnu Kamath: You can guide him.

Mr. Speaker: They have their own advisers and others who are better equipped with this knowledge.

Shrimati Sarojini Mahishi (Dharmwar North): I want to have a little clarification regarding clause 14.

Schedule I

Mr. Speaker: Then we shall have to go back. That has already been passed. In the third reading, if she wants to say something, I will give her a couple of minutes. Clauses 14 to 25 have already been adopted. Now we take up Schedule I.

Amendment made:

Page 11, line 4,—

for "Scootrettes auto cycles"
substitute

"Scooterettes and auto-cycles" (1)

Page 12,—

for lines 1 to 51, substitute—

Description of Motor Vehicles	Annual rate of tax
	Rs.
IV. Motor vehicles (including tricycles) plying for hire and used for the transport of passengers—	
(a) Vehicles licensed to carry in all not more than two passengers (excluding driver)	80/-
(b) Vehicles licensed to carry in all more than two but not more than four passengers (excluding driver and conductor)	160/-
(c) Vehicles licensed to carry in all more than four passengers but not more than six passengers (excluding driver and conductor)	300/-
(d) Vehicles licensed to carry in all more than six passengers but not more than eighteen passengers (excluding driver and conductor)	400/-
(e) Vehicles licensed to carry more than eighteen passengers (excluding driver and conductor)	The rates specified in (d) above plus Rs. 60/- for every passenger in addition to eighteen passengers which the vehicle is so licensed to carry subject to a maximum of Rs. 2,200/- per annum.
V. Motor Vehicles owned by Airline Companies or Corporations for carrying passengers and staff—	
(a) Vehicles the seating capacity of which does not exceed four (excluding driver)	160/-
(b) Vehicles the seating capacity of which exceeds four but does not exceed six (excluding driver)	300/-
(c) Vehicles the seating capacity of which exceeds six but does not exceed eighteen (excluding driver)	400/-
(d) Vehicles the seating capacity of which exceeds eighteen	The rate specified in (c) above plus Rs. 60/- for every person in addition to eighteen persons subject to a maximum of Rs. 2,200/- per annum.

[Shri Raj Bahadur]

Mr. Speaker: Amendment No. 5 is not moved. The question is:

"That Schedule I, as amended, stand part of the Bill."

The motion was adopted.

Schedule I, as amended, was added to the Bill.

Schedule II was added to the Bill.

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

Shri Raj Bahadur: Sir, I beg to move:

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

Mr. Speaker: Motion moved:

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

Shri S. M. Banerjee rose—

Mr. Speaker: He has had a chance.

Shri S. M. Banerjee: On a point of personal explanation. About the unions I will say that I do not control the unions.

श्री ह० च० सीधू : अध्यक्ष महोदय, मैं मंत्री महोदय से इतना ही दरखास्त करना चाहता हूँ कि यह जो ट्राइसाइकिल्स, टू सीटर्स पर जो टैक्स लगाया गया है और टैक्सीज का जो रेट है, मैं जानता हूँ कि टैक्सीज की मौजूदा आमदनी उतनी नहीं है जितनी कि इन ट्राइसाइकिल्स की है। अभी पोजीशन यह है कि टैक्सीज वाले कोशिश यह कर रहे हैं कि वे अपनी टैक्सियों को बेच दें और उन के स्थान पर ट्राइसाइकिल्स लें जिन से कि भाड़े का काम लें। आज हालत यह है कि टैक्सी वाले के मुकाबिले ट्राइसाइकिल वाले को ज्यादा आमदनी होती है। जब यह पोजीशन है तो मैं सरकार से दरखास्त यह करूंगा कि ट्राइसाइकिल्स के मुकाबिले टैक्सी का टैक्स रेट आमदनी के हिसाब से प्रपोर्शनेटली जरा कम हो और ट्राइसाइकिल्स का चूँकि उन का आमदना टैक्सों के मुकाबिले ज्यादा होती है इस लिये उनका टैक्स प्रपोर्शनेटली कुछ ज्यादा हो। वस यहाँ मेरा कहना है।

Shrimati Sarojini Mahishi: I wanted a little information about this clause 14. The concession given in the payment of taxes is being given to a co-operative society and that co-operative society has to be a special transport co-operative society. I wanted to know whether it is required to satisfy all the four conditions given here or it will be enough if it satisfies one of the four conditions. If it is necessary to satisfy all the four conditions, I think the first and the fourth are a bit contradictory to each other. The first is that the co-operative society is solely engaged in the business of transport of goods or

passengers and the fourth is that the motor vehicle is used or kept for use exclusively for the purpose of the co-operative society. I hope the hon. Minister will enlighten us on this point.

Mr. Speaker: Shri S. M. Banerjee may also have his say.

Shri S. M. Banerjee: I only wanted to say that in the case of the D.T.U., it is not "Don't Trust Us" union. I am sorry I was not present. It is not a question of 'Don't Trust us'. These are meant to those elements in the union and the management who are inefficient.

Mr. Speaker: That is clear now. We trust the union very much.

Shri Raj Bahadur: I would say, in so far as the point made out by the hon. Lady Member is concerned, there is nothing contradictory. Both are necessary. A vehicle must be used exclusively for the purpose of the co-operative society and it should be used only for transport of goods or passengers. There is nothing contradictory. The words are clear. All these four conditions are necessary. So far as the other question is concerned, I need not say anything.

Mr. Speaker: The question is:

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

The motion was adopted.

13.33 hrs.

MAJOR PORT TRUSTS BILL

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur): With your permission, Sir,.....

Shri Warior (Trichur): The hon. Minister is present. Why not we have the pleasure of his moving the Bill?

Mr. Speaker: He may have to go soon. Then, Members might say that he is not here.

Shri Hari Vishnu Kamath (Hoshangabad): The Minister of State may have a little breathing time.

Mr. Speaker: Let them decide among themselves.

Shri Raj Bahadur: On behalf of Shri Jagjivan Ram, I beg to move*:

"That the Bill to make provision for the constitution of port authorities for certain major ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith be referred to a Select Committee consisting of the following 21 Members, namely:—

Shri Tridib Kumar Chaudhuri, Shri Sudhansu Bhushan Das, Shri Shivajirao S. Deshmukh, Dr. P. D. Gaitonde, Shri V. B. Gandhi, Shri Indrajit Gupta, Shri Himmat-sinhji, Shri P. G. Karuthiruman, Shri Lahri Singh, Shri Rama Chandra Mallick, Shri Niranjan Lall, Shri Raghunath Singh, Shri Raj Bahadur, Shri C. R. Raja, Shri M. Thirumala Rao, Shri S. V. Krishnamurthy Rao, Shri H. Sidananjappa, Dr. L. M. Singhvi, Shri Ravindra Varma, Shri Vishram Prasad and Shri Jagjivan Ram with instructions to report by the first day of the next session."

As we all know, our country has got a long maritime history and fine traditions which have been described and commented upon by historians like Kautilya, Pliny, Al-Beruni and others. We have got a fine maritime tradition. It was long long ago that our ships sailed across the seven seas and took our civilisation, our culture and our message of friendship and goodwill to distant lands. But, so far as our ports are concerned, we can say that we had well developed

ports at places which are now known as Karwar, Cannanore, Cape Comorin, Pondicherry, etc. In the modern sense, we can say that a beginning was made as far back as the 17th century. Even then, we were having only sailing vessels. The foundations of the ports of Calcutta, Bombay and Madras were laid some time during that period. All that a port needed at that time was a good anchorage and access to the hinterland. The advent of steam and iron-clad vessels revolutionised sea transport. We know very well that was a period which synchronised with the domination of our country by a foreign power so that our shipping and maritime industry went under an eclipse for a long time. But, even during that period, these three ports, Calcutta, Bombay and Madras were developed under foreign rule. The Princess and Victoria docks at Bombay and Kideerpore docks at Calcutta were completed during this period. The construction of the artificial harbour at Madras was begun in 1876 and completed in 1896, a period of 20 years. I am just mentioning this to point out that sometimes, when we speak of the ports of Mangalore or Tuticorin or Paradip or Porbunder, we are expected to complete these ports in a couple of years time or even less than that.

13.35 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

So, it can be seen that the development of ports is a very involved and complicated process, and it requires a good deal of planning and efforts and mobilisation of resources.

The Alexandra docks at Bombay were built just before the First World War, while the King George docks at Calcutta were constructed in the twenties of this century.

In 1921, the three ports of Bombay, Calcutta and Madras were declared as major ports, but they continued to

*Moved with the recommendation of the President.

{Shri Raj Bahadur]

be administered by the local-Governments as the agents of the Government of India. Visakhapatnam was declared as a major port in 1925 and its development was undertaken by the Government of India through the agency of the Bengal-Nagpur Railway. The construction work was completed, and the port thrown open to ocean-going ships in 1933. Cochin was declared as a major port in 1936 and its development was undertaken under a tripartite agreement between the Government of India, and the then existing States of Travancore and Cochin. The Government of India also took over the administration of the port from the same date. The wharf berths in the Willingdon Island were completed in 1939.

After the Government of India Act of 1935 came into force, the Central Government took over direct responsibility for the administration of the three ports of Calcutta, Bombay and Madras also from the 1st April, 1937.

World War II put a tremendous strain on the major ports. Except for small improvements and provision of additional facilities here and there, no development work of importance could be taken up during the war period. We had to cope up with the increasing demands on the ports with the help of the existing facilities and equipment, with the result that they were subject to great strain.

After Partition, the port of Karachi went over to Pakistan. It was, therefore, decided to construct another major port on the West Coast to cater to the regions formerly served by Karachi. The West Coast Major Port Development Committee recommended that the new major port should be sited at Kandla. A contract for the construction of the requisite port facilities at Kandla was awarded in March, 1953. This port was formally declared as a major port in 1955, and in the middle of 1957 ships began to use alongside facilities provided for at Kandla.

Provision for the development of the three Government-administered major ports and the three Trust Ports was included in the First Five Year Plan and has been continued in the Second and the Third Five Year Plans.

While the administration of the three older major ports of Calcutta, Bombay and Madras was being carried on by autonomous statutory bodies, the Government of India have continued to administer the three major ports of Cochin, Visakhapatnam and Kandla direct through administrative officers appointed by them. These administrative officers have generally the powers of a Head of a Department under the Government. In the day-to-day administration of the ports, they are assisted by advisory committees consisting of representatives of the Government Departments concerned with the working of the port, commercial and trade interests in the region and the local municipalities.

The legislative measure now proposed contemplates the constitution of statutory authorities for the ports of Cochin, Kandla and Visakhapatnam, who will be entrusted with the responsibility of administer the ports with considerable autonomy in the day-to-day working. The Bill largely follows the pattern of the existing Port Trust Acts pertaining to Calcutta, Bombay and Madras, but with greater flexibility in administrative and financial matters.

Provision has also been made to apply the provisions of this proposed measure to any other port which might hereafter be declared as a major port.

With these words, I commend the motion for the consideration of the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to make provision for the constitution of port

authorities for certain major ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith be referred to a Select Committee consisting of the following 21 Members, namely:

Shri Tridib Kumar Chaudhuri, Shri Sudhansu Bhushan Das, Shri Shivajirao S. Deshmukh, Dr. P. D. Gaitonde, Shri V. B. Gandhi, Shri Indrajit Gupta, Shri Himmatsinhji, Shri P. G. Karuthiruman, Shri Lahri Singh, Shri Rama Chandra Mallick, Shri Niranjan Lall, Shri Raghunath Singh, Shri Raj Bahadur, Shri C. R. Raja, Shri M. Thirumala Rao, Shri S. V. Krishnamoorthy Rao, Shri H. Sridananappa, Dr. L. M. Singhvi, Shri Ravindra Varma, Shri Vishram Prasad and Shri Jagjivan Ram.

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

Shri Warrior: I welcome this measure. It has come none too soon. I come from a place where we have got a port which fortunately has now at least been included in the application of this measure, that is, the port of Cochin.

The port of Cochin and the harbour there is called by various people who have visited both our own and foreign ports as the 'Queen of the Arabian Sea'. But I am sorry to remark that the Queen of the Arabian Sea had for long remained the Cinderella of the major ports of India. In 1936, as the Minister had been pleased to say, this port was declared a major port and it has taken 26 long years for the Government of India to have a Port Trust installed there when Government had all the requisite experience of the working of major ports through port trusts. A Port

Turst for Cochin had also been demanded by all the various interests connected with the day-to-day affairs of shipping, both export and import, in that port. But I am not at all surprised, nor will any student of the history of the Cochin port be surprised that this long delay took place, because this port although known for the last 2500 years from the time of the Mullieries down to this day, had always to struggle not only against nature but also all the mighty elements that constitute the history of the southern ports of India.

I take this opportunity to pay my respects to two gentlemen specially. One is Sir Robert Bristow, the engineer who designed, sketched, constructed and supervised the development of the port from 1919 to 1941. I also pay my great respects to the then Diwan of Cochin who had once adorned the very same Chair—not under the present set-up but under the older set up—which you are now adorning, namely, Sir R. K. Shanmukham Chetty under whose diwanship and stewardship the port developed to its present state, that is, in 1962.

Sir Robert Bristow, the eminent harbour engineer, deputed from the Royal Navy in England undertook this major endeavour on behalf of the then Central Government of India. He had been in Cochin for long years. He studied not only the topography of the place, but also the customs, manners and everything connected with the port as well as the whole of South India. I wish to quote a passage from his very celebrated book, *Cochin Saga*, which will be pertinent and relevant to the whole course of this discussion. He says on page 62—it is a bit long, but it is worthwhile perusing:

"However, between the years 1921 and 1924, the future existence of Cochin as a major port was seriously threatened by two separate interests in Madras"

[Shri Warior]

I am sorry this is his, not mine:—

"The first arose from an unfortunate difference of opinion between His Excellency the Governor and his Finance Minister, which soon became a topic of conversation in clubs and business circles. Lord Willingdon had from the first desired to concentrate chiefly on Cochin; the Minister would willingly have dropped Cochin in favour of a place called Tuticorin on the south-east coast, a far less spacious area and useless for most naval purposes. An even more difficult situation arose when a retired Admiral R. N. suddenly appeared in Madras as the representative of a well-known dredging firm in London. His main purpose was to extend the firm's legitimate business in India, but when he discovered that a scheme was on foot for dredging a canal through the island of Rameswaram off the south-east coast (but connected to it by a railway bridge) he and others conceived the notion not only of dredging the canal but establishing a port on it after the manner of Port Said".

Therefore, the Cochin port has not emerged into its developed form today without any struggle. That struggle was first with the Big Brother, Madras. The same struggle is continuing now. I am sorry to say that another Big Brother has also joined in the fray.

Shri Hari Vishnu Kamath: Bigger brother.

Shri Warior: Yes. I do not mention the name; it is inferable and obvious.

Dr. M. S. Aney (Nagpur): He could very well mention it.

Shri Warior: For the benefit of Dr. Aney, it is Mysore. I do not go into details.

In this respect, I also congratulate Kandla. It was declared a major port only in 1955, but now along

with the old Cochin port it is also recognised in full strength and maturity for the purpose of having a Port Trust.

The struggle of Cochin is continuing in certain other respects. I want to emphasise this point considerably in this debate. That is why I am taking more time for that. There is an impression sought to be created now that Cochin port has already reached the saturation point in development, because everything the port can have had been there. Under the able stewardship of Sir Shanmukham Chetty, the Diwan of Cochin in pre-war days, they had envisaged four stages of development, and under the guidance and supervision of Sir Robert Bristow the fourth stage was just completed in a hurry-burry fashion because of the outbreak of the war. When war broke out, then only even the then India Government realised the importance of this port on the west coast. I do not want to use the lurid description given by such an eminent authority as Sir Robert Bristow. But had it not been for the negligence of Cochin by the then Central Government for the last 200 years—not this Central Government—even the ports of Madras and Colombo would not have been on the map now. That is the finding of an eminent authority. But history has its own freaks and we have had the misfortune of seeing the small fishing harbour of Cochin remaining so for a long time.

The present position also is almost the same, considering the two Five Year Plan reports. I do not know how the tradition is carried on. Although Ministries are changing and Ministers also are changing, I think the old files in the secretariat are not changing.

Shrimati Yashoda Reddy (Kurnool): Men may come and men may go but they go on for ever.

Shri Warior: I do not know whether the same attitude is adopted

even after this point had been widely discussed by the Estimates Committee of this House. I may be allowed to quote the Estimates Committee's verdict on this, on the attitude towards major ports, declared major but not actually major. In their 48th Report, they say:

"The disparity in administration between one set of ports and the other is incongruous and illogical. It is not only the question of financial control but also of associating the local interests in administration in which they are vitally concerned. The Committee therefore recommend that all the major ports in India should eventually be run by semi-autonomous Port Trusts."

That eventuality has now come at last.

"Three considerations indicated earlier in para 33 should determine the time when the management should be handed over to a Port Trust at Cochin, Vizagapatam and Kandla."

The Minister of Transport and Communications (Shri Jagjivan Ram) : Which year?

Shri Warrior: This was in 1957. After the report, it took only five years.

Now I go back to the point of that impression. I do not know how it gained so much currency, that the port of Cochin has reached saturation point.

One of the major criteria which decide the capacity of a port is the turn-round of ships, but in Cochin, however much you may turn round the ships, the cargo will remain on the wharfs. I did not get the minutes of the meeting of the National Harbour Board held in 1952, but I am reliably told, I speak subject to correction, that the National Harbour Board had suggested the doubling of the railway lines which only will enable the port to discharge more

cargo from overseas and also to carry more cargo for export purposes. Otherwise, the congestion in the harbour will not be eliminated by any number of wharfs, bunkers added or other facilities given to the shippers. But that has been neglected. I am prompted to wish that the Transport Ministry may take over at least those urban railway lines which are connected with the harbour. If this question had been taken up while Jagjivan Ramji had been the Railway Minister, I should not be saying so much today on that score.

Then, there are other facilities required in the harbour just like a dry dock or a first-class mechanised workshop. Without all these facilities, however much space for turn-round is offered to ships, you cannot get those ships which are in need of repairs, which are in need of a dry dock, to call there. They may even drag headlong over to Calcutta, or if Calcutta is congested, even to Singapore. Suppose there is a leakage in a ship, it requires major repairs, and it must be taken to a dry dock, but that facility is not available here.

Not only that. I wish to refer in this connection to the three Five Year Plan reports. I will take only one instance, because I think I will not have much time. The Ministry's Report for 1961-62 provides interesting reading and it is illuminating also. At page 73 it says:

"Statement showing the progress of Plan Projects at the Port of Cochin.

"I. CARRY FORWARD SCHEMES.

1. Docks and Berths

Physical Progress

This mainly consists of the construction of a four berth wharf. Superstructure work on two berths completed.

[Shri Warior]

Dredging of northern west berth taken up. Building of two transit sheds completed. Work on others in progress. 8 out of 12 cranes completed. Remaining works in progress."

Like that it goes on, and has remarks like "specifications under preparation", "Lighting arrangements in Ernakulam Channel completed", "A comprehensive scheme under preparation", "Construction of additional building completed", "Staff quarters completed", "Police quarters in progress" etc.

Shri Jagjivan Ram: Very satisfactory.

Shri Warior: Everything is in progress, nothing is in retrogression.

Shri Jagjivan Ram: And many things completed.

Shri Warior: But not anything completed finally, all are completed partially.

There are four new schemes. These have not been taken up for execution. I do not want to compare this with ports like Calcutta, Bombay and Madras and rouse envies and jealousies. But what happened in the Second Plan? Those ports were able to raise even foreign exchange from the World Bank. They were not in any way handicapped in any matter of getting even foreign exchange, much less internal exchange, and they were able to gird up their development in such a way they have gone so much ahead, while Cochin, which is also a major port, did not have any such facility since 1936.

Not only that. Out of the amount of Rs. 5 crores budgeted in the Second Plan for Cochin, I am told only Rs. 4 crores were spent; the balance could not be spent for the simple reason that foreign exchange was not allowed. If that Rs. 1 crore of foreign exchange had been allowed to Cochin Port, we could have had a first class

mechanised workshop today, and many of the ocean-going steamers, the international liners, would call at Cochin port. This naturally affects the intake and offtake of cargo also.

But with all that, Cochin Port has given a splendid performance as you can see from the Cochin Port Administration Report.

Mr. Deputy-Speaker: He has taken 20 minutes.

Shri Warior: In that case, I will not quote, but merely refer to the report.

Shri Raj Bahadur: This performance would not have been possible if all the facilities were not there.

Shri Warior: There are two things. If you strain to the breaking point, then also you can show some performance. If you do not have to strain and have all the facilities....

Shri Raj Bahadur: Let the hon. Member point out any work required for Cochin which has not been already included in the plan. Let him point out a single item which should have been included, which is not there.

Shri Warior: One is the dry dock, the second is workshop, and the third which is the most important is de-casualisation of labour.

Shri Raj Bahadur: Dry dock is part of the ship-yard which is proposed, and we cannot duplicate it. The same applies to the workshop.

Shri Warior: I know Raj Bahadurji will give us more promises now because all this has come to light at least in this House. When I bring them to light, I know I will get more promises, and also some execution of his promises.

I have dealt with the dry dock. There is a dry dock there. If you look at the report, you will find that there is a dry dock at Cochin. It is a dry dock for the dredgers. To re-

pair the dredgers there is a dry dock there. So, the possibility of Cochin port must be studied more fully. I hope the National Harbour Board has made some suggestions about it. Instead of implementing them, in 1952 the Government all of a sudden instituted the West Coast Major Ports Enquiry by a committee and the hon. Minister referred to it. That report is not a unanimous report. I am subject to correction but I hope there is a dissenting note somewhere. All of a sudden we see new names on the naval map of India. Well and good. I welcome them. With all that I am quite sure that if proper enquiries had been made as suggested by the National Harbour Board—it is not a new suggestion; it submitted its report in 1955—more possibilities would have come to light and more funds would have been allotted in the Five Year Plans and the Cochin Port would have developed at least to the extent of handling cargoes as Madras port. Madras port which he mentioned in his initial speech is not a port at all. It is not a natural harbour, it took twenty years to come up because not only this Government but the predecessor Government had a soft heart for Madras people or the Madras Government. I crave the indulgence of the Ministry to look into these few questions and take the fine harbour at Cochin into consideration so that it may be developed in the Fourth and Fifth Plans.

14 hrs.

We had the experience of port trust administrations; we had also the experience of administrators administration of ports. It is a welcome feature of this legislation that this fate will not be there for the new major ports such as our nearest neighbour, Mangalore, etc. Government has taken proper care and has included provisions to bring them under this Bill. Out of the experience of such bigger port trusts like Calcutta, Madras, Bombay, I hope there will be more autonomy in the

day to day administration of the new ports. In this connection, with some hesitation I recall the last strike of the pilots on the Hooghly where I am told the port trust was not in a position, because of the want of certain provisions and certain authority, to reconcile the dispute and the Central Government had to intervene at a time when we had the necessity of conciliatory labour who would contribute their mite to the national development. I also welcome the increase in the number of members on the port trust so that all those who are interested will be there or at least their representatives; nobody will have any room for complaint that they were not heard.

I hope the Select Committee consisting of eminent Members some of whom at least have a first-hand working knowledge of the port trust of Calcutta, Bombay or Madras will go through the provisions of this Bill so that there will not be any legal lacuna or loophole. About the labour problems, I wish to say one word. It is true that in places like Cochin the harbour labour board had been created and more decasualisation is done. But it is a very tough and knotty problem. We do not know when ships come or when or how much labour is required. It is varying; it is seasonal. Still from reports on major international ports we find that this has been done to some extent. It may not be fully satisfactory or cent per cent successful but it is an essential feature for having a contented labour and also for avoiding exploitation of poor labourers by a hierarchy of middlemen as in Cochin port. There is especially the stevedore labour. I hope they would more and more be decasualised and brought on register so that they will have permanency and that a rotational system of work will be introduced more and more so that labour will be content. Their representatives also may sit on the board of trustees. That is in the enactment. In the present set-up of course there will be many

[Shri Warior]

claimants but care should be taken to see that real representatives who represent the interests of labour, not contractors, labour but trade unionists labour are included in this. There is provision for consulting labour organisations.

I am closing, Sir; I heard the Bell several times. With these few observations, I welcome the new clauses introduced in this enactment after gaining so much experience in the administration of the major ports which has come under the able stewardship of Jagjivan Ramji.

Shri Mohsin (Dharwar South): Sir, I rise to support the Bill. It is intended to create autonomous and statutory bodies to administer, control and manage the three major ports, namely Cochin, Kandla and Vishakhapatnam. There are already three major ports—Calcutta, Madras and Bombay—which are governed by such autonomous statutory bodies. They are governed by the Acts which were passed quite long ago, i.e. 60 or 70 years ago. The Calcutta Port Act was passed in 1890; the Bombay Port Trust Act in 1879 and the Madras Port Trust Act in 1905. Even in the present Bill, many provisions are similar to those Acts, except in some minor details, which have been brought into this Bill, with the experience gained by those existing port trusts.

I do not quite understand why there should not be a uniform law as regards the administration of all these major ports including Madras, Bombay and Calcutta, especially when the laws governing those ports were enacted long ago in 1879, 1890 and 1905, under foreign rule. So, they need to be changed now. Though Calcutta is a big port, the board has got—they are called Commissioners of the Port of Calcutta—a Chairman, a Vice-Chairman, 9 elected persons and 5 nominated persons. The Bombay port trust has got 25 members—15 elected and 10 nominated. Madras

has got 21 members—11 elected and 10 nominated. Under the present Bill, for the ports which will be smaller than Calcutta, Bombay and Madras, the number of trustees will be 25—15 elected and 10 nominated. I do not quite see the reason why such a big number of members should be there on the Trust Board. The smaller the body, the better is the administration always. In view of that, I think this will be too big a body.

There are some minor new provisions in this Bill. There are wide powers given to the Chairman under the Bill and clause 21 provides for the delegation of powers to the Deputy Chairman. Clause 29 is an important addition under this Bill, which gives power to transfer all property, assets and funds vested in the Central Government to the trusts, when they are created.

Clause 56 provides for the recovery of any charge short-levied or erroneously refunded. There is no provision like that in the present Acts governing Bombay, Madras and Calcutta Port Trust. This lacuna is made good by this new provision.

Clause 103 is an important provision that makes compulsory the laying of the audit reports before both Houses of Parliament. Hitherto these audit reports were not laid before the Parliament. This is a welcome provision. Under clause 98(8) the Board is authorised to spend in advance, i.e. on account, before the budget is sanctioned. Clause 111 gives sweeping powers to the Central Government to issue directives to the board. As the previous speaker said, sometimes the Central Government becomes helpless when matters become worse in the ports. It could not intervene and stop all these disturbances, when the matter of policy came in. So, clause 111, which is newly inserted and which is not found in the previous Acts, gives power to the Central Government to lay down some directions on questions of policy. This is a very essential provision. All ports

should be governed on the same policy and the Central Government will have the power to lay down this policy.

Clause 125 says:

"Whenever the Central Government considers necessary in the public interest so to do, it may, by order in writing together with a statement of reasons therefor, direct any Board to make any regulations....or to amend any regulations made by the Board within such period as the Central Government may specify in this behalf and so on."

I do not know why this clause is necessary. When Central Government has got supervisory powers and when all rules and regulations which are framed by the port trusts are to be approved by the Central Government under clause 124, I do not know why the Central Government wants to take power even to amend or nullify all those regulations. We call these trusts as autonomous statutory bodies. If Government takes powers even to nullify or amend the regulations, I do not know what is meant by statutory autonomous trusts. There should be some limit to the powers to be taken by the Central Government. I hope the Government will consider whether such powers are needed.

I was very glad to hear the hon. Minister saying that Mangalore also will be one of the major ports and its construction will be completed within 2 years. It is a very happy news.

Shri Raj Bahadur: I did not say it will be completed in two years; I said, a demand is made, that it should be completed in 2 years.

Shri Mohsin: Even the selection of the site had taken so many years and we were rather disappointed at the slow rate of progress. I hope the Minister will take it up and see that Mangalore also takes its place soon as one of the major ports in India. But the matter is not finished there. It is

also our duty to see when a major port is constructed, there is sufficient cargo and sufficient hinterland for it. Iron ore is in abundance in Mysore State and Bellary leads not only in quantity but even in quality. But an attempt has been going on to divert all this ore to some other ports and to see that when Mangalore port comes into existence, it will starve actually. It is stated that the broadgauge line between Hospet and Guntakal is only to divert the iron ore found in Bellary to Vishakhapatnam. The result will be that the Mangalore Port which will come up in future will be actually starved.

Again, to make it a major port there was the need for a broad-gauge line between Hasan and Mangalore, for the quick movement of goods. We now hear, quite surprisingly, that even the broad-gauge line which was promised before is going to be only a metre-gauge line. That again will hit the proposed major port at Mangalore.

Sir, if there is no pre-plan before construction of these major ports I do not think that the very purpose of construction of these major ports will be justified. When we think that a major port is to be established, we have to think of the hinterland and the cargo to be exported. In that way, even Karwar and Bhatkal are the most natural harbours which could be developed as major ports of India, with rich and vast hinterland. But there has been much of politics or some forces are working at it and I see that the development of those ports has been neglected. Of course, Karwar is going to be developed to a certain extent, but not to the extent to which it ought to have been. They provide natural harbours. There is no need to spend huge amounts to develop these ports. Moreover, for exporting cargo, especially the ores, they will be the nearest harbours. For export of cargo they will be less expensive. Labour will be cheap and the expenditure on transport of goods to the port also will be less. When,

[Shri Mohsin]

especially, iron ore is to be transported to foreign countries, we have to see that it is done at lesser cost. When Vishakhapatnam and Madras are far away and more expensive, I do not know why the Government is thinking of taking the iron ore from Mysore and export it from ports other than Mangalore or Karwar.

I hope, Sir, before the Government finalise all these things, before the construction of Mangalore Port, Government will see that the resources of Mysore State are exported through the ports of Mysore which will be cheaper and proper.

With these words, I support the measure and leave for the consideration of the Select Committee the other portions which I have referred to.

Shri U. M. Trivedi (Mandsaur): Mr. Deputy-Speaker, Sir, the very first thing that strikes me in relation to this Bill is, why there is no consolidation of the Acts governing the major ports. We have got the Bombay Port Trust Act. The other two are known as the Calcutta Port Act and the Madras Port Trust Act. The Calcutta Act has not got even the name "Calcutta Port Trust Act". We have here the Major Port Trusts Bill with the object of promulgation of a Major Port Trusts Act. Why should it not be possible for the Government to consolidate all the various Acts into one?

The mischief is already there. Whenever a central legislative body makes Bills for the various places and the legislation power is left in the hands of the Parliament, these Acts or Bills are dealt with and made as if they are Acts in relation to some provincial matters. The Calcutta Port Act, the Madras Port Trust Act and the Bombay Port Trust Act are not placed before the House also. They ought to have been placed before the House. It is not only that they have not been placed, but in view of the explanation given to the clauses at the end one is left at sea to study this

Act. When we look into the notes on clauses we find that it says:

"The provisions of this clause correspond to sections 4, 5 and 6 of the Calcutta and Bombay Acts and sections 7, 8 and 9 of the Madras Act except that there is a slight increase in the total number of Trustees of the Board."

That is to say, to study this Act one has to go back to four different Acts—the Indian Port Act, the Calcutta Port Act, the Madras Port Trust Act and the Bombay Port Trust Act. These are not before the House. They have not been supplied to the House. How is one to study this? It is a problem for any legislator who cares to study this Bill. It is not at one place that this difficulty arises. If you will be pleased to peruse the notes on clauses you will find that for every clause there is a reference to the Bombay Act or the Madras Act or the Calcutta Act.

I would submit respectfully that while making laws of this nature they must be well studied by the Ministry responsible for ushering in these Bills and they must also be studied very well by the Law Ministry. On page 3 you will find—Shri Raj Bahadur, the hon. Minister in charge of the Bill here, is an able lawyer—that "Major Port" has been defined in two clauses. Why has it become necessary to define this expression "Major Port" in two different clauses? The name given is the same. Where is the mistake, I do not know. Has there been an errata issued? I have not got any. In clause 2(m) it is said:

"major port" has the same meaning as in the Indian Ports Act."

Shri Raj Bahadur: That is a mistake. The second one is: "master" in relation to any vessel or any aircraft. That correction has to be made. One (m) goes away.

Shri Sonavane (Pandharpur): A. Corrigenda has been issued. Probably the hon. Member has not seen it.

Shri U. M. Trivedi: They were issued to you and not to me.

Shri Raj Bahadur: Similarly, the Bombay, Madras and Calcutta Acts are very easily available.

Shri U. M. Trivedi: They are available in the library. They are lying with me having been in possession of the All India Manual. That is neither here nor there.

Shri Raj Bahadur: We shall supply sufficient number of copies of these Acts to the members of the Select Committee.

Shri U. M. Trivedi: When a criticism is made, the man who wants to study must have the copies available with him.

Of course, Sir, this will go to the Select Committee. There are many defects noticeable in the various Acts. I will draw your attention to this point. This is about the damages which may be leviable for destruction or deterioration of goods handed over to the Port Trust. Generally what happens is, the ordinary man or the consignor does not know that there is some railway known as the Port Trust Railway. The railway receipts are generally made out by the various zonal railways. When a man goes before the court he thinks that his receipt is a zonal railway receipt of the Western Railway or the Central Railway. But he finds himself handicapped by virtue of the fact that it is found out that the station from which booking has taken place is the booking office of the Port Trust. Then it is said that he has not given six months notice as required by law under Section 77 of the Indian Railways Act and therefore the suit fails. Why should Government be very much pleased with this aspect and create trouble for the public at large. The provision does not exist in the Railway Port Trust Act. I was just trying to find out what provision has

been made in this. Clause 43 of this Bill provides like this:

"(2) A Board shall not be in any way responsible for the loss, destruction or deterioration of, or damage to, goods of which it has taken charge, unless notice of such loss or damage has been given within such period as may be prescribed by regulations made in this behalf from the date of the receipt given for the goods under sub-section (2) of section 42.

This is what we call making a positive legislation by delegated legislation. You are making a provision of law whereby a remedy is being deprived and is left in the hands of subordinate legislation. In the Indian Railways Act the time is specified. It has not been specified in the Bombay Port Trust Act although it is stated in the notes on clauses that it has been so specified. I have looked at the Bombay Port Trust Act and I find that the meaning is as beautifully vague as possible with the result that a man is always left in the lurch about the way in which these clauses can be interpreted.

In section 61 (a) and 61 (b) of the Bombay Port Trust Act this provision exists. Section 61(b) says:

"The responsibility for the loss, destruction or deterioration of goods of which it has taken charge shall, subject to the other provisions of this Act and subject also, in the case of goods received for carriage by railways, to the provisions of the Indian Railways Act, 1890, be that of a bailee under section..."

Here also it is left in doubt as to what is the period of limitation which has to be applied. Section 112 of the Calcutta Port Act does not specify the period. In one place you mention it, in another place you do not mention it and in a third place you leave it to the regulation to be made.

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by the Board of Trustees—not by the rules of the Central Government but by the rules of the Board of Trustees—and they will say that the suit will fail if the notice is not given within such and such period.

Another point that has to be considered while making this legislation is this, and I hope it will be considered by the Select Committee. All these are old enactments. The Bombay Port Trust Act was passed in 1879, Calcutta Port Act in 1890 and the Madras Port Trust Act in 1905. These Acts have become so obsolete that to keep them alive year after year a number of amendments had to be passed. Instead of enumerating all of them, I will give the number of times these Acts were amended. The Bombay Port Trust Act has been amended nearly 29 times; in other words, there were 29 amendments to the original Act of 1879. Similarly, the Calcutta Port Act has also been amended by the various provisions of law. When so many amendments are there, I see no reason why, and the Government should see no reason why, the Select Committee should not be directed to consider why there should not be a single consolidated Act for the whole of India; for all major ports that there are and all major ports there will be, there ought to be one Act, and that Act must be a comprehensive Act, consolidating all the various provisions, not keeping clause (a) here and clause (b) in another place so that one will find himself at sea.

I will briefly draw attention to another point. When Visakhapatnam, Cochin and Kandla have been declared as major ports, why was opportunity not taken to declare Porbandar, Veeraval, Bhavnagar and Okha as major ports? In the olden days, the princely States did a good deal to develop those ports so much so that they were threatening the income of the Bombay port. Now if we have to grow as a great maritime power, with a very long line of sea shore around

us, immediate steps must be taken not only to develop those ports which have been developed but also those ports which have been left behind from development merely because there is no big cry over them. The hinterland behind these ports is a very productive commercially and industrially advanced area. It is not enough to say that Kandla has been developed for Gujarat. That is a parochial attitude. Our approach should be to serve the whole country and as expeditiously as possible, with as many number of ports as possible. We should not have a parochial outlook in developing ports. The Union Government should develop the various ports for improvement in our import and export trade.

One hon. friend has suggested that Cochin is developed for a particular State, Visakhapatnam for another State and so on. That should not be the idea behind development of ports. When Parliament enacts a law, there should not be differentiation between States and States or parochial considerations.

In the end, I would request the Select Committee to go very carefully into the moulding of the law, keeping in view the various provisions contained in the different Acts from which provisions have been drawn for this Bill, namely, the Indian Ports Act, the Calcutta Port Act, the Bombay Port Trust Act and the Madras Port Trust Act.

Shri Maniyangadan (Kottayam): I welcome this Bill with the observation that it is a long overdue legislation. The three major ports that are brought under the purview of this Bill were being administered by administrators under the direct control of the Central Government. There have been persistent demands from commercial concerns and other interests, both in Parliament and outside, that something autonomous like port trusts must be established for the administration of

these ports. In 1950 when the Bombay, Calcutta and Madras Port Trusts Acts were amended this question was raised and it was promised that a comprehensive legislation covering all the major ports will be brought forward as early as possible. But I do not know the reason why it took twelve years for the Government to bring forward this legislation whereby these three major ports are now brought under Port Trusts.

In this connection I would like to draw the attention of the Government to certain modifications or certain improvements that have been made in this Bill over the already existing Acts regarding the other three major ports. Those ports, as was stated by the previous speaker, are still governed by the old Port Trusts Acts. Scrapping of the existing Acts and bringing forth a comprehensive piece of legislation incorporating all the separate port administrations in one general scheme of administration was a suggestion made and welcomed by the Government several years ago. Still, we find that the Bill now introduced governs only three major ports and the other three ports are left intact in the old way. I do not know the reason for this. Maybe, a comprehensive piece of legislation may take some time, but I would ask: Are twelve years not enough for the Government to bring forward a comprehensive piece of legislation?

This new Bill is a combination of all the provisions in all the three Acts. Certain improvements made on the existing Acts are also found here. But I would respectfully submit this. Do the Bombay, Madras and Calcutta ports not deserve these improvements? We find a number of them here. I do not want to go into details but I would again request the Government to modify the existing Acts so that they also may be brought in line with the present Bill at least.

Regarding the advisability of establishing Port Trusts there is no doubt.

The Estimates Committee had recommended this long ago and now the Government has brought forward this. When a harbour or a port is established and its development is planned, there must be some plan with regard to it. Several things were said about Cochin Port. I do not want to go into those details again but the possible industrial development of the neighbouring area, the possible amount of cargo that may be brought to the harbour and all these things must be taken into consideration and then with a plan for development something must be done.

I regret to say that the Government has not taken into consideration these matters in the development of this port. Of course, if the local interests were associated with the Port Trust, as in the case of Bombay, Madras and Calcutta, for some time the Cochin Port would also have developed much further. Cochin Port is a very old one. It was declared a major port in 1936. It is a natural harbour. But the Government is lagging behind with respect to the development of this port.

In this connection, I may also bring to the notice of the Government the suggestion for increasing communication facilities to the harbour. There was a suggestion that the railway line between Cochin and Coimbatore should be doubled. The doubling of this line would have helped much the development of the port. The industrialists in Coimbatore are utilising Bombay Port for the purposes of import and export though there is a port nearer to them at Cochin, a natural harbour, with all the facilities. That could not be taken advantage of because of the lack of communication facilities.

Then, again, there is the opening up of certain regions. For example, if Madurai and Cochin could be connected by a railway line, it would help much in the development of the port. The industrial backwardness of the

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area near Cochin is also due to the lack of development of this port. If this port could be developed properly taking into consideration the potentialities of the area, it would have been better. I think, much more remains to be done and I believe, the Government will come to the aid of the Port Trust now going to be established in developing this Port in such a way as it deserves.

Before coming to the Bill itself, I may also refer to the National Harbour Board. There are six major ports in India. There are also a number of, what are called, minor ports. To co-ordinate the functions of these various ports a National Harbour Board has been brought into existence by the Government. This National Harbour Board has made various suggestions to the Government. They have passed several resolutions, but several of them have been ignored by the Government. Moreover, this National Harbour Board is still only a creation of the Government by the executive authority of the Government. Several years ago it was demanded that this National Harbour Board should be given a statutory place. It was said by Government in 1958 that this was established only in 1950 and within so short a time they could not find out how it was working, that within a reasonable time the National Harbour Board would be placed as a statutory body and necessary legislation would be brought forth. Hitherto nothing has been done in that respect. So, I submit that it is necessary that this matter is also taken into consideration.

As regards the constitution of the Board, clause 3(c) says:—

“not more than ten persons to be appointed by the Central Government from amongst persons who are in its opinion capable of representing”.

the various interests and among them the Government of the State in which the port is situated is also included. I would humbly submit that I have no

objection to the Government nominating persons to represent these interests and I hope in the case of labour employed in the port the trade unions will also be consulted but in the case of the State Government it is stated that the Central Government will decide as to who the persons are who are capable of representing the State Government. I would submit that it must be made clear that the representatives of the State Governments should be nominated on these Boards only after consulting the State Governments and only on their suggestion. It is the State Governments that can decide as to who is capable of representing them. It is not the Central Government that must say that such and such a person must represent them and all that.

Then, I may refer to clauses 62 and 63. Clause 62 deals with the disposal of goods not removed from the premises of the Board within the time limit. It is provided there that unless the goods are removed within a period of one month, notice will be issued and the goods sold. It is also provided that in case the owner of the goods has paid the dues to the Board, two months notice will be given. It is stated:

“Notwithstanding anything contained in sub-section (1) or sub-section (3)—

the Board may, in the case of animals and perishable or hazardous goods, give such shorter notice under any of those sub-sections as, in the opinion of the Board, the urgency of the case requires;”

I do not understand what is meant by the period of notice, whether it is the one month's notice or one month after issue of the notice that is meant there. Whatever that be, in the case of animals and perishable and hazardous goods, the period of notice must not be fixed. It must be only as early as possible. Similarly, in the case of persons who have paid their dues, and their goods remain in the harbour,

they are entitled to keep it there for two months. But, it is stated, "sell the goods by public auction after giving notice of the sale in the manner specified". In the proviso it is said that in respect of goods for which dues are paid, notice shall be served after two months. When such goods are to be sold, it is not mentioned whether he is entitled to get one month from the date on which he gets the notice. That is not provided. He is entitled to a period of two months before notice. In the case of other people, only one month is allowed. After one month, one month more is allowed for persons who are defaulters. In the case of persons who are not defaulters, there is no time allowed. I would submit, this question also must be looked into by the Select Committee.

Under clause 63(2), the surplus after meeting expenses, etc., is to be paid to the owner except in the case of goods confiscated under any law relating to customs. In the case of such goods, there is no necessity for notice under clause 62 or 61. That also must be clarified. In the case of goods that are confiscated, there is no necessity for notice being issued that they are going to be sold, and the port authorities need not wait for one month. As the clause is now worded, it says that even in the case of goods confiscated, the Board must wait for one month, issue notice and all that. My submission is that that is not necessary. Also I may here submit that this provision is a new provision. In Madras, Bombay and Calcutta, what is happening to goods confiscated, I do not know. That is one of the defects which is clear from the present Bill. I think that has to be rectified.

Again, as regards payment of the balance after deducting all the dues, it is said that it will be paid on demand. I would submit that a time limit should be fixed for demanding that. The Board should not be under an obligation to keep the balance of the amount for all time. As the clause

now exists, it seems that the Board is under an obligation to keep the money if there is any balance for all time to come and the owner can claim it at any time. That should not be the case.

There is a provision newly incorporated here for placing before both the Houses of Parliament the Audit report, etc. That is clause 103. That is a welcome measure. Here again, this provision is not applicable to the other three ports. I would submit that such a procedure must be adopted in the case of the other three ports also. The Administration report of these Boards are not to be placed before Parliament. There is no provision for that. I would submit that provision must be incorporated in this Bill whereby the report of the Board regarding its administration must also be placed before both Houses of Parliament. I do not want to go into the details regarding the clauses. I hope the Select Committee will go into all these matters and make specific suggestions and amendments in the Bill.

Again, I would request the Government that the Cochin port must be given the importance that it deserves. My hon. friend Shri Warior has stated several things about that. Though I do not agree with some of them, I would submit again that Cochin has not been given the importance that it deserves. I would also make one suggestion. These three Boards which will come into existence, are going to be under great liabilities. Under clause 20, the capital expenditure incurred by the Central Government on these ports is going to be a liability. I do not know whether these Boards will be able to pay off these amounts in the time as may be specified by the Government. The capital expenditure incurred by the Government for the ports of Visakhapatnam, Cochin and Kandla upto 31st March, 1962 amount to Rs. 8.79 crores, Rs. 3.20 crores and Rs. 16.7 crores respectively. It is going to be a heavy burden on

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these Boards. I would request the Government, why cannot they consider these amounts as grants to these Boards and then allow them to start afresh with the development and other works of these ports.

With these suggestions, I welcome this Bill and I expect, as I said earlier, the Government will bring a comprehensive legislation covering all the major ports in India in one legislation.

15 hrs.

Shri Hari Vishnu Kamath: I am sure, Sir, that you will agree that there should be quorum in the House at least now. It is three o'clock now.

Mr. Deputy-Speaker: Let the bell be rung....

Now, there is quorum.

Shri Jashvant Mehta (Bhavnagar): I welcome the Bill. The Estimates Committee recommended about five years ago in the report for the year 1956-57 that these Port Trusts should be constituted in the major ports. Now, Government have come forward with this Bill, because it is necessary that autonomous bodies should be constituted to look after the management of the ports.

In our society, when we have taken up the programme of industrial development of this country in the Five Year Plans, especially the Third Five Year Plan, the Transport Department plays an important part, and in this Department itself, there should be more emphasis on the development of ports.

In the Second Plan, we wanted to spend Rs. 98 crores on the development of ports, but unfortunately we could not utilise the whole amount, and only Rs. 46 crores were spent on the development of ports. In the Third Plan also, we have provided Rs. 96.5 crores for this purpose. Out of this sum, Rs. 75 crores have been provided for the major ports.

As far as this Bill is concerned, I wish that it had been a uniform Bill applicable throughout the country. When Government have decided to constitute autonomous boards, I cannot understand what objection there can be to introducing a uniform legislation for all ports throughout the country. After all, the commercial and other people also are interested, and they would be put to great difficulty if there are different types of legislation in operation at different ports. So, the most important thing is that there should be a uniform legislation all over the country for the management of the Port Trusts.

The next point that I would like to drive at is that in this new legislation, some new clauses have been added. Clauses 29 to 31 are new clauses, for which there are no corresponding provisions in the existing Acts. Also, it has been provided that the capital expenditure that might have been incurred by Government prior to the application of this Bill to any port would form the capital debt of the Port Trust Board for that port, to be repaid to that Government.

In this connection, I would like to draw the attention of the House to the port of Kandla on the Western coast. The hon. Minister has also referred to this, that at the time of the Partition, when we lost the Karachi port, it was decided by an expert committee constituted for the development of major ports that a major port should be situated at Kandla. According to this Bill, a sum of Rs. 16 crores has been spent on the development of this port. This port is a major port on the west coast for defence purposes. This port will also serve the hinterland in North India. At the time of this emergency, we know the special importance of this port. We have seen also how at the time of the last World War when there was overcrowding in Bombay and Calcutta, an expert committee was appointed to look into the matter. All credit goes to great Sardar Patel, who appointed an expert committee to

suggest a major port in lieu of the Karachi port on the western side. It was as a result of that committee's report, that Kandla port was taken up as a special project, and it was developed by spending more than Rs. 16 crores on it.

How can the new Port Trust for this port repay the old amount which has been spent on it when it was taken up as a special project? If we look at the financial position of the existing Port Trusts, then we can realise how difficult it will be for the Port Trust to repay the money. If Government are in a position to give us the figures in regard to these three major ports, about the tonnage, the traffic handled during the last three years, and the income and expenditure, then we shall be able to judge how far these Port Trusts will be able to repay the amount which has been spent on special projects. I hope the Select Committee will also look into this matter and give thought to it as to whether it is feasible to have this provision or not.

I can give the statistics in respect of Visakhapatnam, for instance. The financial results have been stated in regard to this port in the report of the Estimates Committee presented about three or four years back. The report says that:

"When the Project was approved it was anticipated that a net return of 5 per cent would be realised on the capital out lay but these anticipations have not so far materialised. The amount of interest-free loans granted by the Government of India to cover deficits in the Port Trusts were as shown below:...."

The report then proceeds to show that the amount of loans was to the tune of about Rs. 16.94 lakhs.

So, if we look at the financial implications, we shall find that these Port

Trusts at Visakhapatnam, Cochin or Kandla will not be able to repay the original capital expenditure incurred by Government.

I hope the Select Committee will go into the matter and do the needful.

I would also like to know from Government what has happened to the free trade zone policy in regard to the Kandla port, and how far it has progressed. Last time Government had stated that they were very keen about it. So, we would like to know the progress made in regard to this matter.

I would also like to submit that some medium ports should also be elevated to the level of major ports. Government may decide the criteria on which they will classify a port as a major port or a minor port, and on what criteria a medium port can be elevated to the level of a major port, so that there may not be any provincial problem, and there may not be any pressure from one State or the other in regard to this matter. Purely commercial considerations, based on the tonnage or traffic handled at the ports or some such criteria should be taken into account in classifying the ports.

I would also make another suggestion. On the western coast, there are other ports which also could be developed, for instance, Bedi, Bhavanagar, Porbandar and Okha. Government should take this into consideration so that these ports are also developed into major ports with autonomous boards constituted for their administration.

Shri P. Venkatasubbaiah (Adoni): I am very happy that the Ministry has at last thought it fit after so many years to bring forward this Bill for constituting autonomous statutory bodies for the administration of three major ports. Visakhapatnam is one of the major ports. It is one of the oldest ports also. I do not know why there

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has been so much of delay and hesitation on the part of Government to set up a statutory body to administer the affairs of that port. The importance of Visakhapatnam has also increased, as the Minister said, by the starting of oil refineries there. Also the iron ore from the Bailadilla iron ores will be passing through this port before being exported to earn valuable foreign exchange. This being so, the national importance of this port has been enhanced.

So this is a welcome measure and I congratulate the Minister on bringing forward this piece of legislation. I agree with some other Members who have said that it would have been better if a comprehensive piece of legislation had been brought forward prescribing a uniform pattern for all the major ports. That would have been easy. The experience gained in the administration of the first three major ports could very well have been incorporated in this Bill and all these major ports could have been brought under a uniform pattern of administration. I still hope the Minister will reconsider the matter and will soon bring before the House a comprehensive Bill covering all the major ports.

Coming to Visakhapatnam again, it was neglected all these years. That is a port which has a hinterland in Madhya Pradesh and Orissa also. Not only that. In Andhra Pradesh, there are many minor ports, notably Masulipatam and Kakinada which have not received the attention they should have. Masulipatam is more or less considered to be a dead port.

There are so many difficulties coming in the way of the rapid development of Visakhapatnam. There are no proper communications by road and rail. Now they contemplate a railway line from the Orissa area to this port. But I would suggest that other transport facilities that will connect Visakhapatnam with other important places should also be provided, so that the best attention is bestowed on all the

aspects of the port, not only bringing the management of the port up-to-date but also providing transport facilities to make the port more useful to the country. I hope the Minister will do the needful.

Regarding the constitution of the Port Trust, I also share the view of some Members who have said that it should not be too large. It would be more efficient when there is a small and compact body. I hope the Minister would give due attention to this aspect.

Coming to Visakhapatnam again, there should be proper communications between that port and Calcutta. Also there should be proper co-ordination so that Visakhapatnam may rise in importance in this hour of national emergency and provide a useful port through which we may export more goods abroad, thus bringing in more revenue by way of foreign exchange to our country.

श्री शिवमूर्ति स्वामी (कोण्डल) :

उपाध्यक्ष महोदय, मैं इस बिल का समर्थन करते हुए चन्द बातें मिलेक्ट कमेटी के विचार के लिये पेश करना चाहता हूँ।

जब हम भारत वर्ष के गांव गांव के लिये कोआपरेटिव सोसाइटीज का एक कानून बना सकते हैं तो क्या यह मुमकिन नहीं है कि जो हमारे पास दस बारह पोर्ट हैं, छोटे और बड़े, उन के लिये एक कानून बनाया जा सके। मैं चाहता हूँ कि उन के लिये एक कानून बनाया जाना चाहिये। जो हमारे तीन बड़े पोर्ट हैं मद्रास, बम्बई और कलकत्ता, उन के अनुभव से फायदा उठा कर भारतवर्ष में जो और पोर्ट तैयार हो रहे हैं उन सब के लिये एक ही ऐक्ट क्यों न बनावें। अगर ऐसा करने में कुछ मुश्किलता हों तो उन को अगर मंत्री महोदय एक्सप्लेन कर दें तो ठीक होगा।

इस में धारा ३ के अनुसार जो बोर्ड बनाया जाने वाला है वह बहुत बड़ा होगा। जहां ट्रस्टीज ज्यादा होते हैं वहां इन्तिजाम ठीक तरीके से चलने के बजाये उस में और कमियां आ जाती हैं, क्योंकि हर एक अपना-अपना विचार रखता है। एक सेंट्रल कमेटी बनायी जाय जिस के ११ या ज्यादा से ज्यादा १५ सदस्य हों। इस में ज्यादा नामिनेटेड सदस्य रखने की व्यवस्था है। मैं समझता हूं कि इस में जिन इंटरस्ट्स को रिप्रेजेंट करना है उन के नामिनेटेड सदस्य कम से कम रहें और इलेक्टेड सदस्य ज्यादा हों, और अगर हो सके तो इस सदन के कुछ सदस्यों को उस कमेटी में स्थान दिया जाय।

इन के बाद मैं सीमा के बारे में कुछ मुझाव देना चाहता हूं। हर पोर्ट के लिये भारतवर्ष में इन तरीके से जोन रखे जायें कि उम जोन के लिये ज्यादातर माल उसी पोर्ट से दरामद वरामद हो। ऐसी नोटिफिकेशन से या पोर्ट ट्रस्टिंग के म्युचुअल ग्रंजर-स्टेंडिंग से हो सकता है। भारत वर्ष का बहुत बड़ा क्षेत्र समुन्दर से व्यापार के लिये सैकड़ों वर्ष से पड़ा है जो डेवलप नहीं हुआ है। यह कोई जरूरी नहीं है कि एक पोर्ट को किसी एक स्टेट के लिये रिजर्व किया जाय। बल्कि यह जरूरी है कि जो एरिया उस पोर्ट के नजदीक है उस के लिये उस पोर्ट को रखा जाय।

हमारे मैसूर के लिये और दक्षिण भारत के लिये केवल एक मद्रास का मेजर पोर्ट है। दूसरा बम्बई है। मद्रास हमारे यहां से ३५० मील है और बम्बई ५०० मील है। अगर किसान इन पोर्ट्स से अपना माल भेजे तो उस को अपने माल का १५-२० परसेंट मूल्य कम मिलेगा। जब वहीं पर ५० या १०० मील के बाजू में बड़े पोर्ट की व्यवस्था हो सकती है और इनक्वायरी

रिपोर्ट में भी बहुत से ऐसे नेचुरल पोर्ट्स को मेजर पोर्ट्स बनाने की सिफारिश की गई है तो कोई बजह नहीं मालम पड़ती है कि मेरे क्षेत्र हुबली से मद्रास पोर्ट ३५० मील है और बम्बई ५०० मील है, वहां से क्यों आयरन और आदि सामान एक्सपोर्ट हो? मंगलूर को मेजर पोर्ट बना कर यहीं से सब सामान एक्सपोर्ट होना चाहिये। मेजर पोर्ट्स बनाने की जैसी इनक्वायरी कमेटी की सिफारिश है उस को अमल में लाने में जो स्लो पालिसी बर्ती जा रही है मैं उस का विरोध करता हूं और चाहता हूं कि जल्द से जल्द इनक्वायरी कमेटी की रिपोर्ट की सिफारिश को अमल में लाया जाय और मंगलूर को मेजर पोर्ट बना कर इस एक्ट का विस्तार मंगलूर पर भी किया जाय। मंगलूर और कारवार वगैरह जोकि नेचुरल पोर्ट्स हैं उन का मेजर पोर्ट्स का कंस्ट्रक्शन जल्द से जल्द शुरू किया जाय। मंगलूर की स्कीम की शुरूआत के बारे में हम १०, १२ साल से सुन रहे हैं कि वह बड़े पोर्ट में तबदील होने वाला है। ८० साल के होने भी उस पोर्ट को एक मेजर पोर्ट बनाने की बहुत सी सिफारिश उस वक्त की गवर्नमेंट ने की थीं। मैसूर स्टेट के साथ २०० मील का समुद्र तट फैला हुआ है लेकिन वहां पर एक भी मेजर पोर्ट नहीं बनाया गया है। वहां तमाम आवश्यक सुविधायें मिलने पर भी और रिपोर्ट फवरेबल होने पर भी बहुत देरी हो रही है। कांग्रेसी सदस्य श्री मोहसिन ने तो कहा है कि इस बारे में पार्शिएल्टी से काम लिया जा रहा है लेकिन पार्शिएल्टी अगर न भी मानी जाय तो नैंगलीजैत तो जरूर इस बारे में हो रही है और मैं चाहता हूं कि जल्द से जल्द इस का कंस्ट्रक्शन करने के लिये कदम उठाया जाय।

इस बारे में बेइसाफी की जिसाल में बेल करना चाहता हूं। मैं समझता हूं कि

[श्री शिवमूर्ति स्वामी]

बंदन का हर एक माननीय सदस्य यह जानता होगा कि समुद्र से जो सामान हम बाहर एक्सपोर्ट करते हैं वह रोड या रेल के मुकाबले बहुत सस्ता पड़ता है। लेकिन हम देखते हैं कि ५० मील के एरिया के अन्दर पाया जाने वाला बहुत सा आयरन ओर्स वगैरह ३०० और ५०० मील एक्सपोर्ट करने के वास्ते भेजा जा रहा है। यह सरासर नेशनल वेस्तेज हो रही है। मंगलौर से यह सब सामान एक्सपोर्ट होना चाहिये। मेरी तो समझ में नहीं आता है कि आखिर यह क्या पालिसी है? मैसूर स्टेट के खास तौर पर ट्रान्सपोर्ट मिनिस्टर ने इस सम्बन्ध में आप के पास भी एक रिप्रेजेंटेशन किया है जिस से आप को मालूम हो गया होगा कि किस तरह से मंगलौर पोर्ट को नैगलेक्ट किया गया है। यहां से माल एक्सपोर्ट न कर उसे ३००-४०० या ५०० मील ले जाकर वहां से एक्सपोर्ट करने के लिए ख़िद की जाती है। स्टेट ट्रेडिंग कारपोरेशन वाले भी मद्रास और बम्बई से एक्सपोर्ट करना चाहते हैं। यह बिल्कुल नाइंसाफी है। स्टेट बवनमेंट की एथारिटीज़ के यह मांग करने पर और वहां के ट्रांसपोर्ट मिनिस्टर का इस बारे में रिप्रेजेंटेशन होने पर भी, मैमोरेंडम देने पर भी बम्बई, कांडला, और मद्रास से ही माल एक्सपोर्ट करते रहने की कार्यवाही मेरी समझ में नहीं आती है।

स्टेट ट्रेडिंग कारपोरेशन वाले अब भी उसी तरह से एक्सपोर्ट कर रहे हैं। अगर बड़े जहाजों से अभी एक्सपोर्ट नहीं हो सकता है तो जो भी छोटे जहाज हैं उन के द्वारा यहां मंगलौर से ले जाया जाकर बाद में आगे जाकर बड़े जहाजों से उसका ट्रांसपोर्टेशन किया जा सकता है लेकिन ऐसा भी नहीं किया जा रहा है। रेलों की बहुत कमी है। एक मील भी नयी रेल नहीं बनी है। मोटर ट्रांसपोर्ट की भी कमी हो रही है। अब हीस्पेट और

मद्रास को भीडगेज के द्वारा जोड़ा जा रहा है और बम्बई और मिरज को ज्वाइन किया जा रहा है लेकिन बीच में टुबली को ज्वाइन नहीं किया गया है आखिर यह कैसी बेइसाफ़ी है? मैं नम्रतापूर्वक आपसे यह निवेदन करना चाहता हूँ कि इस बेइसाफ़ी को हम बर्दाश्त नहीं कर सकते हैं और जल्द से जल्द टुबली को भी उससे ज्वाइन किया जाय। हीस्पेट से कुट्टर हरिहर को रेल से जोड़ा जाय। मंगलौर बन्दरगाह से सुविधा और आसानी से आयरन ओर्स और दूसरा माल एक्सपोर्ट किया जा सकता है। समुद्र के रास्ते कम खर्च में और आसानी से यह चीजें एक्सपोर्ट की जा सकती हैं।

आयरन ओर्स और मँगनीज़ ओर्स दुनिया में रिचेस्ट समझी गई हैं और मैं नहीं समझता कि जब कम खर्च में यह एक्सपोर्ट हो सकता है तो उसका प्रबन्ध क्यों न किया जाय? अब इस बारे में पाशिएल्टी नहीं तो कम से कम नैगलीजेंस जरूर बर्ती गई है और मालूम ऐसा देता है कि बम्बई या मद्रास स्टेट के मिनिस्टर्स के दबाव के कारण आप कोई बोल्ट स्टेप नहीं ले पा रहे हैं और इस बारे में कोई फ़ैसला नहीं कर पा रहे हैं। लिहाज़ा मैं कहना चाहूंगा कि जिस तरह से इस पोर्ट ट्रस्ट्स बिल का भ्रमल आज तीन बन्दरगाहों पर हो रहा है उसी तरीके से तमाम हिन्दुस्तान के लिए एक युनिफार्म एक्ट हो और एक युनिफार्मिटी इस बारे में बर्ती जाय। मैं चाहता हूँ कि पूरे भारतवर्ष में एक ही युनिफार्म एक्ट हो। हर एक पोर्ट की आप सीमायें निश्चित कर दें जैसे कि बम्बई बन्दरगाह का कौन सा जोन होगा, कहाँ-कहाँ से बरामदगी और आमाद होगी। इसी तरीके से मद्रास, कलकत्ता और मंगलौर आदि जो भी पोर्ट्स वहां हो के लिए एक जनरल सीमा निश्चित हो जाए, उन की जोन बन जाये। जिस तरीके से ट्रांसपोर्टेशन में आप खोस बनाते हैं उसी तरह से हिन्दुस्तान की पोर्ट्स के हिसाब से भी जॉस में तकसीम

कर दिया जाय कि अमुक क्षेत्र की अमुक बन्दरगाह से आमद या बरामदगी होगी । हर एक पोर्ट के लिये क्षेत्र निश्चित किये जायें और इस बारे में इक्विटेबल डिस्ट्रीब्यूशन का सुझाव देते हुए मैं आशा करता हूँ कि मंत्री महोदय अपने जवाबी भाषण में इस पर रोशनी डालेंगे । बस इतना कहते हुए मैं अपना भाषण समाप्त करता हूँ ।

Shri Narendra Singh Mahida (Anand): It is with pleasure that I welcome this Bill, more particularly as I represent a western coast, that of Gujarat; I have myself been associated with shipping company like Scindias, in which I was connected as a director for a number of years, and also in touch with various allied port matters.

I had suggested, many years back, when our great shipping magnate late Shri Walchand Hirachand was Chairman of the Scindias, that there should be a unification of all the ports in India. At that time, our present Government was not in existence. The British Government then never encouraged Indian shipping companies, and whatever ideas we had, we could not put them into practice. Now I am glad that, with our independence, we are able to think in terms of unification of ports.

I know that in this unification, only Vishakhapatnam, Cochin and Kandla, which are now considered major ports, are included, but I would recommend to the Select Committee that they should consider a unification scheme for all the major ports, including Bombay, Madras and Calcutta, so that all the ports can be governed by a single and unified law.

India has been a very ancient ship trading country. We are probably under the impression that we have never in the past developed our shipping, but I may say our ports of Broach

and Cambay on the west coast in Gujarat were known about 3,000 years back when our ships used to go to all parts of the world. But during the foreign rule in this country, the UK which was very vitally interested in shipping, never allowed our trade to develop. Even today our shipping trade is hampered by formidable foreign companies, with which we are not able to enter into competition, because they have got huge financial resources and their governments assist them fully. We are at present unable to compete with companies like P & O and other British lines. But we are marching forward. We shall have to expand our shipping in order to export, because I am one of those who feel that unless we export our products in large quantities and earn more money, we cannot materially increase our standard of living. For that reason we must have many major and minor ports.

I am of opinion that there should be development of minor ports as well. There are various medium and minor ports on the west coast, like Surat, Broach, Cambay, Porbunder, Mandvi, Veraval etc., big and small. I am sure if they are developed, the country will enrich itself in the Shipping business.

As far as Kandla is concerned, there has been a scheme for extending the Kandla-Jhund broad gauge line to connect it with Ahmedabad. I do not know why the scheme has been delayed, and I fail to understand why Kandla has not been developed to meet the needs of the west coast and the hinterland of Rajasthan, Punjab, Madhya Pradesh and other places. Probably there was a fear that if Kandla was fully developed, Bombay would suffer. I do not think that policy should play its part now. It is a fact Kandla happens to be nearer than Bombay to certain areas, and I am sure even if Kandla is fully developed, Bombay can still comply with the needs of Maharashtra and other places.

[Shri Narendra Singh Mahida]
Western coast of Gujarat can offer cheaper shipping through Kandla, and shorter distance by railway can reduce freight cost, this will be distinct gain to the country.

The development of Kandla should not be associated with the State of Gujarat alone; it will feed Rajasthan, Punjab, Madhya Pradesh and even Delhi and Kashmir. Nor should Kandla's development be taken as a challenge to Bombay. Government has been slow in the development of Kandla and the promises held out in this connection are not yet fulfilled. Wharfing facilities to the extent needed are not there. Small ships are coming to Kandla now but unless 18,000 tonners or 20,000 tonners come in, the port will not develop. I am sure that the Select Committee will look into the problems, and recommend big cranes so as to facilitate loading and unloading quickly and easily. Kandla is also becoming a big centre for oil storage. We should have broad gauge railway facility; the present metre gauge system will not serve the purpose. I do not know what has come in the way of declaring Kandla port as a free port. This scheme should be introduced now, even with a free trade zone of a radius of 2-3 miles. We have to learn many things from the foreign countries about shipping. I do not think that we can even compete with small countries like Yugoslavia or Greece or Japan. Japan though a small nation, had a subsidised shipping system whereby their various goods reached England during the pre-war days at a much cheaper price than the locally produced goods Japanese goods used to be sold much cheaper than even English goods in England. To boost our shipping we should introduce such subsidised system. There are very encouraging markets in the Middle East, Near and Far East where we can send our goods much earlier than goods coming from Europe or the United States. Unless a high-powered committee is appointed either at the ports or at the ministerial level and

special attention is given, we will not be able to do much about our exports. Unless we develop our ports, we cannot have much of exports. Shipping is a very specialised subject and I request the Select Committee to tour round the various ports and see the conditions for themselves. There are major, medium and minor ports which require a lot of attention. There is the silting problem in the case of Tapti in Surat. In Broach and Veraval also it is there. Dredgers are required to do this work. In Kandla also it should be done. Unless we have the big giant liners or cargoes coming to these big ports, things will not improve much. It is not enough to develop Bombay, Madras and Calcutta alone; other ports should also be developed. I am sure the Select Committee will bear this in mind. For instance, Surat was a port long before the Britishers came. Cambay and Broach also flourished. Removing of silt should be undertaken at all these places so that small ships could come and goods could be loaded or unloaded.

We have such a vast coastline. Normally we think in terms of inland problems only. India has a larger coastline than the Himalayan borderline. Still people are not much sea or ship-minded. Even in Bombay I have come across many persons who have never been on the sea at all, not even in a small boat. We had yacht and boat clubs formerly in Bombay. I would like the University Grants Commission, to encourage at least those colleges which are situated near the coasts or river banks to give special grants and see that our youths develop the shipping traditions. Unless we come out with a bold policy for improving the shipping, nothing much can be done. The finances have been divided between the three ports: Rs. 2.32 crores for Vishakhapatnam, Rs. 1.32 crores for Cochin and Rs. 1.50 crores for Kandla. These are small sums for development and perhaps to begin with they may be all right. But I think these amounts should be doubled.

Any way I welcome this Bill and recommend my suggestions to the

Select Committee for their consideration.

Shri Raj Bahadur: As many of the points raised here have to be dealt with by the Select Committee, I have only a few observations to make. Shri Warior has said that the Estimates Committee recommended as far back as 1957 that port trusts should be established at these three Government administered ports but that we have taken five years to do it. I may point out that the new berths of the Kandla were thrown open only in 1957. Certain developmental works were going on in the ports and we wanted that the essential developmental works should be completed while these ports were directly administered by the Government. When the stage for appointing port trusts to look after their management came, we took up this particular measure. A good deal of study was also needed a comparative study of the various Port Trust Acts of Madras, Bombay and Calcutta. Only the minimum time has been taken and we have come not a day too late. He has also said that railway lines have to be taken over by the ports and other facilities such as dry dock, workshop, etc. should be provided. I do not deny that. But at what stage of development are these required? In Cochin dry docks and workshop will be there in connection with the shipyard as and when it comes. He also invited our attention to page 73 of the annual report of the Ministry for 1961-62 and said it was showing all progress and progress but nothing was completed. But even as he was reading, he should have very well seen that some of the most important items have been completed. Two berths have been completed and the other two are in the process of completion; it will not be long before they are actually commissioned. Lighting arrangements have been completed. The staff quarters have been completed. So, we are not static. In fact, we can say we have quite some achievements to our credit.

I come to the observation made by Shri Mohsin, Shri Trivedi and some others that we should have brought a comprehensive measure, including within its ambit the existing ports of Bombay, Calcutta and Madras also. As you know, the Acts governing Bombay, Calcutta and Madras ports have proved their utility and adequacy by experience stretching over quite a large number of decades and it would perhaps not be quite proper for us to do away with those enactments all at once. The need for uniformity is there. It would have been perhaps a point to make that we should have a consolidated piece of legislation, but we have to go ahead with our work of establishing port trusts in the ports of Cochin, Vishakapatnam and Kandla. That work cannot be delayed. So far as the improvements which have been effected in this new measure are concerned, we propose to bring forward a measure to include those improvements in the existing port trust Acts of Bombay, Madras and Calcutta as well. They will then be brought on a par.

Another point was made by Shri Jashvant Mehta and Shri Mahida also that the development of Kandla port has lagged behind. Shri Mahida went to the extent of saying that we do not have big cranes and dredgers there. Apart from other smaller cranes, there is a crane in Kandla which has got a capacity of 60 tons, but unfortunately it has not been much used.

Shri Narendra Singh Mahida: It is not so big as in Calcutta.

Shri Raj Bahadur: You do not require a 200-ton crane at Kandla. At Calcutta, it was there for special heavy lifts of machinery and equipment brought for the three steel plants and other industries in that area. The 60-ton crane in Kandla has seldom been used. We thought if that particular crane was too big

[Shri Raj Bahadur]

for the requirements of Kandla traffic, it may be shifted elsewhere. But at present, we do not propose to shift it. We have also got a big dredger for Kandla now and it is working there.

The question of free trade zone at Kandla is at present under consideration. But as hon. Members will appreciate, we have got to assign due priorities to various schemes in the face of the emergency. We could not take up that particular matter on the basis of urgency or priority as required by certain other more important things. At the moment, our desire is that we should try to keep our ports ready for any situation that might confront us, at any time.

Shri Jashvant Mehta raised another important point. He said there was some shortfall in the second Plan allocations as far as expenditure was concerned and so in the first Plan. But let him remember that the port capacity that we have developed is the main criterion by which we shall judge the adequacy of our ports. Even in 1960-61, our major ports have handled as much as 33.5 million tons of traffic. The installed capacity at the end of the second Plan period was supposed to be of the order of 41 million tons and by the end of the third Plan it will be 49 million tons. The maximum traffic that we have handled has been of the order of 33.5 million tons. Add to this the capacity of the minor ports. I can confidently assure the House that the port capacity will not be found wanting in any exigency or emergency that might confront us at any time, at present or in future. I am sure with the completion of the works in the third Plan, we shall be able to fulfil our targets that we have placed before ourselves.

The rest of the points pertain to certain clauses in the Bill. It would not be appropriate for me at this stage to say much about them. I would only say that these points will be taken full note of by the Select Committee.

With these words, I commend the motion for the acceptance of the House.

15.44 hrs.

[MR. SPEAKER in the Chair]

Mr. Speaker: The question is:

"That the Bill to make provision for the constitution of port authorities for certain major ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith be referred to a Select Committee consisting of the following 21 members, namely:

Shri Tridib Kumar Chaudhuri, Shri Sudhansu Bhushan Das, Shri Shivajirao S. Deshmukh, Dr. P. D. Gaitonde, Shri V. B. Gandhi, Shri Indrajit Gupta, Shri Him-matsinhji, Shri P. G. Karuthiruman, Shri Lahri Singh, Shri Rama Chandra Mallick, Shri Niranjana Lall, Shri Raghunath Singh, Shri Raj Bahadur, Shri C. R. Raja, Shri M. Thirumala Rao, Shri S. V. Krishnamoorthy Rao, Shri H. Siddananjappa, Dr. L. M. Singhvi, Shri Ravindra Varma, Shri Vishram Prasad and Shri Jag-jivan Ram,

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

The motion was adopted.

15.45 hrs.

SUSPENSION OF PROVISO TO RULE 74

The Minister of Law (Shri A. K. Sen): Sir, I beg to move:

"That the first proviso to Rule 74 . . .

Shri Hari Vishnu Kamath (Hoshangabad): On a point of order, Sir.

Shri A. K. Sen: I have not moved it.

Shri Hari Vishnu Kamath: He cannot move it without the consent of the Speaker, under rule 388. Have you given your consent, Sir?

Mr. Speaker: I have not so far given my consent.

Shri A. K. Sen: I have not moved the motion yet.

Shri Hari Vishnu Kamath: Before he moves the motion, the consent of the Speaker should be obtained, under rule 388. If you have given the consent, Sir, it is all right.

Mr. Speaker: Yesterday also I told him that I had given my consent in that case. In this case, of course, I had straightaway said that I was not approached with that. But now I find that my observation is not correct, because it must have come to me and I must have permitted that to be put here. That implies my consent. Unless I had consented to that, it could not have been put on the Order Paper.

Shri Hari Vishnu Kamath: In future, when a Minister or a Member moves such a motion, it should be ensured that just as in the case of calling attention notice, the form of the motion should be, "Under rule 388, I beg to move . . ." Without that, it is not proper.

Mr. Speaker: We will see that reference is also made to the rule in future.

Shri A. K. Sen: I was just going to submit what you have already stated, namely, that this motion could not have been put on the Order Paper without your consent. We have followed this practice throughout.

I beg to move:

"That the first proviso to Rule 74 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion 2398(Ai) LS—4.

for reference of the Constitution (Fifteenth Amendment) Bill, 1962, to a Joint Committee of the Houses be suspended."

This will be a technical provision necessary for the purpose of enabling the Joint Committee to be set up. It has been the tradition of this House to associate the Council of States—the Rajya Sabha—also with all constitutional amendments. These are fairly important amendments and there is no reason why we should break away from that tradition now.

The reason why the proviso to rule 74 has to be suspended is, there is a provision in the Bill relating to the age of Judges, increasing it to 62 for the purpose of retirement, from 60. This would involve possibly in some particular cases increase in pension. Under our Constitution, pension is a charge on the Consolidated Fund of India, though, if any amount is paid from the Government of India's Consolidated Fund, it is recoverable from the State wherefrom the particular Judge has retired. Of course, the increase cannot be quantified because it depends upon each case, each particular judge, the number of years he has put in before he reaches the age of 62. Therefore, technically it comes within article 110 of the Constitution, and therefore it would attract the proviso to rule 74, namely, that without the suspension of that rule there cannot be a Joint Committee representative of both this House and the Rajya Sabha. That is the reason why we have moved for the suspension of the proviso to rule 74. I have no doubt that all of us would desire that representatives of the Rajya Sabha be associated with the amendments of the Constitution and it would be improper to keep them out. Therefore, Sir, for the purpose of removing the purely procedural difficulty this motion, I commend, should be accepted by the House.

Mr. Speaker: Motion moved:

"That the first proviso to Rule 74 of the Rules of Procedure and

[Mr. Speaker]

Conduct of Business in Lok Sabha in its application to the motion for reference of the Constitution (Fifteenth Amendment) Bill, 1962, to a Joint Committee of the Houses be suspended."

Shri Hari Vishnu Kamath: Sir, I rise on a point of order. It is an irony of fate that such a motion should be made on the very day after a similar motion had been made. Yesterday, when a motion was made by the Finance Minister for suspension of the proviso to rule 66, you were so good as to observe, when I raised the point:

"I agree with the hon. Member so far as this motion is concerned; it should be very rarely resorted to."

And, further, you made a very illuminating remark:

"This request by the Government for the suspension of the rules should be seldom made."

It is unfortunate that within 24 hours the Government should come up with another motion, an identical motion, for suspension of another rule. As I said yesterday, I do agree that the rules are not absolutely sacrosanct. But we should also remember that in a parliamentary democratic set-up they should not be lightly set aside or suspended. And, I believe, in this Parliament, since April last, this is perhaps the fifth occasion on which a motion for suspension of a rule is being made, if my memory is not mistaken.

Now, Sir, the Minister has pleaded for acceptance of the motion on the ground of incompatibility of the proviso to the rule with the motion he is about to make. But as I shall shortly submit to you and to the House, the motion attracts not merely the provisions of this rule but also the provisions of the Constitution which is a much more serious matter, and therefore the House will have to seriously consider the motion made by the Law Minister today.

Sir, the proviso to rule 74 reads as follows:

"Provided that no such motion as is referred to in clause (iii) shall be made with reference to a Bill making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution."

Therefore, on the ground of this proviso itself it is clear that because the motion is for reference of the Bill to a Joint Committee the Law Minister has sought to get round it by asking for suspension of this proviso.

What is article 110, because the article mentioned in this proviso is article 110. It says:

"(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely . . ."

Then the matters are given in (a) to (g).

The Minister has relied upon this proviso which refers to article 110 of the Constitution. Article 110 should be read with articles 107 and 109 of the Constitution. In article 107 it is said:

"Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament."

What about article 109? Kindly look at it carefully. It says:

"(1) A Money Bill shall not be introduced in the Council of States."

Then, sub-clause (2) of the article is categorical on this point. It says:

"(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States . . ."

After this House has passed the Bill it shall be transmitted to the Council of States. That means all the stages must be included in passing a Bill, not merely the first stage but all the stages up to the last stage, up to the third reading, because only then will a Bill be deemed to have been passed by a House. Sir, I do not want to cast any reflection upon the status of the other House. It may not have an inferior status, but the status under the Constitution has got to be upheld of either House of Parliament.

And, may I invite the attention of the Minister to the Statement of Objects and Reasons?

Mr. Speaker: He may kindly be brief.

Shri Hari Vishnu Kamath: It is a very important point, Sir, because it involves not merely the rules of procedure but also the Constitution. The Statement of Objects and Reasons refers to the proposals relating to articles 276, 297, 311 and 316 of the Constitution which were originally contained in the Constitution (Fifth Amendment) Bill. They had to drop that Bill. They did not pursue that Bill for reasons best known to them. Now, they have tried to incorporate all those various provisions, and jumble all those provisions into this one Bill merely for, a sort of, I do not wish to use a strong word, expediting this measure. Sir, expedition is well and good, but expedition should not be at the cost of vital provisions of the Constitution.

Will you also mark, Sir, another lacuna, another defect in this Bill? The Financial Memorandum invites attention to the clauses which involve public expenditure, expenditure from the public exchequer. They are clauses 3, 4, 6 and 8. But if you refer to the body of the Bill, you will see that those clauses which have been referred to in this Financial Memorandum are not printed in thick type as required by rule 69 of the Rules of Procedure.

Now, therefore, may I submit for your earnest consideration, that inasmuch as on his own showing, this is a Bill which falls within the ambit of article 110; and the President has recommended it for consideration under article 117. Therefore, articles 107, 109, 110 and 117 are attracted because article 110 should be read with article 109, and clause (2) of article 109 is categorical and absolutely ineluctable. It cannot be bypassed, surmounted or overcome; it is ineluctable. A Money Bill has to be passed by the House of the People, and unless Lok Sabha passes such a Bill the Rajya Sabha cannot take cognizance of it. That being so, it would have been better for the Government to have brought two Bills, to have split this into two amending Bills and brought them separately, one could have gone to a Joint Committee and the other could have gone to a Committee of the Lok Sabha alone.

I, therefore, submit that you will kindly take these vital matters, not merely the Rules of Procedure but the Constitution by which we are bound, into consideration. The motion for suspension of this rule should not be accepted; it is not in order.

16 hrs.

Mr. Speaker: I have heard the hon. Member with very great attention. Sub-clause (1) of article 109 says:

"A Money Bill shall not be introduced in the Council of States."

If it is a Money Bill, certainly, it cannot be introduced in the Council of States; it must be introduced here in this House. Then sub-clause (2) says:

"After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States....."

There also I entirely agree with the hon. Member. If it is a Money Bill

[Mr. Speaker]

then, certainly, first it should be passed by this House and then transmitted to the other House. But if it is not a Money Bill but only a Financial Bill then, certainly, that bar of article 109 does not apply.

Now let us read article 110. What is a Money Bill?

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters.....".

Then sub-clauses (a) to (g) have been mentioned. So, if the Bill contains only the provisions from sub-clause (a) to (f) then, certainly, it would have been a Money Bill. But, according to the arguments of the hon. Member, the Bill that we have got contains many things jumbled into it, besides those contained in sub-clauses (a) to (f). The hon. Member concedes that it has got many more things in it. Therefore it is not a Money Bill; it is a Financial Bill. So, article 109 has no application, so far as this Bill is concerned.

Then I come to the suspension of rule 74 and whether there is sufficient justification for it or not. The hon. Member reminded me, that within twenty-four hours after my giving the rule that Government should very rarely come before the House for the suspension of that rule, this request is being made to the House. But, the hon. Member would realise, this is quite distinct from the one that we had yesterday. There the hon. Member could argue that there has been some negligence or omission on the part of the Government, the Government could easily have brought that Bill here earlier and got it passed here and then send it to the other House. But that charge cannot be levelled against the Government in this case. Whenever they come before this House with this they have to ask for the suspension of this rule. Further, it is not to save any time or to get any other benefit which they could not have got if they had come earlier.

When it is a Financial Bill, it is the privilege of only this House to form its own Select Committee because a Joint Committee is barred under this rule. Even now, if we so desire, we can constitute a Select Committee of our own. Then, when the Bill is passed by this House, it would go to the other House. They have also a right to constitute a Select Committee of their own. Further, when important Bills like Constitution Amendment Bill are discussed, normally they are sent to the Select Committee. So, they will constitute another Select Committee there and after that Committee reports they will take it up for consideration and passing. So, to avoid that duplication of constituting the Select Committee twice, it has been considered that when Bills like the Constitution Amendment Bill come up for consideration we might have a Joint Committee in the first instance so that the other House might not have any necessity afterwards, when it goes to them, to constitute another Select Committee. So, it is a privilege of this House. If we insist, we can certainly have a Select Committee of our own. It is only a waiver of our privilege. So, I do not know how we can attach any blame to the Government or make some accusations against the Government in this regard. Therefore, this is quite different from the case that we considered yesterday. So, I hope the House would agree that, under these circumstances, we might have a Joint Committee. There is nothing that we are losing. We are not giving up any of our rights or anything of that kind. Under such circumstances, the objection of the hon. Member is not valid in the present case.

Shri Hari Vishnu Kamath: Not so valid?

Mr. Speaker: Yes, not so valid in the present case.

Shri Narendra Singh Mahida (Anand): Will it be taken as a precedent?

Mr. Speaker: Every case has to be considered on its own merits; not hypothetically.

Shri Hari Vishnu Kamath: May I just request you to throw a little more light on the ruling which you have just given? I do not ask from you..

Shri A. K. Sen: Not after the ruling.

Shri Hari Vishnu Kamath: What do you mean? I am not making a request to you.

Shri A. K. Sen: Not after the ruling.

Shri Hari Vishnu Kamath: I have been here longer than you. I know the rules better than you do.

Sir, the ruling which you have just now given is perfectly acceptable to us, and we bow to your ruling. But, as my hon. friend just now stated, will it not be a bad precedent, not merely a precedent but a bad precedent? It will be open to the Government just to escape the obligation of the Rules of Procedure and the Constitution to bring in only one little matter inside a Constitution Amendment Bill, which will put it outside the purview of articles 109 and 110 of the Constitution?

Shri Ranga (Chittoor): This is not the first time they have done it.

Mr. Speaker: What do they gain by that?

Shri Hari Vishnu Kamath: I do not know, may be for reasons best known to the Government themselves.

Mr. Speaker: Do the Government gain any advantage by that?

Shri Ranga: In time.

Shri Hari Vishnu Kamath: My point is that they should not jumble things like that.

Mr. Speaker: That is a different thing.

Shri Hari Vishnu Kamath: Article 107, to which I referred, refers to this matter as well, indirectly. It says:

"Subject to the provisions of articles 107 and 117 with respect to Money Bills and other financial Bills....."

This is, perhaps, a financial Bill, not a Money Bill. But article 107 says subject to these provisions. So, these provisions will hold good.

Shri A. K. Sen: If they apply.

Shri Hari Vishnu Kamath: Then only the ~~article~~ will also apply.

Mr. Speaker: Article 109 is not applicable, because it is not a Money Bill. Article 117 is applicable as it is a financial Bill. Therefore, that rule comes in the way. Normally, we have a committee of this House, because Joint Committees could not be constituted. Now, in order to facilitate matters and both Houses might not have different Select Committees on different occasions, we want one Joint Select Committee to be formed in the beginning. That is the only object.

Shri Hari Vishnu Kamath: If it is not a Money Bill and the proviso to rule 74 does not apply to it, why should Government make a motion for suspension of the rule?

Mr. Speaker: Rule 74 is both for Money Bill and financial Bill.

Shri Hari Vishnu Kamath: Apart from clauses (a) to (f) of article 110, as you have yourself stated, some other matters are also included in the Bill.

Mr. Speaker: Probably, I have not been able to make myself clear, though I have no doubt in my mind. If a Bill contains only those provisions which are contained in clauses (a) to (f) of article 110, then it is a Money Bill. But if it contains some other provisions also, then it will not be a Money Bill

[Mr. Speaker]

but it will be covered by article 117 as a financial Bill. The proviso to rule 74 is applicable to both Money Bills as well as financial Bills. Now we are constituting a Joint Committee because it is a financial Bill. If it had been a Money Bill, then it would not have been possible at all to do it, even by the suspension of the rule. That would have been a bar by the Constitution itself. But now the bar is only of the rule and not of the Constitution.

Shri Tyagi rose—

Mr. Speaker: What does he want?

Shri Tyagi (Dehra Dun): I want to speak on the Bill.

Mr. Speaker: Unless this rule is suspended we cannot take up the discussion. Does he want to speak on the suspension of the rule?

Shri Tyagi: Your ruling is final in that case.

Shri Narendra Singh Mahida: May I seek a further clarification?

Mr. Speaker: I am putting the motion to the vote of the House now. The question is:

"That the first proviso to Rule 74 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for reference of the Constitution (Fifteenth Amendment) Bill, 1962, to a Joint Committee of the Houses be suspended."

The motion was adopted.

16.11 hrs.

CONSTITUTION (FIFTEENTH AMENDMENT) BILL

The Minister of Law (Shri A. K. Sen): Sir, I beg to move:

"That the Bill further to amend the Constitution of India be referred to a Joint Committee of the

Houses consisting of 45 members: 30 from this House, namely Shri Brij Raj Singh Kotah, Shri S. N. Chaturvedi Shri Homi F. Daji, Shri Ram Dhani Das,, Shri R. Dharmalingam, Shri Kashi Ram Gupta, Sardar Iqbal Singh, Shri Madhavrao Laxamanrao Jadhav, Shri Madeppa Bandappa Kadadi, Shri Hari Vishnu Kamath, Shri Paresch Nath Kayal, Shri Nihar Ranjan Laskar, Shri Harekrushna Mahatab, Shri M. Malaichami, Shri Mathew Maniyangadan, Shri Bibudhendra Misra, Shri F. H. Mohsin, Shri H. N. Mukerjee, Shri D. J. Naik, Shri V. C. Parashar, Shri Ram Swarup, Shri S. V. Krishnamoorthy Rao, Shri C. L. Narasimha Reddy, Shrimati Yashoda Reddy, Sayed Nazir Hussain Samnani, Shri Ramshekhar Prasad Singh, Dr. L. M. Singhvi, Shri U. M. Trivedi, Shri Balgovind Verma, Shri Asoke K. Sen and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

I may mention here, before I say anything else, that Shri Tyagi has put in a notice for an amendment of the third paragraph so that the report may be made not by the last day of the first week of the next session but by

the first day of the next session. On behalf of the Government I can intimate straightaway that we shall have no objection to accept that amendment because we expect to finish the work of this Committee before the next session starts. In fact, if the present session is prolonged.....

Shri Tyagi (Dehra Dun): Does it mean that I am deprived of my speech?

Some Hon. Members: No.

Mr. Speaker: Was that the only thing that the hon. Member wanted?

Shri A. K. Sen: The present Bill deals with various matters, particularly, with regard to the question of judges, their age; if there is a dispute about their age, the authority to determine the dispute; the transfer of judges; and on transfer what compensatory allowance will be payable to judges; and the question of the jurisdiction of the different High Courts to entertain applications under article 226 of the Constitution. Then, the important matter not relating to High Courts is the question of opportunity being given to civil servants in case of their removal from office.

So far as the provisions relating to judges are concerned, the objects are fairly set out in the Bill itself, but I shall nevertheless try to explain why these provisions have been made. Hon. Members will see that clause 2 relates to the question of any dispute regarding the age of judges of the Supreme Court. Hon. Members will recall that the Constitution provides that Supreme Court Judges shall retire at the age of 65. If there is any dispute as to whether a person is really 65 or not, as it has arisen in respect of several High Court Judges, the Constitution at present is not quite clear as to who should determine the dispute. A judge says that he is not 65, whereas there may be other evidence showing that he is 65. If there is such an unfortunate case—fortunately, in the Supreme Court

such a case has not occurred but in the High Court such a case has occurred—then who is the authority to determine it? We are, therefore, providing that in such a case, that is, should such an unfortunate case occur, the person who has the highest office in the country would determine the dispute and his decision shall be final. There will be no question of any appeal to that to any other authority.

In article 128 of the Constitution we have inserted certain other provisions so as to make it possible for any person who has held the office of a Judge of a Supreme Court or is duly qualified for appointment as a Judge of the Supreme Court for the purpose of appointing *ad hoc* judges of the Supreme Court. Occasions have arisen recently and even in the olden days when temporarily either due to illness or due to other reasons or due to heavy pressure of work it has become necessary to appoint *ad hoc* judges for a short while. As the existing provisions stand, it is not possible to appoint anyone to the Supreme Court as an *ad hoc* judge unless he has either been a Judge of the Supreme Court or of the Federal Court. Federal Court means the Federal Court before 1950, that is, before the Constitution came into effect. There are not many **ex-judges of the Supreme Court or of the Federal Court** and we have had repeatedly to go only to one person in the past few years when such occasions had arisen. Yet, any man who had been a Judge of the High Court, if he is qualified and if he is considered fit by the Chief Justice of the Supreme Court, or any person who is otherwise qualified to be appointed as a Supreme Court Judge may be appointed an *ad hoc* judge provided he has other qualifications and the Chief Justice of the Supreme Court thinks that he is fit. Therefore we are enabling such appointments to be made and not restricting the choice only to a retired Supreme Court Judge or a retired Federal Court Judge which choice only restricts the field of selection possibly only to one or two.

[Shri A. K. Sen]

Then, we are raising the age of retirement for the Judges of the High Courts from 60 to 62 years. We are also providing, similarly, that if there is any dispute about the age of any High Court Judge, it will be determined by the President himself and his decision shall be final.

Then, in order to induce more judges to agree to transfers from their own High Courts to other High Courts we have made some provisions. This is one of the objects which we have accepted for the purpose of facilitating the process of integration in the country so that judges of one State go to other States and there is inter-changing of judges. It has been accepted as one of the methods desirable for the purpose of bringing about national integration. Yet from the practical point of view one would agree that it is very difficult for a judge who is rooted to one place to go on transfer so that in most cases he may have to maintain his family in both the places and his expenses will increase.

Shri Bade (Khargone): So is the case with others.

Shri A. K. Sen: He has hardly any inducement to go if he is on the same salary.

Dr. P. S. Deshmukh (Amravati): Let him go home.

Shri A. K. Sen: He is at home. There is no question of allowing him to go; he is there. The question is to make it worth his while to go away from his home. Therefore we have provided that in case of such a transfer the prohibition regarding practising in the same High Court where he has acted as a judge would not apply to his parent High Court if in the new court to which he is transferred he serves for more than five years. So that, if one is transferred from the Allahabad to the Punjab High Court and he serves in the Punjab High Court for more than 5 years, the prohibition to practice would apply only

with regard to Punjab High Court and in the old High Court, he will still be entitled to practice, if he is away for more than 5 years. This, it is expected, would possibly act as an inducement for a Judge to accept a transfer from his parent High Court. We are also providing in clause 6 by the amendment of article 222 that a Judge, if he is transferred to another High Court, would be entitled to such compensatory allowances as may be determined by Parliament, and until Parliament determines the allowance, such allowance as may be determined by the President himself.

We are also providing for *ad hoc* appointments in High Courts. Because, —sometimes it happens—due to heavy pressure of work or illness or other reasons of the existing Judges, it becomes necessary to appoint *ad hoc* Judges in the High Court. At the present moment, that provision does not exist at all. One has to appoint either an Additional Judge or a permanent Judge. We are making it possible for High Courts where necessity occurs to appoint for a temporary period *ad hoc* Judges.

We are amending article 226 which has become very necessary in view of certain decisions of the Supreme Court that any application for the issue of a writ under article 226 against the Union of India can only be made in the Punjab High Court because Delhi, which is the headquarters of the Union of India happens to be within the jurisdiction of the Punjab High Court. So that, an ordinary man who wants to sue the Union of India in Kerala or Assam or Bengal or in far off places, has to travel all the way to Delhi and file his application in the Punjab High Court. In most cases for the common man whose resources are slender, it becomes an impossible thing. This demand has now arisen from everywhere. Though the original intention was never to make only the Punjab High Court the High Court against the Union of India, and it was contemplated that all the High Courts

would have a similar jurisdiction, by a judicial decision of the Supreme Court, this unfortunate result has been brought about. Before the Constitution, the Privy Council took a different view altogether. They held in the Parlakimidi case and also in the case of Howrah Municipality that the seat of authority or Government was not material, so that, even if the seat, let us say, of the Union of India was Delhi, you could not sue in Delhi the Union of India for the issue of one of the writs unless the cause of action arose within the jurisdiction of this High Court also. They took quite a different view, quite the opposite view to what the Supreme Court has taken. When the law was in that state, this Constitution was framed thinking that every High Court will have jurisdiction within whose jurisdiction or territorial jurisdiction the cause of action had arisen. Therefore, we are trying to restore the position as it was in the contemplation of the framers of the Constitution in the Constituent Assembly, so that that man has not got to travel to Delhi with such scarce accommodation as is there.

Shri Tyagi: That was never the intention of the Constitution.

Shri A. K. Sen: It was never so. Therefore, we are making it clear that every High Court will have jurisdiction within whose jurisdiction the cause of action has arisen. A few lawyers have told me that cause of action can again be interpreted as the whole of the cause of action and if some part of it had arisen elsewhere, the High Court may be deprived of jurisdiction.

Shri Tyagi: God save us from lawyers.

Shri A. K. Sen: No. That is a relevant point. We shall certainly be prepared to consider and the Joint Committee might possibly meet this difficulty by saying where the cause of action or any part thereof has arisen, as in section 20 of the Civil Procedure Code. Therefore, I do not think that

difficulty will be insuperable. **Sari C. R. Pattabhi Raman** had told me that that difficulty might again arise in future. We may meet it by saying, cause of action or any part thereof.

Then, we have sought to amend article 276, that means, the power of the States to levy taxes on professions. A ceiling was fixed at Rs. 250. It is considered that that is too little in many of the States. They want to put up the ceiling. Therefore, we are raising it from Rs. 250 to Rs. 5000.

We are also seeking to amend article 297. Because, the Constitution only declared the ownership of the country over what lies within the limits of the territorial waters. But, it is now well conceded in international law and also by the Convention which was arrived at in Geneva last, that what lies in the continental shelf, that means the shelf lying underneath the sea beyond the territorial waters up to a depth of 200 miles would also be the property of the State, whose continental shelf it is. Therefore, we are seeking to insert the words 'continental shelf' so as to appropriate all properties and assets which lie in the continental shelf also.

The Deputy Minister in the Ministry of Labour and Employment and for Planning (Shri C. R. Pattabhi Raman): The Law Minister played a part in that.

Shri Tyagi: Are they only fish?

Shri A. K. Sen: In clause 11, we are inserting the words 'continental shelf'.

Shri Tyagi: What is meant? Is it fish?

Shri A. K. Sen: There may be oil. There may be other sub-soil assets and fish also. More than fish, it is oil and various other things which may lie in the continental shelf.

An Hon. Member: Fish can escape.

Shri A. K. Sen: Many of the oil wells have actually been sunk within the continental shelf.

Then, we are seeking to amend article 311 of the Constitution. When article 311 was inserted taking it almost bodily from a similar provision in the Government of India Act of 1935, it was not quite clear either to the Constituent Assembly or even to the Judges or lawyers that this constitutional provision would lead to a result whereby a civil servant against whom disciplinary proceedings are drawn up, either for dismissal or for demotion, would have the constitutional right of asking for two separate sets of trials, more or less. That means, first of all, charges being given to him, then an enquiry committee dealing with the charges coming to a finding on the charges and then again another set of trial proposing a punishment on those findings and then, according to the Supreme Court's latest decision, this entire gamut again is thrown open. That means, the same process has to be gone through, the same charges, the same replies, the same answers, the same show cause and everything. It has become an impossible thing. In each case, two sets of proceedings are going on. The same ground has to be covered over and over again. Therefore, what we are providing is what was intended, namely that before the proceedings are taken, give him the charges, hear him on the charges, let him be heard, let him have full opportunities to defend himself, and then, on that decide what according to the authority concerned should be the punishment. What we are doing further is that this right, we are giving only with regard to dismissal and removal from office. With regard to minor punishments of suspension and demotion, we are leaving it to the Civil Service Rules, which is actually provided. For, dismissal, removal, suspension, demotion etc. are all provided for in the Civil Services (Classification, Control and Appeal) Rules. With regard to dismissal and removal which are the major punishments, we are giv-

ing this constitutional safeguard, but with regard to the minor punishments of demotion or suspension we are leaving it to the Civil Services (Classification, Control and Appeal) Rules which cover the field.

Then, we are providing for a very necessary thing which was not in the Constitution. When the chairman either falls ill or takes leave from the Public Service Commission, there is no provision allowing Government to appoint an acting chairman, so that the question arises who will act as Chairman in his place. We are, therefore, taking this authority that where either due to illness or leave or otherwise a chairman is absent, and it becomes necessary to appoint an acting chairman in his place, which happens almost frequently, Government will have the power to appoint an acting chairman, until the permanent chairman comes back and joins office.

With regard to clause 14, this has become necessary because a Special Bench of the Calcutta High Court has decided that the words 'organisation of High Courts' do not include the prescription either by Parliament or by Government of any vacation. The House will remember that a law was passed by Parliament authorising the President to fix the vacations of the different High Courts. Pursuant to that, certain vacations were fixed by the President relating to the High Courts, prescribing 210 working days out of 364. Some members of the Bar took up the matter and challenged this decision on the ground that Parliament had no authority, as entry 78 in List I of the Seventh Schedule only talked of organisation and 'organisation' did not include vacation; there is a good deal of difference. This again is hair-splitting, I should imagine. But, nevertheless, their Lordships on the Special Bench decided that the term 'organisation' did not include prescribing vacations. One would normally say that organising High Court would also mean organising the days during which the work has to be carried on, including Sundays or

Saturdays or other holidays. One would normally think that the term 'organisation' would include all this, but since this observation has come, by way of abundant caution we have sought to add the words 'including vacations' after the word 'organisation', so that there will be no doubt whatsoever in the mind of anyone what the term 'organisation' would really signify.

These in substance are the provisions which we are intending to make. These provisions have become necessary as a result of our experience of the working of the Constitution during the last fifteen years and the difficulties which have arisen as a result of judicial decisions primarily, and with regard to the Public Service Commission as a result of practical difficulties experienced due to illness or leave-taking by the chairman. I should, therefore, commend that this motion be accepted. We thought originally that we might take up the consideration straightaway, but since some Members desired that it being a constitutional amendment, it should first of all be examined by a Select Committee, Government agreed immediately not only to a Select Committee of this House, but to a Joint Committee of both Houses, for which, unfortunately we have incurred the wrath of Shri Kamath. He thought that we should not have come forward with this motion.

Shri Hari Vishnu Kamath (Hoshangabad): There is no wrath. You should take it in the proper parliamentary spirit.

Shri A. K. Sen: We take Shri Kamath's wrath and pleasure with equal pleasure.

These are, therefore, matters on which I personally think that there is not much scope for controversy. These are provisions which have been rendered necessary by reason of judicial decisions, some of the Supreme

Court and some of the High Court, and we must remove those difficulties by constitutional amendments.

Shri Harish Chandra Mathur (Jalore): We want a little more information from the hon. Minister, because otherwise the discussion is likely to wander. There is a provision for determining the age of the High Court judge or Supreme Court judge. **May I know whether quite a number of cases have arisen?** How many cases are pending at the present moment, which have necessitated such a provision?

Shri A. K. Sen: Nothing in regard to the Supreme Court, but many relating to the High Court.

Shri Harish Chandra Mathur: How many cases?

Shri A. K. Sen: It is not really fair to discuss High Court judges.

Shri Harish Chandra Mathur: That will come into the discussion, if the number is not given.

Shri A. K. Sen: It is not fair to discuss individuals here. The statement of the Government should be enough.

Shri Tyagi: He wants only the number, not the names.

Shri Harish Chandra Mathur: We do not want the names but only the number.

Shri A. K. Sen: At least five or six.

Shri Harish Chandra Mathur: There is also one other point. Even at present, some arrangements are being made for the acting chairman of the Public Service Commission. I know of certain cases where the man has acted for four or five or even six months and more. How has it been regulated so far?

Shri A. K. Sen: There has been a doubt. We have taken the view that the authority to appoint a chairman

[Shri A. K. Sen]

includes the authority to appoint an acting chairman, but doubts have been expressed with regard to that.

Shri Harish Chandra Mathur: But Government have been appointing so far.

Shri A. K. Sen: We have taken the view that the authority to appoint a chairman includes the lesser authority to appoint an acting chairman. But doubts have been cast, I can assure the hon. Member, by very high authorities, as regards the validity of that view. Therefore, on such a matter particularly touching on the Public Service Commission, we do not want to keep the matter in any state of doubt.

About the number about which the hon. Member was asking me, for one High Court alone, the number is about five.

Shri Harish Chandra Mathur: That was why I wanted to know the number. It is not less than 20 actually.

Shri A. K. Sen: For one High Court alone it is five.

Shri Narendra Singh Mahida (Anand): I would like to know whether the Supreme Court judges and the High Court judges have been consulted before bringing forward this measure.

Mr. Speaker: I cannot allow all these questions now from all sides of the House.

Shri Narasimha Reddy (Rajampet): Does it mean that these High Court judges who were originally recruited..

Mr. Speaker: If everything is clarified now, what shall we do during the discussion?

Motion moved:

"That the Bill further to amend the Constitution of India be refer-

red to a Joint Committee of the Houses consisting of 45 Members; 30 from this House, namely Shri Brij Raj Singh-Kotah, Shri S. N. Chaturvedi, Shri Homi F. Daji, Shri Ram Dhani Das, Shri R. Dharmalingam, Shri Kashi Ram Gupta, Sardar Iqbal Singh, Shri Madhavrao Laxmanrao Jadhav, Shri Madeppa Bandappa Kadadi, Shri Hari Vishnu Kamath, Shri Paresch Nath Kayal, Shri Nihar Ranjan Laskar, Shri Harekrushna Mahatab, Shri M. Malaichami, Shri Muthew Maniyangadan, Shri Bibudhendra Misra, Shri F. H. Mohsin, Shri H. N. Mukerjee, Shri D. J. Naik, Shri V. C. Parashar, Shri Ram Swarup, Shri S. V. Krishnamoorthy Rao, Shri C. L. Narasimha Reddy, Shrimati Yashoda Reddy, Sayed Nazir Hussain Samnani, Shri Ramshekhar Prasad Singh, Dr. L. M. Singhvi, Shri U. M. Trivedi, Shri Balgovind Verma, Shri Asoke K. Sen, and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

Shri Tridib Kumar Chaudhuri (Berhampur): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion

thereon by the 30th June, 1963."
(1)

The hon. Law Minister has almost invited us to a legal and constitutional jumble sale, jumbling up all sorts of amendments of the Constitution, with all of which I am not concerned. I am particularly concerned with only those provisions of the Bill which relate to the determination of the age of the appointed Judges of the High Courts and the Supreme Court.

The hon. Minister has informed us that in a number of cases disputes are pending about the age of the Judge, which means in practical terms, disputes about the retirement time of the Judges concerned. One of the cases had been referred to the Punjab High Court and that High Court has also given its opinion thereon. Of course, the High Court did not grant the writ applied for because in the opinion of the Chief Justice who heard the case, the case was not a proper one for grant of a writ because there was no action of the executive authority against which the writ could be granted. But certain questions of principle are involved and, if I may say so, this is a monstrous invasion of the independence of the judiciary. One of the bases of the independence of the judiciary is fixity of tenure of office of the judges. Once the age of the appointed Judges has been accepted on the basis of certain documents—birth certificates, horoscopes, matriculation certificates etc.—it is not proper that the fixity of tenure of Judges' office should be open to question or to the caprices of the decisions of the executive government. If Government were allowed to question a Judge's age at any time during his tenure of office, he would be in perpetual peril of his position and would not be able to administer justice.

Shri Harish Chandra Mathur: Is it his case that the representation should be rejected outright? It is not

Government which has raised the issue; it is Judges who have raised the matter.

Shri Tridib Kumar Chaudhuri: That is not at all my case. I do not want the executive Government to take that decision.

Shri Tyagi: Who will do that?

Shri Tridib Kumar Chaudhuri: I have my suggestions as I develop my point. In the Constitution itself, in other cases where the question of qualification and disqualification of certain high public officials is raised, even the President has not been given the final voice.

Now, what are the dangers involved in giving this power to the executive government? I cannot do better than read out the opinion of the hon. Chief Justice of the Punjab High Court who heard this case. The hon. Chief Justice of the Punjab High Court said, and I quote:

"It will be seen at once that if there is, indeed, a right to fix a Judge's age arbitrarily, then this right is pregnant with the gravest dangers and can be used to undermine the independence and security of Judges, and an unscrupulous Home Minister can effectively get rid of a Judge by giving a finding that the age as given in a certain document (not necessarily the matriculation certificate) must form the basis of his enquiry. Thus, a policy may be adopted that the certificate or affidavit of a doctor, who was present at the Judge's birth, will be the final word on the question of the Judge's age. If the doctor can be prevailed upon to give a false affidavit, the Judge has no remedy and will have to leave his office long before his due date, and this would have the effect of removing a Judge by a means not contemplated by the Constitution."

[Shri Tridib Kumar Chaudhuri]

—I may add, till we amend it in the way desired by the hon. Law Minister.

Shri D. C. Sharma (Gurdaspur): Whose opinion is it?

Shri Tridib Kumar Chaudhuri: This is the opinion of the Chief Justice of the Punjab High Court, and I cannot improve upon the remarks or the language of the learned Chief Justice.

Shri A. K. Sen: The whole thing should be put in, because the extract really gives a rather different view, because Their Lordships found that the Government did not act arbitrarily; they gave the fullest opportunity to the Judge concerned, and on the advice of and after consulting the Chief Justice of India, the action was taken. It is in the judgment.

Mr. Speaker: Is it published material?

Shri A. K. Sen: Yes. The whole judgment should be put in.

Shri Tridib Kumar Chaudhuri: I also say the whole judgment should be put in.

Shri Prabhat Kar (Hooghly): It may be made available to the House.

Shri Tridib Kumar Chaudhuri: It is a reported judgment and published. There is nothing secret about it.

I must mention the fact that the Punjab High Court refused to grant a mandamus as prayed for by the applicant concerned only because they held that there was no executive decision of the Government before them, it was only a suggestion to the Judge concerned, and the Judge was not bound to act according to that suggestion. So, I am very glad that the hon. Law Minister wanted to place the whole judgment upon the Table. At least, it should be made available to the Members of the Select Committee, and I think the entire judgment is in favour of the point that I am making out.

It is quite conceivable that disputes about the age of the Judges, once appointed, may arise. Similar disputes may come up very often. If I may draw an analogy, I would refer the House to article 103 where the question of the disqualification arising in the case of Members of Parliament and State legislatures comes up, and there it has been provided in the Constitution:

"If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final."

Then in clause (2) of the same article, it is provided:

"Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

Here, the President is not a free agent. He has to refer the question to an independent body, and he has to be guided by the opinion given by that body.

You might remember, Sir, that in the First Lok Sabha, we had a raging storm in this House over the Vindhya Pradesh (Removal of Disqualifications) Bill, where a Bill had to be brought in this House to remove certain disqualifications which, according to the Election Commission and therefore, accordingly the opinion of the President, had arisen in the case of certain Members of the then existing Vindhya Pradesh legislature. The only point that I am urging before the Government is that they should not take this power in their own hands. The hon. Law Minister was very eloquent and said that they were giving this power to the highest officer of the State, the President. But for all practical purposes, it is the Government's decision, and ultimately the

decisions of the Home Ministry or the Law Ministry or some Deputy Secretary there.

Shri A. K. Sen: I can tell the hon. Member that not one decision was arrived at without the consultation with the Chief Justice, though there is no constitutional prohibition. Every decision arrived at has been in accordance with the opinion of the Chief Justice.

Shri Tridib Kumar Chaudhuri: Even in this case to which the hon. Minister has referred it is very much open to objection: whether in such administrative matters the opinion of the Chief Justice should be obtained because it is on record that when this case was referred to the Chief Justice he really said that he was not concerned with it. It says here:

"The Chief Justice said that the controversy in question was not a matter with which the Chief Justice of India was concerned, that the Government of India had no power to reopen the question of age once it has been accepted and acted upon."

Of course the Chief Justice said that the Judge concerned should accept the suggestion of the Government and should retire but so far as the powers of the Government were concerned, the Chief Justice was quite clear that Government had no power at least under the Constitution to open the question of age once it has been accepted.... (Interruptions).

Shri A. K. Sen: That is, the Chief Justice of the Punjab High Court....

Shri Tridib Kumar Chaudhuri: It is not Punjab High Court judgment. That is the opinion of the present Chief Justice.... (Interruptions).

The Constitution does not give this power to the executive Government because the founders of our Consti-

tution in their wisdom were guided by the very well established principle of fixity of judicial tenure. In Great Britain for instance there is no retirement age for the judges. Once they are appointed they can continue in office subject to their good behaviour; they can even refuse to retire even if they become deaf....

Shri A. K. Sen: Now the age is 70 years.

Shri Tridib Kumar Chaudhuri: I stand corrected. It is 70 in the Dominions also.

Shri D. C. Sharma: Who is to interpret good behaviour?

Shri Tridib Kumar Chaudhuri: Parliament. If the behaviour of a judge is found to be objectionable and if he is guilty of misbehaviour or misconduct or dishonesty, Government can make a motion here and indict the judge and have him removed. That remedy is open to the Government. But his fixity of tenure should not be touched, once his age is accepted. The only positive suggestion that I can make on this point is that the Government should not take this power in their hands. They should try to think out some constructive device whereby some independent judicial body—maybe two or three Judges from some other High Court, other than the High Court to which the Judge whose age is in question belongs—may be appointed to give a decision. This power cannot be given—public opinion will refuse to give that power to the executive Government and it should not be given in any case.

Shri Tyagi: I beg to move:

"That in para 3 of the motion, for "by the last day of the first week of the next session" substitute "by the first day of the next session."

[Shri Tyagi]

I am glad the Minister has agreed to accept this amendment and so I need not lay stress on that. But there are other matters on which I would like to make a few comments. How long do we sit, Sir?

Mr. Speaker: Up to 6 o'clock. Would he take the whole time?

Shri Tyagi: No, Sir.

Shri C. K. Bhattacharyya (Raiganj): We too have some claim upon your time, Sir.

Mr. Speaker: Certainly I have to be guided by that. But I was nervous whether Shri Tyagi wanted all the time till 6 o'clock.

Shri Tyagi: Justice is one of the basic requirements of a State. Mostly States came into being primarily for one reason, namely, giving justice. When there is some dispute between individuals, the States come in and give justice. I remember in my boyhood I read that the British became popular because the first time India knew of actual justice was by means of the Dewani Adalat which they gave in Calcutta. It was that appreciation of justice which made the British popular in India ultimately. I must submit that this is the most important function of a State.

In India, unfortunately, after the British went away, I am sorry to say—my lawyer friends will please excuse me; I have always been an anti-lawyer campaigner....

Mr. Speaker: Does he want to remove me from this office?

Shrimati Yashoda Reddy (Kurnool): Judges come out of lawyers.

Shri Tyagi: Therefore, their practising mentality does not go. It is on account of lawyers primarily that our standards of justice have gone down and are going down every day. That is what is happening in law courts.

16.58 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

It is a good idea that the hon. Minister has thought of effecting some improvements now. But I must confess with a sense of shame and regret that even now—I do not know whether the times are bad or for some other reasons—their standard is deteriorating every day. I have experience for the last 40 years and if I compare our courts now with the past, our courts now are nowhere in comparison to the courts of the British days. That is what has happened. It is for the Government to investigate as to what the reasons are. Is it because of too much of security to the Judges? In the name of freedom of judiciary, we are giving the fullest security in the Constitution to Judges. I do not know whether that freedom is the root cause. In the British days also, there was that freedom, but everything depended on the goodwill of the Viceroy here. The executive powers were higher than the powers of the judiciary. In our enthusiasm and fanaticism for liberty, we gave the judiciary fullest powers, in the hope that they would be justified. But my fears are that our aspirations and all our hopes have now been frustrated practically because justice is delayed. You may go from one end of the country to the other; everywhere the people will say that justice is expensive, justice is delayed and justice is not just. People go on in appeals after appeals and take years in civil cases. There are thousands and thousands of cases pending for the last ten years in various high courts. Take the statistics of one high court and you will know it. In the Allahabad High Court, for instance, the number of cases pending for more than ten years runs into thousands. What is justice if it is delayed like this, if a case starts from the lower court and goes in appeal from one higher court to the other and takes ten, twelve or even twenty years and the litigant does not get

any justice after having spent his life time on it?

17 hrs.

Shri Surendranath Dwivedy (Kendrapara): That is why the High Court Judges of Allahabad are appointed as tribunals.

Shri Tyagi: Then, one thing which is needed is, justice must be made cheaper. Justice has become too costly. If a case is started on a dispute over Rs. 100—for the sake of prestige litigants go to courts for such small amounts—the result is that he spends many times more than that amount and then he gets justice done. Sir, I will only close this general remark or argument by saying that something drastic is needed to see that justice is given.

Coming to the High Court and Supreme Court Judges, I do not want to pass any remarks on them. But I do not think it is dignified for a judge to come with an application saying that his age has been wrongly written. Sir, practically everywhere in the whole country we have seen that the position of a judge is recognised by everybody as one of a higher authority, one which carries with it some respect from all corners of the country. Everybody recognises that there is some veneration with the profession. I do not know how, with what face, some judges are coming with an application that their time to retire is two or three years after and that their age had been wrongly written in their matriculation certificates. Do such persons deserve to be judges?

An Hon. Member: Certainly not.

Shri Tyagi: One man went on as a judge for years together. It never occurred to him that his age was wrongly written in his matriculation certificate. But when the time for his retirement came he comes forward

and says that his age had been wrongly written. I think it is better that such a judge had resigned and gone. He is not fit to sit in the chair of a High Court Judge. Therefore, when my hon. friend argues on behalf of judges and says that the President may not be given the right of finally deciding about it, I am surprised. Who else would do it? This amendment has come only because in the Constitution there was no provision for it. Who will decide it? In case there is a litigation between a State and the Judge, to which court would they go?

Shri Tridib Kumar Chaudhuri: I hope Shri Tyagi would bear with me for a minute. In fairness to the judge's case which was referred to here, I must say that it was not he who asked for any extension of time, it was the Government which wanted him to retire prematurely prior to the notified date.

Shri Tyagi: I am not referring to one case. I am referring to a number of cases that the Minister has quoted. There are a number of cases—five in the High Court.

Shri Tridib Kumar Chaudhuri: What would be his suggestion for remedy to the judge in whose case the executive government finds the judge inconvenient and raises the question of his age?

Shri Tyagi: This right is being vested in the President to see whether the grounds are valid or not. If the Chief Minister of a State raises a question, the President will not automatically fall in line with him. After all, the President also has a certain dignity, he represents the whole nation and holds the biggest office in the country. So, is he not higher in judgment than the judges themselves? Certainly because he occupies a position of greater dignity. So, he could decide things. In most of the cases the judges have come forward as beggars with the demand that their ages

[Shri Tyagi]

may be lowered a little from what is stated in the record. I suggest that in such cases the judges must be dismissed on that very day because they do not deserve to sit in those chairs. It is beneath the dignity of the chair which they occupy. Just like a school boy makes an application that his age is wrongly entered in his matriculation certificate, if a judge also makes the same application, can he be a judge of integrity? I submit that such a judge should not be allowed to occupy even for one single day that high chair because he has lost his dignity.

Therefore, if there is any dispute about age, it should not be fought in courts, as it is happening now. Now judges are coming forward with applications that their age is two years or five years less than what is mentioned in their certificates. Can we trust such judges for their honesty? If I were a litigant myself and a party to a civil case, how would I like my case to be decided by a judge who is quarrelling about the correctness of the date of birth as entered in his matriculation certificate? He did not dispute it when he appeared for matriculation, he did not dispute it when he appeared for B.A., M.A. or LL.B. or even when he became a judge. But when it became time for his retirement he is making the plea that his correct age is less than what is entered in his matriculation certificate. This is a painful matter. So, I think the President must be vested with this power. Let such judges know that there is some authority to decide their fate.

I welcome the Bill generally because there are so many good features in it. I must congratulate the Minister of Law for having brought forward so many matters in one single Bill, because it does not look well if for every little small matter we come forward with an amending Bill for the Constitution. So, it is good that he has brought all these points together.

There is a complaint that competent lawyers would not accept judgeships because their income is so big. So, it is a good thing that their age is increased at a time when the average age in the country has increased. In the civil service also we have increased the age. My only sorrow is that we have extended it only by two years whereas it should have been five years. So far as the amenities and emoluments are concerned, we should be very liberal because we expect them to rise to the level which is expected of them.

Coming to the services, it is a good thing that some changes are made in the Constitution so far as the services are concerned. There was the case of a railway official who was about to retire. He was given notice that he was to retire on such and such a date. Instead of retiring on that day, he says that he has nine more months to serve. He goes to a court and gets a stay order that he should not be retired. This is how the courts are working. Then the case goes to a higher court, where the judge says that it is not a fit case for his intervention and that the lower court should not have issued the stay order at all. Still no punishment was given to that person; on the other hand, he went on promotion. So, what I am saying is that the services are not being controlled by the Government. Now they go to court very often. Many safeguards were provided in the Constitution when it was enacted. They were too many indeed. Once a notice is given, sometimes a notice for explanation, then some charge-sheet, again another chance and yet again another chance.

These are emergency times. Let us put our Services in proper order. Their morale must be raised. They must have a higher morale, no doubt, because we cannot do without the Services. Government is primarily run by the Services. I do not want the politicians to intervene in the rights and privileges of and the authority vested in the Services because every man in the Government must

feel that he is serving the country and is a patriot, that he is trusted by everybody. Let him work with full vigour and full sense of self-confidence. Therefore it is a good idea that article 276 of the Constitution is being amended.

Mr. Deputy-Speaker: He must close now.

Shri Tyagi: There are many other matters and I do not want to take much of your time. There are some smaller matters which, I do not think, were necessary in this Bill. For instance, there is the provision for allowances on transfers. It does not look well to say here that Rs. 200 or Rs. 300 or Rs. 400 will be given as allowance on transfer from one place to another. Shall our Constitution have these small things? I would suggest to the Joint Committee to look into this. After all, these amendments will become our permanent Constitution and our Constitution will rather look cheap if we begin to define as to how many rupees shall be given to a person if he is transferred from one place to another, whether it will be Rs. 200 or Rs. 300 or something else. It does not look well. Therefore I suggest that these things should not be mentioned. Whether a judge when he is transferred from one place to another will be given Rs. 300 or Rs. 400 or even Rs. 500 as allowance should not be decided by Parliament. The Government themselves could make some rules and give them something. But this does not look well.

With these remarks I support the Bill.

Shri Prabhat Kar: Mr. Deputy-Speaker, Sir, so far as the clauses of this Bill which is being referred to the Joint Committee relating to the increase in the age of retirement of judges as also regarding the transfer of judges from one High Court to another are concerned, these are welcome. I only wish that this amend-

ment had been brought earlier so that the controversy which has arisen, as stated by the hon. Law Minister, about the retirement age of judges and the correctness of their age which has now been proposed in this amendment to be referred to the President would have been avoided. So many cases are pending.

It is a strange thing, as Shri Tyagi was pointing out, that there is some deterioration in the judiciary. What is it due to? We, in this House, have all the time been pointing out about the way of appointment by the Home Department. Today, as a result of the controversy that has come into the press, it is found that not only the appointment which is the sole discretion of the Home Department but it is also said that there have even been certain political appointments of judges. Today we find that a judge can even be made to retire at the sweet will of the Home Department.

Just now Shri Tyagi was very much eloquent about a person not being fit to be a judge who at the time of retirement comes and asks for a change in his age. I want to know what type of an administration the Home Department is. Since the appointment of a judge in 1949 upto 1959 the age of the judge is accepted and published in the Gazette and in the middle of 1959 the Government comes and says, "You are not of that age." Uptill now what was the Home Department doing? It was published and he was to retire on a particular date. But in 1959 it comes and says, "You are to retire". I want to know what was the record of the High Court, how the Chief Justice of the particular High Court accepted the age. Today, how, here Shri Tyagi, without knowing the case, comes and shouts that that Judge has to be retired. I do not know which case he is referring to.

Shri Tyagi: I am sorry, I did not refer to any particular case. My hon. friend has misunderstood me. I

[Shri Tyagi]

have not read any case. I said only on principle that the Judges should not object. I did not refer to any case.

Mr. Deputy-Speaker: He did not refer to any particular case.

Shri Harish Chandra Mathur: Mr. Deputy-Speaker, you were not here. I purposely asked the Law Minister to give us the number of such representations from the Judges. It is not a particular case which is criticised here. We can understand your feelings. If there are plenty of representations . . .

Shri Tyagi: Twenty representations.

Shri Harish Chandra Mathur: . . . from the judges asking for revision of their age, what do you think? Comment on that. That is the problem.

Shri Prabhat Kar: At the outset, I have said that I would have liked this amendment to have come earlier so that the controversy that has arisen today about the age could have come to a stand-still. The point here is whether the representation has come from the Judge in the sense whether they are representing today that the age that has been recorded was wrong and therefore it should be changed or representation is coming because, today, the age which has been recorded is now being changed by the Home Department. That is the point that would be there.

Some Hon. Members: No, no.

Shri Harish Chandra Mathur: So that the discussion might be fruitful, let the Law Minister clear the position. That is why I asked him to clear the position.

Shri Tyagi: How many cases are there?

Shri Harish Chandra Mathur: Is it representation by the Judges for revision of the age in their favour? If it is not so, let the Law Minister contradict it.

Shri Tridib Kumar Chaudhuri: There are also cases where the Executive Government has asked the Judges.

Shri Harish Chandra Mathur: There is not a single case like that.

Shri Tyagi: Any such case I do not welcome.

Mr. Deputy-Speaker: Order, order. Mr. Tyagi should address the Chair.

Shri D. C. Sharma: Is the hon. Member referring to any particular case?

Shri Prabhat Kar: No. I am not. I want to make it clear. I am not interested in any of the applications. I was only . . .

Mr. Deputy-Speaker: Would he please address the Chair?

Shri Prabhat Kar: I was pointing out that too much interference by the Home department either on the question of appointment or on the question of retirement tells upon the morale of the judiciary, which should not be done.

Shri Tyagi: I agree.

Shri Prabhat Kar: That is what I was pointing out. I am not holding a brief for any of the Judges or on any of the points that were raised now.

Mr. Deputy-Speaker: Nor did Shri Tyagi refer to any particular case.

Shri Prabhat Kar: What I was pointing out was, there is too much interference even at the time of appointment. As has been pointed out, there have been certain political appointments of Judges. Now, we find today interference at the time of retirement.

Shri Tyagi: Shall we get a clarification from the Minister? He is prepared to give.

Mr. Deputy-Speaker: Order, order.

Shri Prabhat Kar: I was telling that it is necessary, once a Judge is

appointed, there should not be any interference even on the question of retirement. We have often said in the House that Judges should not be given any appointment after retirement. Because, if this type of appointment is given after retirement of Judges, then, Judges will look more and more to the Home Department, because their future after retirement would depend on the Government. That is why we have been saying that Judges, after retirement, should not be given any appointment. That is why I welcome the suggestion that the age of retirement of the Judges should be increased. I was just wondering why, when the Law Commission has recommended that it should be raised, instead of 62 to 65, in the case of the High Court Judges, it is being restricted to 62 and why it cannot be raised to 65 as in the Supreme Court. My suggestion is that the judiciary should not be interfered with by the executive. That is how the judiciary should function. Therefore I would suggest to the Joint Committee to consider, when today we are accepting 65 as the age of retirement of the Supreme Court Judges, there cannot be any bar so far as the High Court Judges are concerned, and their age should be raised to 65. In other countries, just now, the point was made that so far as Judges are concerned, they retire at 70 or 75. In India also, it should be so. It is a question of experience.

Shri Harish Chandra Mathur: The age of superannuation of civil servants is also 69: not 55.

Shri Prabhat Kar: That is true. Here, I think Shri Harish Chandra Mathur, who is very keen on able administration, is aware fully how the judiciary is functioning and as pointed out by Shri Tyagi, there are grouses against the functioning. What we need is a good, efficient and experienced judiciary. That is why I think that if a judge becomes older, he does not lose the power of adjudication. If it is said that the man

will continue to have his full ability up to the age of 65 years when he is on the Bench of the Supreme Court, I do not see how it can be said that he will lose that ability after 62 years if he sits on the High Court Bench. Therefore, I would like that 65 should be the uniform age of retirement for the Supreme Court judges as well as for the High Court judges.

So far as the amendment to article 226 is concerned, it is a very welcome thing, because we have often experienced such difficulty about coming all the time to Delhi whether from the State of Kerala or from the State of Tamil Nad or from West Bengal.

About the amendment to article 311, I do not know why all of a sudden these changes have been suggested. The provision in this Bill is:

"No such person as aforesaid shall be dismissed or removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

Then, there is a proviso to the effect that:

"Provided that this clause shall not apply—

- (b) where the authority empowered to dismiss or remove a person is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry;...."

The right which has been granted now under article 311 is now sought to be taken away.

Shri Tyagi: That is for Communists!

Shri Prabhat Kar: Shri Tyagi may take pleasure in preaching anti-communism. But here that is not what is sought to be done. Here, you are

[Shri Prabhat Kar]

taking away the fundamental right of an employee. My hon. friend must understand that.

Shri Harish Chandra Mathur: My hon. friend need not take it seriously.

Shri Prabhat Kar: My hon. friend Shri Tyagi may take pleasure in talking about all these things. But he must understand that here a fundamental right of the employee is being taken away, namely that when a man is charged and he is to be dismissed, he should know exactly what he is charged with. According to the proposed provision, if the authority who is going to dismiss feels satisfied that it is not reasonably practicable to hold such inquiry, that becomes an end of the matter.

I know that there were Ministers who were capricious and they dismissed persons because they did not like them. I know of such cases. That sort of thing has to be stopped, and that must be stopped. It is to prevent that kind of thing that the existing article 311 has been put in in the Constitution.

Shri Tyagi: Those Ministers have ultimately to go.

Shri Prabhat Kar: Therefore, I would submit that the Joint Committee should take all these things into consideration.

Especially in regard to the controversy that has arisen today on the question of the age of the judges, I would like that in the interests of the judiciary so that the whole country may be satisfied, the Joint Committee should lay down certain criteria whereby this sort of controversy will be stopped, and there would not be any occasion in the future for any such controversy about the age of the judges when they are to be retired.

With these words, I hope that the Joint Committee will take all these points into consideration.

Mr. Deputy-Speaker: Now, Shri K. C. Sharma. Hon. Members should not take more than ten minutes each. I have got a long list before me.

Shri Harish Chandra Mathur: This Bill contains five important amendments.

Shri K. C. Sharma (Sardhana): At the outset, I would submit that the age of a judge or of any other employee could not be disputed after the appointment is made because when the appointment is made it is made of the whole man; 'the whole man' means his physical fitness, his mental capacity, his age of majority, and his loyalty to the State, and finally his character and integrity. When the character and integrity could not be questioned, the age also could not be questioned. Once it has been accepted by both the contracting parties, namely the Government and the employee, it should not be questioned at any later stage. Such a thing should not arise. And it is a wrong thing to say that a judge has given a wrong age in his matriculation certificate. Whether his father or mother or his guardian has given a certain age does not matter; once he is appointed on the basis of that age, no further question should arise about that, and it cannot be disputed at any later stage. It is entirely a useless provision in the Constitution which is going to be inserted, and I submit that it is toying with the sacred word of the Constitution itself. It is very unfortunate that in this country the Constitution should be changed so many times; though it is true that the Constitution should be changed with change of times, it is very wrong to change the Constitution for something about cows, something about buffaloes, something about this trifle or that, something about this man or that man, and so on. The Constitution is changed because certain members are disqualified. They must remain in the House. This is a strange phenomenon. There is some sanctity attached to the

supreme law of the land. But this sort of amendment means that we are not loyal to that supreme law.

There is one fundamental question. There is such a thing as the first class citizenry. What is first class citizenry? Every citizen is equal before a court of law. Everybody's claim will be decided in the same manner whether he holds a higher office or a lower job. It does not matter if a man holds an exalted office. Even a Judge must stand before the court, if he has a claim to make in his favour. There is such a thing as unalterable nature of justice. The Constitution is broken to pieces the moment you accept the principle that a man who sits in a high exalted chair has certain ways to get a decision on his claim other than those available to a man who sits in a lower chair. I do not stand by that. It is much more befitting that a man in exalted office should stand as a claimant before the court of law and say, 'I claim it', if there is a claim. Rights do not go by the bigness of the chair one sits on. They go by right of birth, by right of citizenship, by acceptance of the obligations of citizenship. Giving something to somebody that is not given to the lowest in the land is toying with the Constitution and playing with the sanctity of the supreme law.

As regards the age of retirement of Judges, I do not like the limit of 62. I would have preferred it if it had been put at 60. Why 62? Is a High Court Judge a child? This sort of thing, 'one year more' or 'two years more' does not appeal to me. We have fixed the age of retirement of Supreme Court Judges at 65. Let the age of retirement of High Court Judges also be raised to 65. In other countries, the retiring age of Supreme Court Judges is 75. Formerly in civilised countries, the Supreme Court Judges were appointed for life and it was expected that as soon as they realised that their physical and mental capacities were not remaining in accord with the functions of that

exalted office, they themselves would retire. There have not been many cases in which Supreme Court Judges refused to retire when they knew that they could no longer function in a right and conscientious way and their capacities were failing. Anyhow, they have fixed the age at 75 for retirement of Judges and generally they retire at this age unless they become senile before that time.

In India, I do not think the case is much different from what obtains in other countries. For instance, I do not agree with Shri Tyagi when he says that we are going down further and so on. Varadachari, Suleman, Shastri, Mukerjee, Das—they were eminent Judges. They compare well with any Judge anywhere in the world. Read their judgments, read the law they have laid down, look at their libraries, look at their working hours. See how much they have worked and what wise and beautiful things they have brought about so far as international law is concerned, so far as citizen law is concerned. It is a matter of pride that India has produced first-class Judges and first-class lawyers. Go anywhere in the world and find a lawyer who can compare with Motilal Nehru, Das, Desai and others. Not only that. They have been leaders of their people.

Shri Tyagi: He is taking of the older generation.

Shri K. C. Sharma: And the man kills a cow and gives a Brahmin a sandal—that is the story of your industrialist or businessman who claims the authority behind the curtain. It is the lawyer alone..... (interruptions). I do not yield.

Shri D. C. Sharma: I am on a point of order, Sir. He says a man kills a cow and gives a Brahmin a pie. It is a very strange reflection on the Brahmins.

Shri K. C. Sharma: How many businessmen, what men in other

[Shri K. C. Sharma]

stations have given their liberty in doing justice or doing good to the common people. It was given only to the lawyer. A lawyer comes from Bombay to defend an accused, and he at last is served with a notice that he would be arrested, but the lawyer given notice says it is his professional duty, his normal function to defend a man, in the dock, and he would do it even at the cost of his own liberty.

Has anybody given his palace to the nation? Your super industrialist has not given the structure of stones where the Father of the Nation died. Had it been a lawyer's house, it would have gone to the nation on his own offer.

Mr. Deputy-Speaker: No personal reflections.

Shri K. C. Sharma: Motilal Nehru gave Anand Bhavan, his house, to the nation.

So, my respectful submission is that India has been fortunate both in the eminent Judges it has produced and its lawyers, and India is still proud of the judiciary that it has.

Human life is human life. We are on the turning point in history. Never before has money played the part that it is playing today. After all, a Judge is a human being with human weaknesses as anybody else. If you have to judge him, judge him by your own standards. If you find within your own heart, within your own mind, that you are failing, you should not very much complain if the Judges fail. Judge them, as you would be judged.

Shri Narendra Singh Mahida: I have heard with great respect the speeches of my colleagues.

I am in agreement with Shri Tyagi to a certain extent, that the standards of the judiciary in this country are not comparable with those before independence. I will cite an example of the Bombay High Court. In those old days, when the British judges were also great, about a hundred years ago.....

Shri Shivaji Rao S. Deshmukh (Parbhani): They are great even now.

Shri Narendra Singh Mahida:....a Governor wrote a note to the Chief Justice of High Court, asking him to give a particular judgment, and the Chief Justice closed the High Court and went away to England, rather than open the High Court and conduct cases according to the wishes of the governor. These were the great traditions which the British left in legacy for us.

I do not say our High Court Judges are not up to the mark. They are, of course. We should not be satisfied with the present standards, but still improve them.

I am in agreement with Shri Sharma when he referred to the past generation of lawyers. We have high respect for them, and I pay my tribute to all those great lawyers of this country who played such glorious part in our independence movement. The lawyers were then foremost in fighting the freedom struggle, lawyers were also foremost in framing our Constitution, and even today some of them are foremost in this House.

Shri Tyagi: Lay men were not lagging behind.

Shri Narendra Singh Mahida: I was also a humble student of law in London. I have great respect for the legal institutions in England, like Lincoln's Inn, etc. We do not have such of them in India, and I request our lawyers to formulate such inns and high standards of the judiciary.

Justice must be speedy and efficient. I agree with Shri Tyagi when he said that there are cases pending for ten years. I know of cases pending for 10 or 12 years. If the Law Minister is keen, I can give him details of the cases. These things have been happening in India. In a country, with high standards of living, they can afford such legal delays, as the people there may not be much affected, but

have such people receive judgments after a generation, and a lot of money is being spent. I was a victim of a prolonged civil litigation for nearly 11 years and ultimately we the parties, compromised. The money we spent on courts was, I think now, foolishly spent. Even in these days our poor countrymen cannot afford delayed justice. Justice must be cheap and efficient. Unless this is done there will be no progress. I am glad that agricultural tenancy litigations are now over.

Mr. Deputy-Speaker: We are now concerned with the Constitution Amendment Bill.

Shri Narendra Singh Mahida: I am not in agreement with the increase in age of retirement of High Court Judges. It is all right for countries like New Zealand, United States or Sweden and Norway where the life expectancy is 69 or 70 years of age. In India it is only 39 years. If there is no provision for the retirement of senior judges, the younger generation will feel frustrated and they will not be able to make much headway. The Law Commission in their fourteenth report have suggested that the age of retirement be raised to 65. It is very good for the Commission to say that. I belong to the middle ages and I do not feel inclined to increase the age limit. Government have decided to raise the retirement age of civil employees from 55 to 58. As an emergency measure it is all right but if it is applied to normal times, it will create a blockade for the advancement of the younger generation. I would therefore request the Joint Committee to look into the implications.

It is proposed to pay a judge some small amount on transfer from one High Court to another. I think they get fair salaries. If they are not paid properly, their salaries may be increased. I believe that we cannot have High Court judges with Rs. 500

standard. The judges must be paid well and respected well. Their dignity and decorum should be maintained. Instead of giving them some emoluments like these, their salary can be increased. Temptations are always there when the salaries are not adequate. I do not mind giving such emoluments, so that they are above trifles and temptations.

I welcome clause 11 which refers to international law relating to our sea bed and sub-soil of the continental shelf adjoining its territory. So many nations have increased their sea-bed territories and this is a provision which perhaps many hon. Members have not noticed. I welcome this and suggest that the Joint Committee should take note of and approve it.

Shri Warior (Trichur): That does not mean that the territorial waters are extended... (Interruptions).

Shri Narendra Singh Mahida: It is not that we claim the territorial waters and the sea-bed under it, but it is a very necessary measure that we claim such soil of the continental shelf adjoining its territory as well. I wish that we bring in such a measure about air space also. Although we have an unlimited air space limit over our territory, but in this age of moon travel and sputniks around, we would like to know whether any one is breaking our international air space limit rules. Probably in times to come, I hope a Bill will be brought in in this House about our international territorial rights on the air space limit also.

Shri Tyagi: To whom will the moon belong?

Shri Narendra Singh Mahida: There are changes in international laws according to circumstances and we have to be in tune with them.

[Shri Narendra Singh Mahida]

With these words, I welcome this measure and I hope the Joint Committee will look into the other suggestions I have made.

Shri Shree Narayan Das (Darbhanga): Sir, while supporting the motion for reference of the Constitution (Fifteenth Amendment) Bill to a Joint Committee, I would like to mention certain points. This Bill was introduced in the House long ago. Some of the provisions that are going to be amended are very necessary, but there are some new provisions in this Bill which on the face of it appear to be controversial.

Under clauses 2 and 3, the President is being empowered to make certain enquiries with regard to the ages of High Court or Supreme Court Judges, whenever such questions arise. As has been pointed out by Shri Tyagi, it is rather curious that such questions should arise. But we are not deciding legal cases here. We are here to make certain amendments in the Constitution to meet certain contingencies.

Shrimati Yashoda Reddy: Why should that contingency arise?

Shri Shree Narayan Das: We are legislators and we have to provide for certain contingencies. There are so many enactments which are not used every now and then, but we have to provide for that contingency. We are not concerned with any particular case or criticising those Judges in regard to whose ages some questions have arisen. We have only to see whether there is any provision in the Constitution to deal with the matter. If such questions have arisen, we do not know the circumstances under which they have arisen. But there must be some provision in the Constitution to meet the situation when such questions arise. Therefore, Government have come forward with this amendment.

But I am not quite in agreement with the provision that is being made. Why should the President be dragged

here to decide certain cases? The President should have the power to appoint a special tribunal to enquire into the matter when it arises and the decision of the special tribunal shall be given effect to by the President. The action of the President cannot be made a controversial matter. So, with regard to clauses 2 and 3, the President should be empowered to appoint a special tribunal and the decision of the tribunal shall be given effect to by the President.

Some provision is going to be made for transfer of Judges from one High Court to another High Court. That is a welcome measure. I think in public interest Judges should be transferred. But at present if a High Court Judge has acted in a particular High Court, he cannot practise in that court after retirement. So, it would mean that if he is transferred to another High Court, he cannot practise in that court also after retirement. I submit that if a High Court Judge is transferred from one High Court to another, he should have the right to practise in that court after retirement.

Here, Sir, I would also like to make a suggestion. It has been provided here that if one acts as a judge in a High Court for five years then he can be transferred, and if he has served for less than five years then he will not have that right. I think this period of five years should be changed to four years, because I think the period of five years is too much.

With regard to the amendment of article 311, for a very long time we have been feeling this necessity. As a member of the Public Accounts Committee I have seen cases where some charges were made against some employees with regard to corruption, indiscipline etc., committed by them and the Government took certain action against them, but due to the legality of the cases the affected persons went to the court and it took several years before it was decided that they were

wrongfully dismissed or decreased in rank. In that way, I think, the discipline among our services has been very deteriorating. The fundamental right to the extent of dismissal or discharge is not being taken away. That is left as it is. But only in the matter of reduction in rank it is being changed. I think that disciplinary action should rest with the Government and only because of reduction in rank the employee concerned should not take his case to a court. That will have a salutary effect on the discipline or the morale of our services. The Government should be in a position to take the necessary action that will be needed for the proper working of the administration.

With regard to amendment to article 276 also, I think, in the changed circumstances, that is necessary. At present the local authorities like the municipal boards or district boards have the right to levy certain professional or trade taxes up to a limit of Rs. 250. I think in the changed circumstances, if they want to levy any taxes, there should not be any constitutional bar or limit saying that it should be only up to Rs. 250. Therefore, the provision that is going to be made raising it to Rs. 500 is a very welcome thing.

With these words, Sir, I support this measure.

Shri Surendranath Dwivedy: Sir, while I agree with the view that the standard of judiciary today is not as it was in the past, at the same time, it cannot be said that the executive has no hand in making this so; because through temptations and through other things the executive is also trying to influence the judiciary.

In a democratic set-up, the part of the judiciary is very important and essential. But we find in this country that judges of the High Courts are appointed to different posts and they are

given different assignments even after retirement. They are offered posts of governorship, ambassadorship and others which act as a temptation always for them to look to the executive and to satisfy them as far as possible. This is a very bad precedent that we are creating in this country. I am not quite satisfied with the precedent that we are creating in this country by raising the age of retirement. It seems as if we are going to be ruled by wise men of the land, as they put it; that is how I look at this problem. I find that in many spheres of administration we are raising the age of retirement. We have increased the age limit to 58 in the case of civil servants. In the case of technical personnel also we have raised it. Now we are doing it in the case of judiciary, in the case of High Court judges. I do not understand the idea behind this proposal. Is it because of the recommendation of the Law Commission? In that case, they wanted it to be raised to 65, just as in the case of Supreme Court Judges. I do not know why you have made it only 62 in the case of High Court Judges.

By this provision we are blocking the opportunities of younger men for promotion in this country. It has to be remembered that socialist pattern of society is our objective. So, the Constitution and the other enactments of the country must be viewed from that spirit, not from an orthodox or conservative point of view. In judicial judgments we sometimes find clash of interests or clash of view; the judgement is one thing whereas the spirit is something else. All these factors have to be taken into account when we think of appointments to the judiciary. The judiciary must consist of persons who have imbibed the proper spirit of the country as a whole. If we take that point of view, it is necessary that younger elements should be brought in the judiciary more and more. Then, why do you want to raise it?

Shri Harish Chandra Mathur: Otherwise, we will not get the right type of people.

Shri Surendranath Dwivedy: You can never get the right type of men. We are not getting even the right type of Ministers.

Shri Hari Vishnu Kamath: The present company here is, of course, excepted.

Shri Surendranath Dwivedy: Even younger man like Shri Tyagi is displaced.

Shri Tyagi: Am I a refugee?

Shri Surendranath Dwivedy: There is a department even to look after refugees. I think the Congress Party will look after you very well.

Then, most of the retired High Court judges are not unemployed today, because we have so many tribunals. Then there are other spheres also where judicial persons are needed. Therefore, even if they retire at the age of 60 I do not think they will remain unemployed. In fact, it has always been the complaint of the executive that if we were to provide for judicial people in every enactment where are we to get them from? I was told by the Chief Election Commissioner that they wanted as many as 54 retired High Court judges to be appointed as tribunals and it is difficult to get so many because every retired judge has got some appointment here or there. Their talents are being utilized in different spheres of society and nobody grudges that. But why should you go on changing the Constitution?

I am really surprised that higher emoluments have been provided in order to induce high court judges to take up appointments in high courts other than in their own States. The SRC recommended that in the interests of national integration judges of one State should be appointed as judges in a different State. But when we read in the papers about the appointment of high court judges we

rarely come across people belonging to one State being appointed as high court judges in another State. I do not know whether judges after appointment are transferred from one State to another or not, but when they make appointments Government see to it that only persons belonging to that very State are appointed as judges of that State.

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra): Look at your own High Court.

Shri Surendranath Dwivedy: There are very few cases. Tell me about the Calcutta High Court. Do not talk about the Orissa High Court. If you tell me about Orissa with all apologies I can say that even in the judicial sphere strange things are happening in Orissa. I did not want to say that. The Advocate-General of Orissa is a person who is even now the President of the Cuttack District Congress Committee. That is how the judicial system is made to work there.

Shri Tyagi: He feels, he is a wise man.

Shri Surendranath Dwivedy: In Orissa High Court and in Patna High Court you may have one or two persons. You may have a few here and there, but what about the Bombay High Court and the Calcutta High Court? Those are the aristocratic vested interests. Probably, they oppose it and want that nobody belonging to some other State should go there. You have not the guts to see that when appointments of persons from other States are made they go there. I do not know whether because the emoluments were not provided for in the Act these persons ever refused to accept the transfer and that is why this has been done. If that is so, this is a slur on the judiciary themselves.

I want some clarification in this matter. Now it is provided in this Bill that when he is transferred and if in that particular court he serves for five

years he cannot be permitted to practise there. But what about the original High Court where he was appointed? Suppose, he has not served there for five years. Now there is a ban. Whether after the transfer he will be permitted. If he is not transferred and he works for the full term in that particular High Court, are you going to permit him also to practise in that particular High Court? Is any change going to be made in that respect?

It is said, they are not welcoming transfers. It is known that persons having a good practice also decline to

take up appointments as High Court Judges because after retirement they do not get the opportunity to practise in that High Court. In conclusion, I think, this is not a good precedent that we should go on raising the retirement age of High Court Judges like this. I hope, the Joint Committee will take this matter into consideration with all its implications.

18 hrs.

The Lok Sabha then adjourned till Twelve of the Clock on Monday, December 10, 1962/Agrahayana 19, 1884 (Saka).

[Saturday, December 8, 1962/Agrahayana 17, 1884(Saka)]

COLUMNS

ORAL ANSWERS TO
QUESTIONS . . . 4917-23

S.N. 2.No. S bjct

8 Economic aid from U.S.S.R.
for the Third Five Year Plan 4917-189 C.P.I. Chairman's travel
abroad. . . 4918-23

PAPERS LAID ON THE TABLE 4923-24

A Copy each of the following
Orders under sub-section (6)
of section 3 of the Essential
Commodities Act, 1955:—

- (i) The Rice (Madhya Pradesh) Price Control (Second Amendment) Order, 1962 published in Notification No. G.S.R. 1632 dated the 29th November, 1962. . .
- (ii) The Madhya Pradesh Rice Procurement (Levy) Amendment Order, 1962 published in Notification No. G.S.R. 1633 dated the 29th November, 1962
- (iii) The Rice and Paddy (Assam) Second Price Control Order, 1962 published in Notification No. G.S.R. 1635 dated the 30th November, 1962.

BILL PASSED 4929-64

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur) moved that the Delhi Motor Vehicles Taxation Bill be taken into consideration. The motion was adopted. After clause by-clause consideration the Bill, as amended, was passed.

COLUMNS

BILL REFERRED TO SELECT
COMMITTEE 4964-5012

The Minister of Shipping in the Ministry of Transport and Communications (Shri Raj Bahadur) moved that the Major Port Trusts Bill be referred to a Select Committee. The motion was adopted. . .

SUSPENSION OF RULE 5012-23

The Minister of Law (Shri A.K. Sen) moved for suspension of the first proviso of Rule 74 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for reference of the Constitution (Fifteenth Amendment) Bill to a Joint Committee. The motion was adopted. . .

MOTION TO REFER BILL
TO JOINT COMMITTEE 5023-70

The Minister of Law (Shri A.K. Sen) moved that the Constitution (Fifteenth Amendment) Bill be referred to a Joint Committee. Shri Tyagi moved an amendment to the motion for reference. Another amendment for circulation of the Bill for public opinion was moved by Shri Tridit Kumar Chaudhuri. The discussion was not concluded. . .

AGENDA FOR MONDAY,
DECEMBER 10, 1962/
AGRAHAYANA 19,
1884 (SAKA)

Discussion on the motion
re: Border situation result-
ing from invasion of India
by China. . .