



Monday,  
1st August, 1955

# PARLIAMENTARY DEBATES

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## HOUSE OF THE PEOPLE

### OFFICIAL REPORT

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# LOK SABHA

Monday, 1st August, 1955

*The Lok Sabha met at Eleven of the Clock*

[MR. SPEAKER in the Chair]

## ORAL ANSWERS TO QUESTIONS

### खोये हुये कागज

\*२७५. श्री एम० एल० द्विवेदी : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि वायु सेना की ६१ फाइलें तथा हुलिया चित्र (माडल डिस्क्रिप्शन) एकलपि डिपो संख्या २, बम्बई में खो गये थे और उनमें से कुछ रही बचने वालों के वहां मिले हैं ;

(ख) यदि हां, तो क्या इस घटना के सम्बन्ध में सरकार द्वारा कोई जांच की गई है अथवा की जा रही है ;

(ग) क्या शेष खोई हुई फाइलों के लिये कोई खोज की गई है, यदि हां, तो उसका क्या परिणाम हुआ ; और

(घ) इन फाइलों के खो जाने का दायित्व किन व्यक्तियों पर है, और उनको क्या दंड दिया गया है ?

रक्षा उपसचिव (सरदार मजीठिया) :

(क) भारतीय वायुसेना के एकलपि डिपो संख्या २, बम्बई से ६१ सविस डाकूमेन्ट्स अर्दली के कमरे से खो गये थे। उनमें कोई फाइलें या भारतीय वायु सेना के हुलिया-चित्र (माडल डिस्क्रिप्शन) नहीं थे। इन ६१ डाकूमेन्ट्स में से ६० प्राप्त कर लिये गये हैं (जिनमें १५ तो पूरी तथा ४५ अधूरी या खराब हालत में थे)।

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(ख) जी, हां। इस घटना के बारे में एक जांच की गई है।

(ग) बाकी डाकूमेन्ट्स को प्राप्त करने के लिये भी कोशिश की गई, पर कोई नतीजा नहीं निकला।

(घ) जांच अदालत ने तीन नान कमीशण्ड अफसरों को इन डाकूमेन्ट्स के खो जाने के लिये जिम्मेदार ठहराया है। इन्हें क्या सजा दी जाये, इस पर गौर किया जा रहा है।

श्री एम० एल० द्विवेदी : इस प्रकार से यह ध्यान रखने के लिये कि कहीं आगे और फाइलें या कागजात गुम न हो जायें, क्या मावधानी बरती जा रही है ?

सरदार मजीठिया : उन के खो जाने का कारण यह था कि जो इन्स्ट्रक्शंस लिख कर रखी गई हैं अर्दली के कमरे में वह पूरी तरह से फॉलो नहीं की जा रही थीं। मगर अब फिर उन को प्रकाशित किया गया है और उम्मीद है कि आगे कोई ऐसी बारदात नहीं होगी।

श्री एम० एल० द्विवेदी : जो एक फाइल और जो दूसरी फाइलों के कागजात अभी तक भी गुम हैं, क्या उनके प्राप्त होने की कोई आशा है, यदि है, तो किस तरह से।

सरदार मजीठिया : जैसा कि मैं अभी अपने जवाब में बताया कि कोशिश अब भी की जा रही है मगर उन के प्राप्त होने की उम्मीद कम है।



**Shri T. S. A. Chettiar :** May I know what punishment was given to the staff responsible for the loss of these documents?

**Sardar Majithia :** I have already stated that the question as to what punishment is to be given is still under consideration.

**Shri T. S. A. Chettiar :** Is it not a matter where quick action is necessary?

**Mr. Speaker :** I am going to the next question.

### National Sample Survey

\*277. **Shri Eswara Reddi :** Will the Minister of Finance be pleased to state:

(a) whether any employment survey was recently undertaken in Andhra under the National Sample Survey;

(b) whether the survey has been completed; and

(c) if so, the results thereof?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):**

(a) Attention of the hon. Member is invited to the reply given to Starred Question No. 149 in the Lok Sabha on 24.2.1955. As stated therein, the survey of the extent of employment in India has been integrated with the Ninth Round of the National Sample Survey which commenced by the middle of May, 1955. This survey covers the whole of the Indian Union and thus Andhra will be automatically included in the coverage.

(b) The field work in connection with the survey is expected to be completed by October, 1955.

(c) Since the survey is still in progress, the results are not yet available.

**Shri Eswara Reddi :** May I know whether the survey is being conducted in rural areas also?

**Shri B. R. Bhagat :** Yes Sir.

**Shri Nanadas :** May I know whether this survey is a comprehensive one covering industrial labour, agricultural labour, educated and uneducated?

**Shri B. R. Bhagat :** In the Ninth Round the scope of the survey has been extended so as to include the collection of statistical data on employment, unemployment, intensive study of small-scale industries, and other vital statistics. I cannot say definitely, but I think these vital statistics may include the information which the hon. member has in mind.

**Shri Nanadas :** Pending a decision, may I know what steps Government have taken to relieve the serious unem-

ployment problem, especially among the weavers and ex-toddy tappers in Andhra State?

**Mr. Speaker :** I think the question is something different from what is here.

### हिन्दी पाठ्य पुस्तक (रीडर)

\*२८०. **श्री नवल प्रभाकर :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि अहिन्दी भाषा-भाषी व्यक्तियों के लिये एक हिन्दी पाठ्य पुस्तक तैयार करने का विचार है; और

(ख) यदि हां, तो यह पाठ्य पुस्तक कब तक तैयार हो जायेगी?

शिक्षा मंत्री के सभासचिव (डा० एम० एम० दास) : (क) हां, जी।

(ख) चूंकि पाठ्य पुस्तक तैयार करने का वास्तविक कार्य अभी तक हाथ में नहीं लिया गया है इसलिये कोई तिथि नहीं दी जा सकती।

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूं कि इस रीडर को तैयार करने का कार्य किस को सौंपा जायेगा?

**Dr. M. M. Das :** At present Government has decided to select two thousand basic Hindi words which will be used uniformly in these primers. After the selection of these two thousand basic Hindi words, the actual work of preparation of these primers will be taken up.

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूं कि जिन शब्दों को चेंज किया जा रहा है उसमें श्री यह जो साधारण रीडर है उसमें क्या फर्क आ गया है?

**Dr. M. M. Das :** There will be no difference; but it was thought proper and expedient to select two thousand basic Hindi words which will be used uniformly in all these primers.

**श्री एम० एल० द्विवेदी :** मैं जानना चाहता हूं कि यह जो प्राइमर तैयार हो रही

है इसके प्रतिरिक्त और भी सीरीज तैयार की जायेगी या प्राइमर तक ही इस काम को हाथ में लिया जायेगा ?

**Dr. M. M. Das :** At first let us prepare the primers ; then the consideration of other things will come.

**सेठ गोविन्द दास :** क्या माननीय मंत्री जी को मालूम है कि जहां तक अहिन्दी क्षेत्रों का सम्बन्ध है वहां तो दक्षिण भारत हिन्दी प्रचार सभा और राष्ट्र भाषा प्रचार सभा, वर्धा, यह दोनों संस्थाएँ बहुत काल से इस विषय में कार्य कर रही हैं, और क्या इन पाठ्य पुस्तकों को तैयारों में इन सभाओं की सेवाएँ प्राप्त की जायेंगी या इन से परामर्श किया जायेगा ?

**Dr. M. M. Das :** The Secretary of the Dakshina Bharat Hindi Prachar Sabha is a member of our Hindi Siksha Samiti, and in the meeting of that Samiti, the Secretary of the Sabha, Shri M. Satyanarayana, who is a Member of the Upper House, himself proposed that the selection of two thousand basic Hindi words should be done first. And he himself said that the has selected four thousand words, and another six hundred words were taken from the book *Achhi Hindi* of the Nagari Hindi Prachar Sabha. And these four thousand and six hundred words have been circulated to the members of the Hindi Siksha Samiti and State Governments for their comments.

**Shri Chattopadhyaya :** May I know whether any well-known Hindi writers will be engaged in writing these primers ?

**Dr. M. M. Das :** We are busy in selecting these two thousand basic words. This question mentioned by the hon. Member will be taken up afterwards.

### Storage Accommodation

\*281. **Shri Gidwani :** Will the Minister of Defence be pleased to state :

(a) whether the attention of Government has been drawn to the recommendation against Serial No. 4 of Appendix I to the Ninth Report (Vol. II) of the Public Accounts Committee regarding provision of adequate arrangements for the proper storage of bulk of the Defence Stores ;

(b) if so, how much covered accommodation has been constructed for the purpose during 1953-54 and 1954-55 ; and

(c) what was the amount of loss of goods due to their being kept in the open, exposed to the inclemencies of the weather during the year 1950-51 to 1954-55 respectively ?

**The Minister of Defence (Dr. Katju) :**  
(a) Yes.

(b) During 1953-54 11,20,239 sq. ft. and during 1954-55 17,42,711 sq. ft.

(c) The information is not available, as no statistics are separately maintained for losses due to inclemencies of weather in respect of stores kept in the open.

**Shri Gidwani :** May I know the total value of the stores lying with the Defence Department and how much of it is under covered accommodation ?

**Dr. Katju :** It is a very difficult to say : I cannot give that information.

**Shri Gidwani :** Is it a fact that at an engineering stores depot the total stores were worth Rs. 20 crores out of which stores worth Rs. 2½ crores were under covered accommodation and the rest, namely stores worth Rs. 17½ crores, were stocked in the open, exposed to sun and rain ?

**Dr. Katju :** My hon. friend is so well informed !

**Mr. Speaker :** He wants to be satisfied about the correctness of it.

**Dr. Katju :** I shall have these figures checked up.

**Shri Gidwani :** Will it not be more economical to provide covered accommodation for all the stores, as the loss for want of covered accommodation will be much more than compensated by the provision of covered accommodation ?

**Dr. Katju :** I may say at once that we are making the utmost efforts to provide the maximum covered accommodation for these stores, and this matter is being fully considered in the second Five Year Plan. It will require a large sum to provide this accommodation, many many crores.

**Shri Kamath :** Arising out of the answer to part (c) of the question, am I to understand that the Defence Ministry maintains no records with regard to loss or damage sustained by exposure of stores to inclement weather ?

**Dr. Katju :** It maintains complicated records. Losses are calculated under different heads, but I cannot spell out under this particular head.

**Shri Kamath :** It is strange, very strange indeed.

### National Defence Academy

\*282. **Dr. Ram Subhag Singh:** Will the Minister of Defence be pleased to state the percentage of personnel selected for the Military Wing of the National Defence Academy and the corresponding Officers Training Establishments for the Navy and Air Force from amongst the Other Ranks and J.C.O.s or those of similar categories?

**The Minister of Defence (Dr. Katju):** 10 per cent of the available seats at the Military College, Dehra Dun and at the Air Force Colleges [G.D. (Pilots') Branch] and 12 1/2 per cent in the naval training establishments are reserved for the serving personnel.

**Dr. Ram Subhag Singh:** May I know whether the percentages fixed for taking trainees from other ranks in the National Defence Academy at Dehra Dun and corresponding other training establishments for the Navy and Air Force are completed?

**Dr. Katju:** They are always full.

**श्री भक्त वरुण :** क्या यह सत्य है कि जो अफसर सेना में पहिले से ही नीचे पदों पर काम कर रहे हैं, वे काफी अनुभवी होते हैं और क्या इसलिये गवर्नमेंट इस बात की आवश्यकता महसूस नहीं करती कि इस प्रतिशत को १० से बढ़ा कर ३०, ४० तक कर दिया जाये ?

**डा० काटजू :** मैं इस पर गौर करूंगा ।

**Shri Matthen:** May I know if the Defence Academy is getting all their cadets through U.P.S.C. selection? If not, what are the ways used for selecting them?

**The Minister of Defence Organisation (Shri Tyagi):** They are selected by the the U.P.S.C. first.

**Shri Matthen:** Are they getting all they want through the U.P.S.C.?

**Dr. Katju:** I am sorry. They are selected from the personnel. Selection is by the Selection Board.

**Shri Matthen rose—**

**Mr. Speaker:** I am going to the next question.

### Rifle Training

\*283. **Shri Jhulan Sinha:** Will the Minister of Home Affairs be pleased to lay a statement on the Table of the House showing:

(a) the names of the States which have accepted the scheme for impart-

ing rifle training to civilians and have introduced the same in their areas; and

(b) the number of trainees that have joined the course, State-wise so far?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) and (b). A statement showing the requisite information in respect of the States from whom replies have so far been received is laid on the Table of the House. [See Appendix III, annexure No. 2]

Information in respect of other States will be laid on the Table of the House when received.

**Shri Jhulan Sinha:** May I know the area covered by these figures in the States in which these schemes have been introduced?

**Shri Datar:** It is rather too early to indicate the area which has been covered. Still preliminary attempts are going on in certain States and after some time, we shall be able to know the exact area.

**Shri Jhulan Sinha:** What I wanted to know was the time when this scheme was introduced in the three States where it has been introduced, figures for which have been given in the statement.

**Shri Datar:** All the information that we have received has been summarised in the note placed before the House. Government have no additional information on this point at this stage.

**Shri Ramachandra Reddi:** May I know whether the promised supply of 22 bore rifles has been made to those States which have undertaken to organise rifle training there?

**Shri Datar:** Government are going to loan rifles for the purpose of use in those States which are prepared to undertake this scheme.

**Shri Shivananjappa:** May I know whether any money is allocated for publicising this training either in the first or the second Five Year Plan?

**Shri Datar:** So far as the question of popularisation is concerned, no money has been allotted. A resolution was passed by this House and that is being sent to the State Governments for implementation.

**Shri S. C. Samanta:** May I know whether over and above the State schemes, any all-India schemes are being carried out?

**Shri Datar:** We have no all-India schemes as such. We carry on the schemes through the State Governments. In India we are also helping to some extent the All-India Rifle Association.

### मँगनीज की खानें

\*२८६. श्री रघुनाथ सिंह : क्या प्राकृतिक संसाधन और वैज्ञानिक गवेषणा मंत्री यह बताने की कृपा करेंगे कि क्या यह सच है कि झम्बाला में एक मँगनीज की खान का पता अभी हाल में चला है ?

प्राकृतिक संसाधन मंत्री (श्री के० डी० मालवीय) : जी, नहीं ।

श्री रघुनाथ सिंह : क्या इस एरिया में कोई सर्वेक्षण हुआ है ?

श्री के० डी० मालवीय : जी हाँ, जिम्नोलॉजिकल सर्वे आफ इंडिया द्वारा पिछले सालों में जी सर्वेक्षण हुआ है, उससे यह सूचना प्राप्त हुई है कि झम्बाला में किमी मँगनीज की खान का पता नहीं लगा है ।

### Lead

\*287. **Shri Nanadas**: Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) whether it is a fact that large deposits of lead have recently been found in Almora District of Uttar Pradesh; and

(b) if so, what is the extent of the find and the estimated, quantity of lead in the belt ?

**The Minister of Natural Resources (Shri K.D. Malaviya)**: (a) and (b). A statement giving the required information is laid on the Table of the House. [See Appendix III, annexure No. 3].

**Shri Nanadas**: From the statement it appears that the investigations are still going on. May I know since when the investigations have been carried on and how long it will take to complete them ?

**Shri K. D. Malaviya**: The investigations have been going on for a number of years—about two years. Mapping of the area has been undertaken and the systematic sampling of the ores that have been found there has been completed. Now, the chemical analysis will be undertaken. We will then be able to give the information required. The question of exploitation will arise only after that.

**Shri Nanadas**: May I know the number of technical personnel engaged in these investigations ?

**Shri K. D. Malaviya**: I cannot give that information off hand.

**Shri Nanadas** : May I know the percentage of lead content in the ore found there ?

**Shri K. D. Malaviya**: I have just said that the chemical analysis of these samples will now be undertaken and the quantitative estimate can only be given after the chemical analysis of these samples has been done.

श्री भक्त दर्शन : क्या मैं जान सकता हूँ कि अभी तक जो जांच-पड़ताल की गई है, उसके आधार पर क्या यह कहा जा सकता है कि वहाँ पर सीसा पर्याप्त मात्रा में मिल जायेगा और इस विषय में आगे कार्यवाही की जा सकेगी ?

श्री के० डी० मालवीय : जो इन्वेस्टीगेशन हुई है, उससे आशाजनक सूचनाएँ प्राप्त हुई हैं । सूचना है कि करीब करीब एक मील से ज्यादा लम्बी और दो सौ गज चौड़ी जगह में सीसे का ओर ( ore ) मौजूद है, लेकिन वह किस जगह कितना है, इसका पता अभी नहीं लगा है ।

### Scheduled Tribes

\*288. **Shri Subodh Hasda** : Will the Minister of Home Affairs be pleased to state whether it is a fact that a large amount remained unspent during 1954-55, out of the total amount sanctioned by the Government of India as grant-in-aid for executing various development schemes in West Bengal for the welfare of the Scheduled Tribes ?

**The Deputy Minister of Home Affairs (Shri Datar)** : Out of a grant of Rs. 11.56 lakhs sanctioned by the Government of India during the year 1954-55 the State Government spent Rs. 9.36 lakhs.

**Shri Subodh Hasda** : May I know the schemes in which the major sum is spent ?

**Shri Datar** : The schemes are education, agriculture, irrigation, public health and aid to voluntary organisations.

**Shri S. C. Samanta** : May I know why about Rs. 2 lakhs was not spent as there is so much necessity for water supply and other things in West Bengal ?

**Shri Datar** : The amount that was not spent was in respect of the heads—health centres and training cum production centres, and the amount could not

be spent on account of lack of personnel, land and materials.

सरदार ए० ए० सहगल : क्या मैं जान सकता हूँ कि कौन कौन सी ऐसी स्टेट्स हैं, जिनको जो सालाना ग्रांट दी जाती है, उसको वे खर्च नहीं कर सकतीं ?

श्री डातार : यह बड़ा प्रश्न है। यहाँ तो केवल वेस्ट बंगाल का प्रश्न है।

**Shrimati Renu Chakravarty :** In answer to the question, the hon. Minister has said that the reason why this money was unspent was lack of personnel for health services and training cum production centres. May I know if there is a rule that even health centres themselves have to be manned by Scheduled Tribes, or is it that these centres are meant for Scheduled Tribes ?

**Shri Datar :** They are meant for Scheduled Tribes.

#### University Certificates of Displaced Persons

"289. **Shri Bhagwat Jha Azad :** Will the Minister of Education be pleased to state :

(a) whether any agreement has been reached with the Government of Pakistan for obtaining duplicate copies of certificates from the Universities in lieu of the originals lost by the displaced persons during the disturbances ; and

(b) if so, the procedure adopted in this connection ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) and (b) A statement is laid on the Table of the House. [See Appendix III, annexure No. 4].

**Shri Bhagwat Jha Azad :** May I know whether Government have got any information as to the number of persons who have suffered due to the loss of the original certificates ?

**Dr. M. M. Das :** I have got no definite number here, but I can say that the Government of India have received complaints often, and the number will be large.

**Shri Bhagwat Jha Azad :** May I know the fee prescribed for the applications ?

**Dr. M. M. Das :** It is the usual fee that we have to give along with our applications for duplicates of our certificates from the universities.

**Shri Bhagwat Jha Azad :** By what time do Government expect that this agreement will be ratified by the Government of Pakistan ?

**Dr. M. M. Das :** We have ratified the agreement on 23rd June, 1955, but we have not received the reciprocal ratification by the Government of Pakistan ; we expect that ratification very soon.

#### परिसीमन आयोग

\*२६०. श्री भक्त दर्शन : क्या बिबि मंत्री ११ मार्च १९५५, को दिये गये तारांकित प्रश्न संख्या ७३१ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) क्या परिसीमन आयोग ने अपना कार्य समाप्त कर दिया है; और

(ख) यदि नहीं, तो कब तक समाप्त होने की आशा है ?

**The Minister of Law and Minority Affairs (Shri Biswas) :** (a) and (b). The Commission has practically completed its work. Only the final order concerning Uttar Pradesh remains to be made, and I understand that the Commission will be signing it in a day or two. Very likely it has been signed already.

श्री भक्त दर्शन : क्या मंत्री महोदय को याद है कि ३० नवम्बर, १९५४ को इस सभा में जवाब देते हुये उन्होंने कहा था कि इस आयोग का काम फरवरी, १९५५ तक समाप्त हो जायेगा। उसके बाद ११ मार्च १९५५ को उत्तर देते हुये कहा था कि यह कार्य मई के अन्त तक समाप्त हो जायेगा, और अब वह कहते हैं कि कुछ दिनों के अन्दर समाप्त हो जायगा। मैं जानना चाहता हूँ कि इतनी देरी होने का क्या कारण है ?

**Shri Biswas :** There were various reasons, such as waiting for associate members who were not available for consultation etc. We need not go into the reasons, now that the work is practically over.

### Excavations in West Bengal

\*291. **Shri S. C. Samanta** : Will the Minister of Education be pleased to state:

(a) whether Government are aware that a Tank Improvement Officer of the West Bengal Government discovered a thousand year old stone image of Ganesh while re-excavating a tank at Bagdiing Police Station Gazole, Malada, West Bengal; and

(b) if so, whether Government propose to send a party to make some archaeological excavations near about the place where the image was found?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das)** (a) and (b) Yes, Sir.

**Shri S. C. Samanta** : May I know where the image is at present being preserved?

**Dr. M. M. Das** : Malda museum.

**Shri S. C. Samanta** : May I know whether the details about the image produced by Shri J.N. Ganguly, Professor of History at Malda, have been received by the Central Government?

**Dr. M. M. Das** : We have received a description of the image but I do not know what history of the image can be given unless investigation is made.

**Shri S. C. Samanta** : It was stated that the description of the image is available at the hands of the Ministry. May I know whether it is an *ashtabhuja* image or a *chaturbhuja* image?

**Mr. Speaker** : I think we need not go into these details.

### Gorkhas

\*292. **Shri Rishang Keishing** : Will the Minister of Home Affairs be pleased to state :

(a) the number of villages, inhabited by Gorkhas in Manipur State and their total population there;

(b) whether the Gorkha Community is treated as a Backward Community in Manipur; and

(c) the measures undertaken by Government for their uplift?

**The Deputy Minister of Home Affairs (Shri Datar)** (a) The number of villages inhabited by Gorkhas in Manipur State is 6 and their population according to 1951 census is 2620.

(b) No.

(c) Since they are not treated as a Backward Community, no special steps have been taken for their uplift.

**Shri Rishang Keishing** : Is it not a fact that in Assam the Gorkha community has been classified as a backward community, and if so, why should not the Gorkha community in Manipur also be treated as a backward community?

**Shri Datar** : The best course is to await the recommendations of the Backward Classes Commission, and to see whether they are prepared to recommend this community as a backward community.

**Shri Rishang Keishing** : Am I to understand that the Backward Classes Commission is giving its attention to the case of the Gorkhas in Manipur?

**Shri Datar** : The Backward Classes Commission have given attention to all the claimants for consideration as backward communities.

**Shri Rishang Keishing** : In view of the extreme backwardness of the Gorkhas in Manipur, may I know whether Government will give their immediate and special attention for the educational uplift of the Gorkhas?

**Shri Datar** : In view of the fact that they were not recognised as backward, no special attention has been given to them, and as I stated, the question will be considered in case they are recommended to be treated as a backward class by the Backward Classes Commission.

**Shri B. S. Murthy** : What are the conditions for a community being declared as a backward community?

**Shri Datar** : The hon. Member will have full opportunity of knowing the conditions and the enumerations also.

### General Elections

\*295. **Shri Kamath** : Will the Minister of Law be pleased to state when the next General Elections to Parliament and the State Assemblies are likely to be held?

**The Minister of Law and Minority Affairs (Shri Biswas)** : It is much too early to say now when the elections are likely to be held.

**Shri Kamath** : Is it probable or possible that the time-schedule for the next general elections will be largely conditioned by the report of the States Reorganisation Commission, as the hon. Home Minister is reported to have said recently?

**Shri Biswas** : Nothing can be said definitely until and unless the report of the States Reorganisation Commission is received and is considered by Government.

**Shri Kamath :** Is it a fact that the Election Commission has recommended simultaneous elections to the Lok Sabha and to the State Legislative Assemblies, and simultaneous dissolution of these bodies, except those of Andhra, Travancore-Cochin and PEPSU?

**Shri Biswas :** Various proposals have been made by the Election Commissioner, and they are being considered by Government. I do not think it will be right for me now to disclose what those proposals are.

**Shri Kamath :** By what approximate date do Government expect to take a decision in this matter?

**Shri Biswas :** I have said it is too early now to give a final reply.

### Smuggling in Arms

\*296. **Sardar Iqbal Singh :** Will the Minister of Home Affairs be pleased to state:

(a) the number of cases of smuggling in arms between India and Pakistan detected during 1954-55 and upto the 1st June, 1955;

(b) the steps taken to check it, and

(c) the type of arms smuggled?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) to (c). The information has been called for from the Governments of the States concerned and will be placed on the Table of the House in due course.

**Sardar Iqbal Singh :** May I know whether Government are aware of the fact that some arms are being smuggled from Pakistan to India?

**Shri Datar :** Government have made enquiries in this very behalf.

### Income-tax Officers

\*297. **Shri Bogawat :** Will the Minister of Finance be pleased to state:

(a) whether retired Income-tax Officers are allowed to practice on the Income-tax side;

(b) the number of retired Income-tax Officers practising in the Income-tax Department at present; and

(c) whether Government propose to frame rules as regards their practice and pensions etc.?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah) :** (a) Yes, Sir,

(b) Information is being collected and will be placed on the Table of the House.

(c) The matter is already under the consideration of the Government of India.

**Shri Bogawat :** May I know whether these retired income-tax officers practising on the income-tax side are likely to influence the officers before whom they practice, and whether the State is at a loss owing to this reason?

**Shri M. C. Shah :** They are not likely to influence the income-tax officers, but then as I said the matter is under consideration whether they should be allowed to practise or not.

**Shri Bogawat :** Are Government aware that these retired officers practise at the very place where they were officers before?

**Shri M. C. Shah :** Yes, it is so in some cases.

### प्राकृतिक संकट में सहायता

\*२९८. **श्री लक्ष्मीधर जैना :** क्या वित्त मंत्री सभा-पटल पर एक विवरण रखने की कृपा करेंगे कि जिसमें यह दिखाया गया हो कि १९५४-५५ में बाढ़ तथा भूनाश वृष्टि से पीड़ित राज्यों को वित्तीय सहायता के रूप में सरकार ने कितनी राशि दी?

**वित्तमंत्री के सभा सचिव (श्री बी० धार० भगत) :** मांगी गयी सूचना एक विवरण के रूप में सभा पटल पर रख दी गयी है। [बेलिय परीक्षित ३, अनुबन्ध संख्या ५]

**श्री लक्ष्मीधर जैना :** क्या मंत्री जी यह बताने की कृपा करेंगे कि वह राशि किस किस राज्य को किस किस मात्रा में दी गयी है, और जो राशि लोगों को दी गयी है क्या वह बतौर कर्ज के दी गयी है?

**Mr. Speaker :** The first part of his question is, what is the State-wise disbursement of these funds. What is the second part?

**Shri Gidwani :** Whether it is loan or grant.

**Shri B. R. Bhagat :** The statement contains all details asked for.

**डा० राम सुभाष सिंह :** हिन्दी में कहिये।

**श्री बी० धार० भगत :** विवरण में सारी बातें दी गयी हैं।



**Shri Bishwa Nath Roy:** In view of the serious condition owing to floods in East Uttar Pradesh, may I know whether Government propose to give immediate help to that part of Uttar Pradesh?

**Shri B. R. Bhagat:** Government will consider it, as soon as the request comes from the State Government.

### Special Marriage Act.

\*399. **Shri B. C. Das:** Will the Minister of Law be pleased to state:

(a) the names of the States which have so far framed rules under the Special Marriage Act, 1954; and

(b) whether in certain States marriages are still being registered under the previous Act and the rules made thereunder?

**The Minister of Law and Minority Affairs (Shri Biswas):** (a) and (b). The information is being collected from the State Governments and will be laid on the Table of the House in due course.

**Shri B. C. Das:** Are Government aware that certain marriages are being registered in the State of Orissa under the Old Special Marriage Act which has been repealed?

**Shri Biswas:** I do not know what the hon. Member means by saying 'are being registered'. They cannot be solemnised except under the new Act. But so far as rules, for instance rules relating to payment of fees etc. are concerned, the rules have not been framed in all the States. But under section 24 of the General Clauses Act, so long as no new rules are framed, the old rules remain in force. These rules relate to unimportant matters or minor matters of procedure and so on. But the solemnization of the marriage must take place in accordance with the provisions of the new Act, and if that is not done, the marriage will not be valid.

**Shri B. C. Das:** Am I to understand that marriages registered under the old rules will be valid?

**Shri Biswas:** Mere registration in the register is not a vital part of the transaction.

### हिन्दी एन्साईक्लोपीडिया

\*३०३. **श्री नवल प्रभाकर :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि सरकार नागरी प्रचारणी सभा, बनारस द्वारा एक हिन्दी एन्साईक्लोपीडिया संकलित कराने का विचार रखती है; और

(ख) यदि हां, तो इस प्रयोजन के लिये इस संस्था को कितनी वित्तीय सहायता देने का विचार है ?

**शिक्षा मंत्री के सभासचिव (डा० एम० एम० दास) :** (क) हां, जी।

(ख) यह विषय विचाराधीन है।

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूँ कि इस प्रकार के और कितने विश्व कोष हैं, एन्साईक्लोपीडिया हैं, जो तैयार हो रहे हैं ?

**Dr. M. M. Das:** There are two encyclopaedias which the Government have decided to prepare. One is being entrusted to the Nagari Pracharini Sabha, Banaras; this encyclopaedia will be in ten volumes of 500 pages each. Another encyclopaedia under the name of *Gyansarovar* is being prepared under the auspices of the Government of India.

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूँ कि यह जो एन्साईक्लोपीडिया हैं, उनमें अब तक कितना काम हो चुका है और कब तक यह पूर्ण हो सकेगी ?

**Dr. M. M. Das:** So far as this encyclopaedia which will be entrusted to the Nagari Pracharini Sabha, Banaras, is concerned, negotiations are going on and the final decision entrusting this work to the Nagari Pracharini Sabha has not yet been taken.

**सेठ गोबिन्द दास :** इन दोनों विश्व कोषों में जो कि नागरी प्रचारणी सभा, बनारस द्वारा बनवाया है और दूसरा जो सरकार स्वयं बना रही है, क्या अन्तर होगा और जहां तक नागरी प्रचारणी सभा के कोष का सम्बन्ध है, वहां क्या नागरी प्रचारणी सभा ने कोई योजना सरकार के सामने रखी है कि उसमें कितना खर्चा होगा और क्या उस पर कोई विचार किया गया है ?

**Dr. M. M. Das :** The two encyclopaedias will be of different standards. The encyclopaedia, the preparation of which will be entrusted to the Nagari Pracharini Sabha, will consist of ten volumes of 500 pages each. That will be of a higher standard. The people's encyclopaedia, under the name of *Gyansarovar*, will be for ordinary literate persons. I mean



those who have been educated up to the middle standard. That will be of five volumes of 300 pages each. So far as the Nagari Pracharini Sabha is concerned, at the instance of the Government, the Sabha submitted a scheme to the Central Government. This scheme involved an expenditure of about Rs. 22 lakhs. It was a very ambitious scheme. Now, an expert committee was appointed by the Central Government. That committee considered the proposal of the Nagari Pracharini Sabha and it decided that we should not prepare an encyclopaedia of such a high magnitude, at present.

### Cost Accounting System

\*304. **Shri Gidwani** : Will the Minister of Defence be pleased to state :

(a) whether there is a proposal to introduce the system of Cost Accounting in respect of proper evaluation and accounting of jobs executed in the Naval Dock yards; and

(b) if so, when the system is expected to be introduced ?

**The Minister of Defence Organisation (Shri Tyagi)** : (a) and (b). The system of cost accounting was introduced in the Naval Dockyard in 1949 and is being enforced since then.

**Shri Gidwani** : How many works have been undertaken during the years 1953-54 and 1954-55 by the Naval Dockyard and for how many cases, estimates were prepared ?

**Shri Tyagi** : It requires collection of a lot of information from the dockyard. I am sorry I am not in a position to give a ready reply.

### Air Force Academies

\*305. **Dr. Ram Subnag Singh** : Will the Minister of Defence be pleased to state :

(a) whether it is a fact that it is proving difficult for instructors and other staff attached to the Air Force academies to maintain the high standards set for flying personnel because of the trainees, progressively diminishing knowledge of English; and

(b) if so, what action Government propose to take in the matter ?

**The Deputy Minister of Defence (Sardar Majithia)** : (a) and (b). It is correct that a certain amount of difficulty is being experienced in imparting instructions at the Air Force Academies due to a lower standard of English in the civil schools now.

This however is being overcome by giving cadets extra coaching in English. Ultimately this difficulty will disappear when Hindi replaces English as the medium of instruction.

For this the Air Headquarters are compiling a list of technical terms in Hindi.

**डा० राम सुभाष सिंह** : मंग्रेजी के स्थान में हिन्दी को माध्यम बनाने के लिये वायु सेना के विद्यालय में क्या किया जा रहा है ?

**Sardar Majithia** : I have already said that a list is being compiled in Air Headquarters of the technical terms in Hindi.

**डा० राम सुभाष सिंह** : मंत्री महोदय ने पहले बतलाया था कि उस विद्यालय के शिक्षा का स्तर नीचे गिरता चला जा रहा है, तो क्या यह सही है कि वहाँ के शिक्षकों को हिन्दी की जानकारी अभी नहीं है ?

**Sardar Majithia** : As I said, a certain amount of difficulty is being experienced in imparting instructions. But I strongly controvert the suggestion that the standard of instruction is going down. That is not the case. As I said, those cadets who are a bit weak in English get extra coaching in English to bring themselves up to standard.

**Shri Chattopadhyaya** : May I know whether this factor has in any way influenced, or rather in any way been the cause of, some of the accidents that have recently taken place ?

**Sardar Majithia** : No. This has nothing to do with that.

### तिब्बती छात्र

\*३०७. **श्री भक्त बर्षान** : क्या शिक्षा मंत्री २३ मार्च, १९५५ को पूछे गये तारांकित प्रश्न संख्या १४१४ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) क्या भारत की विभिन्न शिक्षण संस्थाओं में अध्ययन करने वाले तिब्बती छात्रों के सम्बन्ध में तब से कोई सूचना एकत्र कर ली गई है ; और

(ख) यदि हाँ, तो उसका व्यौरा क्या है ?

शिक्षा मंत्री के समासचिव (डा० एम० एम० दास) : (क) सूचना अभी तक तैयार नहीं हुई है क्योंकि कुछ विश्वविद्यालयों और राज्य सरकारों से अभी रिपोर्टों का अंतर्जात है ।

(ख) प्रश्न उत्पन्न नहीं होता ।

श्री भक्त दर्शन : वैसे तो कारण मंत्री महोदय ने बता दिया है, लेकिन मैं जानना चाहता हूँ कि इसमें इतनी विशेष देरी होने का कारण क्या है ? आखिर गवर्नमेंट की इतनी बड़ी मशीनरी क्या इतनी सूचना भी एकत्रित नहीं कर सकती थी ?

Dr. M. M. Das : As soon as we received notice of this question during the last session we sent a circular letter to all the Universities and State Governments of this country but unfortunately all the replies from all the State Governments and Universities have not yet reached us. We have sent reminders to them and we hope to receive all the replies soon.

श्री भक्त दर्शन : क्या कोई एक ऐसी तिथि निश्चित की जा सकती है जब कि यह संख्या प्राप्त होने की आशा की जाय ?

Dr. M. M. Das : It is not possible for me to give the exact date as to when the State Governments and Universities will send their replies.

شکشا تنہا پروکرتک سسلسالہ  
ویکیانک کوشنا مفتی (مولانا آزاد)  
ہم یونیورسٹیوں کو اور اسٹیٹ  
گورنمنٹوں کو لکھ سکتے ہیں  
اور کیا کر سکتے ہیں -

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad) : We can only address the Universities and State Governments. What else can we do ?]

### Smuggling

\*309. Sardar Iqbal Singh : Will the Minister of Finance be pleased to state the total value of diamonds, rubies and jewellery seized at air and sea ports during 1955-56 so far ?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha) : A statement showing the total value of diamonds, rubies and jewellery seized at air and sea ports by the Customs authorities during the months April—June 1955 is laid on the Table of the Lok Sabha. [See Appendix III, annuexure No. 6].

Sardar Iqbal Singh : May I know whether the gold detectors installed at the airports have proved successful in detecting gold ?

Shri A. C. Guha : Gold detectors have proved successful in detecting some of these things. But I cannot say how many of these seizures were the result of the use of gold detectors. We have not got that break-up.

Sardar Iqbal Singh : May I know whether gold detectors will also be installed at other air and sea ports where smuggling of gold and jewellery goes on ?

Shri A. C. Guha : Wherever necessary, the gold detector is being used by the customs officers.

### ज्ञान गंगा (एन्साईक्लोपीडिया)

\*३११. श्री नवल प्रभाकर : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) ज्ञान गंगा (एन्साईक्लोपीडिया) के अब तक कितने खण्ड प्रकाशित हो चुके हैं; और

(ख) किस तिथि तक सारे खण्ड छप कर तैयार हो जायेंगे ?

शिक्षा मंत्री के समासचिव (डा० एम० एम० दास) : (क) अभी तक ज्ञान सरोवर (ज्ञान गंगा नहीं) का कोई खंड नहीं छपा है ।

(ख) यह अनुमान किया जाता है कि ज्ञान सरोवर पांच खंडों में दिसम्बर १९५६ तक तैयार हो जायेगा ।

श्री नवल प्रभाकर : क्या मैं जान सकता हूँ कि इस पर जो रिपोर्ट दी गई थी उस में इस का नाम ज्ञान गंगा था और उस के बाद उस का नाम परिवर्तित कर दिया गया ?

Dr. M. M. Das : Sir, it was though proper that the name should be *Gyan-sarovar*.

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूँ कि गत वर्ष इसी प्रश्न का उत्तर देते हुये माननीय मंत्री ने बताया था कि इसका एक वाल्यम अब शीघ्र छपने वाला है और इस एक वर्ष के अन्दर इतनी ही प्रगति हुई है कि अब भी यह छपने वाला ही है ?

**Dr. M. M. Das :** Sir, I may submit that the first volume of this encyclopaedia *Gyansarvar* is in the press and the printing has nearly been completed. We expect that the first volume will come out by the end of this month.

**श्री नवल प्रभाकर :** क्या मैं जान सकता हूँ कि यह सारा कब तक छप जायेगा ?

**Dr. M. M. Das :** By the end of 1956.

**Shri Chattopadhyaya :** May I know the scope of this encyclopaedia and the subjects it covers?

**Dr. M. M. Das :** I have given in reply to a former question the scope of the encyclopaedia that it is meant for people who have been educated up to the middle standard. And, so far as the subjects are concerned, I have got a long list; it covers practically all the subjects of common knowledge beginning from the evolution of the earth, mankind, history of mankind, nations etc.

**सेठ गोविन्द दास :** इस ज्ञान सरोवर की तैयारी पर कितना रुपया खर्च होगा और कौन लोग इस की तैयारी कर रहे हैं ?

**Dr. M. M. Das :** The estimated expenditure will be about Rs. 1,80,000 and the Makhtuba Jammia is doing the preliminary editing work.

#### Rural Higher Education Committee

**\*312. Dr. Ram Subhag Singh :** Will the Minister of Education be pleased to refer to the reply given to Starred Question No. 162 on the 24th February, 1955 and state :

(a) whether Government have considered the Report of the Rural Higher Education Committee ; and

(b) if so, whether the recommendations made therein have been accepted ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das) :** (a) and (b). The Government of India are examining the Report of the Rural Higher Education Committee.

**डा० राम सुभाग सिंह :** कब तक इस का एग्जामिनेशन पूरा होगा ?

**Dr. M. M. Das :** Copies of the report were sent to the institutions visited by the Rural Higher Education Committee and also to the State Governments to study the report and send their detailed and specific proposals with regard to the improvement of this type of education. Now we are expecting their comments.

#### Central Finger Print Bureau

**\*314. Sardar Iqbal Singh :** Will the Minister of Home Affairs be pleased to refer to the reply given to Starred Question No. 1405 on the 28th September, 1954 and state whether Government have since implemented the decision to establish a central Finger Print Bureau ?

**The Deputy Minister of Home Affairs (Shri Datar) :** 'Not yet'. Efforts are being made to find out suitable accommodation for the establishment of this institution.

I may add that they are trying to get accommodation in Hyderabad and if successful, the institute will be established by November.

**Sardar Iqbal Singh :** May I know whether Government is aware of the fact that Phillaur which is situated in the Punjab has the best Finger Print Bureau in all the States, and will Government consider the question of Phillaur in locating the institute ?

**Shri Datar :** Sir, I did not follow the hon. Member.

**Mr. Speaker :** Will the hon. Member repeat the question ?

**Sardar Iqbal Singh :** May I know whether Government will consider the case of Phillaur where the Finger Print Bureau of the Punjab Government is situated to raise this bureau to the status of the Central Finger Print Bureau ?

**Shri Datar :** The Central Bureau will be established for the use of all the States in India and it will be established at a central place as far as possible.

**Sardar Iqbal Singh :** Is Hyderabad a central place ?

**Shri Datar :** Hyderabad is a fairly central place ?

**Shri Nanadas :** May I know the States in which we have not got Finger Print Bureaus at present ?

**Shri Datar :** There are only few States which have got a Bureau and that is the reason why we are proposing to have a Central Institute for all.

### Watch Oils

\*276. **Shri Punnoose :** Will the Minister of Defence be pleased to state :

(a) whether it is a fact that a new process for the manufacture of watch oils has been evolved at the Technical Development Establishment at Kanpur ;

(b) if so, whether Government propose to utilize the process in the manufacture of watch oils in their own factories for civilian consumption; and

(c) if not, how the data regarding the new process is proposed to be utilised ?

**The Minister of Defence Organization (Shri Tyagi) :** (a) Yes. The composition developed is still under practical trials.

(b) and (c). When the trials succeed, the question will be examined whether this is to be utilised to establish indigenous production with private trade or in the Ordnance Factories.

### National Defence Academy

\*283. **Shri S. C. Samanta (on behalf of Shri Ibrahim) :** Will the Minister of Defence be pleased to state :

(a) whether any woman cadet has so far been admitted to the National Defence Academy, Dehra Dun ; and

(b) the number of male cadets who completed their training during 1954-55 in this Academy ?

**The Minister of Defence (Dr. Katju) :** (a) No, Sir.

(b) 404.

**Shri S. C. Samanta :** May I know whether there is any provision for female candidates being taken in ?

**Dr. Katju :** There is a statutory bar.

### Bombay Police Act

\*293. **Chaudhuri Muhammed Shaffee :** Will the Minister of Home Affairs be pleased to state :

(a) whether Government are examining the possibilities of enforcing the Bombay Police Act in Delhi State ; and

(b) if so, when it is likely to be enforced ?

**The Deputy Minister of Home Affairs (Shri Datar) :** (a) No.

(b) Does not arise.

I may add for the information of the hon. Member that some sections of the

Bombay Police Act are going to be made applicable for the maintenance of efficiency of traffic.

### Hindustan Aircraft Limited

\*306. **Shri S. C. Samanta (on behalf of Shri Ibrahim) :** Will the Minister of Defence be pleased to state the value of production in the Hindustan Aircraft Ltd., Bangalore and the cost of the repair work done in that Factory for Government (Civil and Military separately) aircrafts during 1954-55 ?

**The Deputy Minister of Defence (Sardar Majithia) :** Value of Production work done

For Civil—Rs. 1,82,24,000/-

For Defence—It would not be in public interest to disclose the figure.

Repair work done—

Civil—Rs. 26,28,500/-

Defence—Rs. 1,04,42,322/-

**Shri Barman :** May I know the value of the aircraft that is produced in this factory ?

**Sardar Majithia :** As I have already stated, so far as aircrafts for defence are concerned, it will not be in public interest to disclose the figure.

**Shri Barman :** May I know the proportionate value of the parts that are imported for these and other aircrafts and the value of those parts that are made in the country ?

**Sardar Majithia :** I require notice for that.

**Shri Kamath :** Has the Hindustan Aircrafts Ltd. started the manufacture of aero-engines and, if so, what progress has been made in this direction ?

**Sardar Majithia :** It has not started manufacturing aero-engines.

**Shri Nanadas :** Question 308.

**Mr. Speaker :** Has the Hon. Member got authority ?

**Shri Nanadas :** No, Sir.

**Mr. Speaker :** Then he cannot ask the question.

### Insurance Companies

\*313. **Shri S. C. Samanta (on behalf of Shri Ibrahim) :** Will the Minister of Finance be pleased to lay a statement on the Table of the House showing:

(a) the number of Insurance Companies taken over by the Government during 1953-54 and 1954-55 respectively;

(b) the reasons for taking them over;

(c) how they are managed now ; and

(d) the amount spent by Government on their management?

**The Minister of Revenue and Civil Expenditure (M. C. Shah):** (a) to (d). A statement is laid on the Table of the House. [See Appendix III, annexure No. 7 ].

**Shri S. C. Samanta :** May I know how the balance-sheets of these government-managed companies compare with the balance-sheets of the ordinary insurance companies ?

**Shri M. C. Shah :** As a matter of fact, when insurance company is taken over, an administrator is appointed and effort is made to get a report from the administrator about amalgamating that insurance company with any other good insurance company. Therefore, it is not possible to tell the hon. Member how this works out. As a matter of fact we are just trying to bring down the cost of administration and the expense ratio and if possible, to amalgamate with other good insurance companies. All these insurance companies were taken over by the administrator because their expenditure ratio was very high and there was mismanagement.

**Shri S. C. Samanta :** May I know how many such insurance companies have been taken over and been amalgamated by Government ?

**Shri M. C. Shah :** We have taken over in all ten companies and administrators have been appointed. Some of the companies have been amalgamated. In Mysore an insurance company has been amalgamated with the Prithwi Insurance Co. Madras. The business of the National Mercantile Insurance Company has been transferred to the Mercantile Insurance Company Ltd., and some others have been ordered by the court to be taken to liquidation.

**Shri S. C. Samanta :** As regards my first supplementary question I want to know whether the expenditure that is being incurred by the Government is in any way more or less comparable with other ordinary insurance companies.

**Shri M. C. Shah :** The Government does not spend anything on the administration. The administrator's pay comes out of the funds of the insurance companies. As a matter of fact, we have taken over these companies in order to bring them under good management and to bring down the expenditure ratio. So, it takes some time to bring about these results.

**Shri M. S. Gurupadaswamy :** Just now the Minister said that the insurance companies are taken over by Government to bring down the expenditure

ratio and also to bring about good management. Is it true that after the Jupiter and Empire of India Insurance Companies were taken over by Government and after some years of government management and control the expenditure has increased and the business has also suffered ?

**Shri M. C. Shah :** The expenditure has not increased, rather, the Empire of India Insurance Company is showing good results after it was taken over by the administrator. With regard to the Jupiter Insurance Company also because if is general insurance business there are certain difficulties. Otherwise the expenditure ratio has already been brought down and mismanagement has been replaced by good management.

**Shri M. S. Gurupadaswamy :** May I know how far the expenditure has been cut down in these two companies after they had been taken over by Government ?

**Shri M. C. Shah :** I would refer the hon. Member to the balance sheets already published.

**Mr. Speaker :** I think 308 is an important question and it should be answered.

#### Scheduled Castes and Scheduled Tribes

\*308. **Shri P. N. Rajabhoj :** Will the Minister of Home Affairs be pleased to state whether the Scheme for providing Housing facilities to Scheduled Castes and Scheduled Tribes submitted by the Commissioner for Scheduled Castes and Tribes has been included in the Second Five Year Plan ?

**The Deputy Minister of Home Affairs (Shri Datar):** The Commissioner for Scheduled Castes and Scheduled Tribes has made certain general proposals which are at present under consideration.

**Shri Nanadas :** May I know whether the Planning Commission also is considering this question ?

**Shri Datar :** The Commissioner for Scheduled Castes and Scheduled Tribes has made a recommendation that Rs. 10 crores should be reserved for the housing of Harijans in the Second Five Year Plan. This matter will go to the Planning Commission as early as possible.

**Shri B. S. Murthy :** May I know whether the recommendations made by the Commissioner have been communicated to the State Governments and if so, whether the State Governments have given their own opinion on the recommendations ?

**Shri Datar :** The State Governments have to be informally consulted and they can only agree then.

**Shri L. Bacharan:** What is the proposal to provide house sites to those who have no sites at present?

**Shri Datar:** Under the scheme as proposed, the house sites have to be given by the State Governments. They have to give some material also and out of the amount that the Centre will give, half will be by way of subsidy and the other half as loan.

## WRITTEN ANSWERS TO QUESTIONS

### अम्बाला छावनी बोर्ड

\*२७८. डा० सत्यवादी : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार को अम्बाला छावनी बोर्ड का यह प्रस्ताव मिला है जिसमें बोर्ड के ग्राम चुनाव कराने के सम्बन्ध में निश्चय किया गया है; और

(ख) यदि हां, तो सरकार का इस सम्बन्ध में क्या कार्यवाही करने का विचार है ?

रक्षा उपमंत्री (सरदार मजीडिया) :

(क) जी हां ।

(ख) चूंकि अम्बाला छावनी के चुनाव में पहले ही देर हो गई है, इसलिये २५ अगस्त, १९५५ को चुनाव कराने का फैसला किया गया है ।

### Andaman Islands

\*२८४. **Shri Krishnacharya Joshi:** Will the Minister of Home Affairs be pleased to state:

(a) the steps that Government propose to take to improve further the conditions in the Andaman and Nicobar Islands on the basis of the Hejmadi Report; and

(b) the main problems discussed and the proposals made in the said Report?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) With a view to improve conditions in the Andaman and Nicobar Islands, a Conference of the Ministries concerned was held to consider ways and means of implementing the suggestions made by Shri Hejmadi after his visit to the Andaman Islands during March 1955. Copies of the minutes of the

meeting have been sent to the various Ministries and the Chief Commissioner, Andaman and Nicobar Islands for necessary action and for reporting the progress made. Another meeting, at which the Chief Commissioner will also be present, is likely to be held in the near future.

(b) The main problems discussed and proposals made were :

- (1) Improvement of communication with the mainland and within the Islands.
- (2) Cottage Industries, Forests, Fisheries etc.;
- (3) Survey of minor ports; and
- (4) Clearance of forest land and colonisation.

### Ruler of Dholpur

\*२९४. **Shri P. N. Rajabhoj:** Will the Minister of Home Affairs be pleased to state:

(a) whether the report of the Committee appointed by Government for determining the person to be recognised as the Ruler of Dholpur has been submitted; and

(b) if so, what are the findings?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) Not yet.

(b) Does not arise.

### L. A. S./I. P. S.

\*३००. **Shri N. Rachiah:** Will the Minister of Home Affairs be pleased to state:

(a) the number of I.A.S. and I.P.S. officers appointed so far in Mysore State after integration; and

(b) the number of I.A.S. and I.P.S. officers transferred from Mysore State to other States or the Central Government?

**The Deputy Minister of Home Affairs (Shri Datar):** (a)

I.A.S. . . . 52 of whom 9 have retired or died

I.P.S. . . . 22 of whom 2 have retired.

(b) No I.A.S. / I.P.S. officer has been permanently transferred from the Mysore Cadre either to another State Cadre or to Central Government. Four (4) I.A.S. and two (2) I.P.S. officers from Mysore are however on tenure deputation to the Central Government.

### अम्बाला छावनी \*

\*३०१. डा० सत्यवादी : क्या रक्षा मंत्री १८ मार्च, १९५५ को पूछे गये तारांकित प्रश्न संख्या १२२६ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि क्या असैनिक क्षेत्र को अम्बाला छावनी से अलग करने का प्रस्ताव समाप्त कर दिया गया है ?

रक्षा उपमंत्री (सरदार मजीठिया) : जी, नहीं। अलग करने का प्रश्न चुनाव के बाद लिया जायेगा, जब कि नये बने हुये बोर्ड की पाय मिल सकेगी।

### हिन्दी सम्बन्धी प्रादेशिक समितियाँ

\*३१०. श्री कुप्पलराय जोशी : क्या शिक्षा मंत्री यह बताएँगे कि कृपा करेंगे कि :

(क) अहिन्दी भाषा-भाषी राज्यों में हिन्दी प्रचार के कार्य की समीक्षा के लिये नियुक्त की गई चार प्रादेशिक समितियों ने अब तक क्या कार्य किया है; और

(ख) क्या इन समितियों में कोई प्रारम्भिक प्रतिवेदन प्राप्त हुआ ?

शिक्षा तथा प्राकृतिक, संसाधन और वैज्ञानिक गवेषणा मंत्री (मीलाना भाजाब) :

(क) समितियों का कार्य अभी तक प्रारम्भिक अवस्था में है।

(ख) नहीं, जी।

### Collapse of Tank

126. Dr. Satyawadi: Will the Minister of Defence be pleased to refer to the reply given to part (b) of Starred Question No. 1072 on the 13th December, 1954 and state:

(a) whether the enquiry into the causes of collapse of the tank constructed at Sabathu has been completed; and

(b) if so, the result thereof?

The Minister of Defence Organization (Shri Tyagi): (a) Yes.

(b) Investigations revealed that the causes of failure were:

(i) abnormal rainfall and the appearance of water springs in the hillside close to and underneath the reservoir;

(ii) over-optimism in design in that the factor of safety for friction between concrete and clay was taken at too high a figure and sufficient provision was not made against sliding in soil of this nature. The cause of the failure was not in any way connected with bad workmanship on the part of the Contractor. Fallen panels have now been raised and action is in hand to make good the damages.

### Central Secretariat Service

127. Dr. Satyawadi: Will the Minister of Home Affairs be pleased to refer to the reply given to Unstarred Question No. 567 on the 20th September, 1954 and state the steps taken to raise the number of Scheduled Caste persons in each grade of the Central Secretariat Service so as to bring it up to the percentage reserved for them ?

The Deputy Minister of Home Affairs (Shri Datar): The only two grades of the Central Secretariat Service to which appointments are made by direct recruitment, as distinguished from promotions, are Grades III and IV. For Grade III a proportion of vacancies to be filled on the result of a departmental examination held by the Union Public Service Commission has been reserved for Scheduled Castes and Scheduled Tribes candidates. Similarly, a proportion of vacancies in the same grade to be filled on the results of the Combined Competitive Examination held by the Union Public Service Commission, has also been reserved for such candidates.

2. For Grade IV, i.e., the grade of Assistant, the Union Public Service Commission has been requested to arrange for a special selection of 100 Scheduled Caste and Scheduled Tribes candidates. An examination open to such candidates only is accordingly being held by the Commission. Another examination for recruitment of 100 Assistants open to all communities will be held by the Commission in November. 25 out of the 100 vacancies to be filled from this examination are also reserved for Scheduled Castes and Scheduled Tribes candidates.

### Indian Investments in Pakistan

128. Shri Tulsidas: Will the Minister of Finance be pleased to state:

(a) whether the attention of Government has been drawn to the difficulties experienced by Indian Investors in Pakistan regarding the repatriation of their capital and transferring the profits to India; and

(b) if so, the steps proposed to be taken in the matter?



**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) Yes Sir.

(b) Government are taking necessary action. The difficulties in question have been brought to the notice of the Government of Pakistan and their reply is awaited.

### Statistical Quality Control Courses

**129. Dr. Rama Rao:** Will the Minister of Finance be pleased to state:

(a) whether a statistical quality control course was recently run at Bangalore?

(b) if so, by whom;

(c) whether any foreign agencies helped in running the course; and

(d) the purpose of the course?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) Yes, Sir.

(b) By the Quality Control Association, Bangalore.

(c) The U. S. A. Technical Co-operation Mission in India helped by lending for exhibition two films entitled "Textile Unlimited" and "Industrial Production Control" and one of its members gave a lecture to the classes on "Installation of Statistical Quality Control in Industry".

(d) The course was run in order to give training to technical personnel engaged in industry in the methods of statistical quality control with particular emphasis on the use of control charts as a method applicable in the day to day production of factories.

### Central Secretariat Staff

**130. Shri D. C. Sharma:** Will the Minister of Home Affairs be pleased to state:

(a) the number of Matriculates working as peons in the Central Secretariat for more than a year as on the 30th of June, 1955; and

(b) whether there is any proposal to promote such persons who have worked for more than three years, as Daftries?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) 33.

(b) No.

### दिल्ली पुलिस

**१३१. डा० सत्यबाबी :** क्या गृह-कार्य मंत्री यह बताने की कृपा करेंगे कि :

(क) दिल्ली पुलिस में विभिन्न पदों पर अनुसूचित जातियों के कितने व्यक्ति हैं

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और प्रत्येक प्रकार की श्रेणी में वे कुल कितने प्रतिशत हैं; और

(ख) पिछले वर्ष कितने काम्सटेबल तथा सब-इन्स्पेक्टर भर्ती किये गये और उन में से कितने हरिजन थे ?

**गृह-कार्य उपमंत्री (जी बातार) :**

(क) पद संख्या प्रतिशतता

(१) सहायक सब-इन्स्पेक्टर १ २१

(२) डेड काम्सटेबल १४ ९९

(३) फुट काम्सटेबल २५८ ३.३

(४) चतुर्थ-श्रेणी कर्म-चारी गण २४८ ४३.१

(ख) पद संख्या हरिजन-संख्या

(१) काम्सटेबल १२६८ ४४

(२) सहायक सब-इन्स्पेक्टर १२ १

### National Sample Survey Organisation's Staff

**132. Shri Raghavaiyah:** Will the Minister of Finance be pleased to state:

(a) the total number of gazetted and non-gazetted staff in the Department of National Sample Survey and their categories;

(b) the number under each category who were brought under new grades in October, 1953; and

(c) the reasons for not upgrading the rest of the staff?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) There are, 39 gazetted and 1,125 non-gazetted sanctioned posts in the Directorate of National Sample Survey. A statement showing different categories of these posts is appended. [See Appendix III, annexure No. 8].

(b) A statement showing the number under each category of staff who were brought under new grades in October 1953 is appended. [See Appendix III, annexure No. 8].

(c) All the posts mentioned in Statement I with the exception of 298 posts of investigators who are on fixed rates of pay are now on regular scales of pay. As



regards investigators, prior to October, 1953, they were all on an *ad hoc* pay of Rs. 75/- p.m. It was then decided that a grade of Rs. 100—5—120—8—160 would be offered to a certain number of these investigators by selection: this scale of Rs. 100—160 is thus treated as a selection grade for the investigators, all of whom cannot claim the scale automatically.

### Central Social Welfare Board

133. **Shri Gidwani:** Will the Minister of Education be pleased to state:

(a) the total amount spent during 1955-56 by the Central Social Welfare Board upto the 30th June, 1955; and

(b) the number of Welfare Extension Projects started during the same period?

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** (a) Rs. 25,59,193/7/9.

(b) 43.

### Military Schools

134. **Dr. Ram Subhag Singh:** Will the Minister of Defence be pleased to lay a statement on the Table of the House showing:

(a) the number of students at the Prince of Wales Military College, Dehra Dun at present from each State; and

(b) the number of cadets at each of the King George Military Schools, Nowgong, Ajmer, Belgaum and Bangalore from each State?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). A statement is laid on the Table of the House. [See Appendix III, annexure No. 9].

### Foreign Companies

135. **Shri Ibrahim:** Will the Minister of Finance be pleased to lay on the Table of the House a statement containing:

(a) a list of all subsidiaries of British and American Companies (separately) operating in India; and

(b) a list of all subsidiaries of American Companies operating in India?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) and (b). Statements giving the required information as far as available with Government are placed on the Table of the House. [See Appendix III, annexure No. 10].

### Scheduled Tribes

136. **Shri Ibrahim:** Will the Minister of Home Affairs be pleased to state the amount spent for the welfare of schedule

Tribes and Aborigines during 1954-55 as compared to 1953-54?

**The Deputy Minister of Home Affairs (Shri Datar):** A statement showing the information in respect of States for which it is available is placed on the Table of the House. [See Appendix III, annexure No. 11]. Information in respect of other States will be laid on the Table of the House in due course.

### Imported Milk Products

137. **Shri Ibrahim:** Will the Minister of Defence be pleased to state the value of imported tinned milk, tinned butter and tinned cheese supplied to the Forces during 1954-55?

**The Deputy Minister of Defence (Sardar Majithia):** The value of tinned milk imported and supplied to the Forces for 1954-55 is Rs. 27,08,358/-. Import of tinned butter has been discontinued as this item is now produced in the country. No Import of tinned cheese was made during 1954-55 as surplus stocks from previous year were available.

### Zoological Survey of India

138. **Shri Bishwa Nath Roy:** Will the Minister of Natural Resources and Scientific Research be pleased to state whether it is a fact that some tiny shrimp-like creatures were found at Banaras and Monghyr by the Scientists of the Zoological Survey of India some time ago?

**The Minister of Natural Resources (Shri K. D. Malaviya):** Yes, Sir.

### Youth Camps

139. **Shri Gadilingana Gowd:** Will the Minister of Education be pleased to state:

(a) the number of Youth Camps organised in the Andhra State and the nature of work done;

(b) the amount spent thereon;

(c) the average expenditure incurred per head per day; and

(d) whether the expenditure is commensurate with the work done by these students?

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** (a) During 1955-56, sanctions for 34 youth camps were accorded for undertaking manual service like construction of road, repair of tanks, digging of irrigation canals etc. in case of boys' camps and for conducting environmental hygiene in case of girls' camps.

(b) Rs. 1,56,467/-.

(c) Average expenditure is at the rate of Rs. 1/12/- per head per day for food and incidentals.

(d) Reports of the work done are awaited.

#### Industrial Finance Corporation

140. **Shri Gadilingana Gowd:** Will the Minister of Finance be pleased to state:

(a) the number of applications received up-to-date from Andhra State for aid from the Industrial Finance Corporation;

(b) the amounts sanctioned therefor and

(c) the amounts received by them so far?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) Seven.

(b) and (c). Only two companies were sanctioned loans of Rs. 4 lakhs and Rs. 43 lakhs respectively. While the company which was sanctioned Rs. 4 lakhs did not avail of it, the other company availed of only Rs. 12 lakhs.

#### National Sample Survey

141. **Pandit D. N. Tiwary:** Will the Minister of Finance be pleased to state:

(a) the number of places selected for National Sample Survey in Bihar;

(b) the number of places among them where the work has been completed; and

(c) the special features of the result of the Survey carried out so far?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) A total number of 192 sample villages and 72 urban blocks situated in 42 towns and cities in Bihar have been selected for the survey for the current round i.e. ninth round of the National Sample Survey.

(b) The Survey work in 49 samples (both rural and urban) was completed upto the end of June, 1955.

(c) The results have not yet been published, as the survey is still in progress.

#### Tribal Welfare

142. **Shri Rishang Keishing:** Will the Minister of Home Affairs be pleased to state:

(a) whether it is a fact that the Assam Government sets apart a sum of Rs. 20 lakhs out of the grants made by the Central Government for the welfare of the tribals in the Autonomous Districts for payment of

grants to non-Government organisations doing welfare work amongst the Scheduled Tribes in 1954-55;

(b) if so, the name of such institutions which have received the grants; and

(c) the nature of the welfare work done and the District in which they are doing it?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) A sum of Rs. 1,83,200/- was distributed among non-Government organisations during 1954-55.

(b) and (c). A statement is placed on the Table of the House. [See Appendix III, annexure No. 12].

#### Lotteries

143. **Shrimati Ila Palchoudhury:** Will the Minister of Home Affairs be pleased to state whether any Lotteries were organised either by the Central or the State Governments during the Year 1954-55?

**The Deputy Minister of Home Affairs (Shri Datar):** No.

#### Estate Duty

144. **Shri Viswanatha Reddy:** Will the Minister of Finance be pleased to state the allocations made to State Governments out of the revenue realised from the Estate Duty?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** The revenue realised from Estate Duty in 1954-55 is Rs. 84,30,815 including estate duty on agricultural land. The duty realised in respect of agricultural land is payable entirely to the States in which the agricultural land is situated. The net proceeds of estate duty on property other than agricultural land are being provisionally distributed on the basis of the States' share of Income-tax. The proportion in which distribution is made to the various States on this basis, after deducting 2.75% of the net proceeds which is the share attributable to Part 'C' States, are as shown in Appendix III, annexure No. 13.

A total amount of Rs. 58,98,000 including duty on agricultural land was actually credited to the State Governments' accounts in the year 1954-55. The figures State-wise are given in Appendix III, annexure No. 13.

#### Manganese Mines

145. **Shri D. C. Sharma:** Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) the number of manganese mines in India and the names of the States where these are situated; and

(b) whether production of manganese in India has increased or decreased since the termination of the Second World War?

**The Minister of Natural Resources (Shri K. D. Malaviya):** (a) and (b). A statement giving the required information is attached. [See Appendix III, annexure No. 14]:

#### Visits to U.S.S.R.

**146. Shri D. C. Sharma:** Will the Minister of Finance be pleased to lay on the Table of the House a statement showing:

(a) the number and designations of the Government Officials who have visited U.S.S.R. in 1955 so far;

(b) the purpose of such visits; and

(c) the total expenditure incurred on them?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) to (c). The information is being collected and will be laid on the Table of the House as soon as available.

#### Central Social Welfare Board

**147. Shri N. Rachiah:** Will the Minister of Education be pleased to state:

(a) the total amount of financial aid granted to different institutions in Mysore State by the Central Social Welfare Board during 1955-56 so far;

(b) the number and names of organisations to which this aid has been given;

(c) the extent of aid given to each of them; and

(d) the number of organisations which applied for aid and the number of applications which have been rejected.

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** (a) Rs. 1,68,700/-

(b) and (c) the information is given in the enclosed statement. [See Appendix III, annexure No. 15].

(d) *Number of applications*

Received	Rejected
111	30

# LOK SABHA DEBATES

## (Part II—Proceedings other than Questions and Answers)

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### LOK SABHA

Monday, 1st August, 1955

*The Lok Sabha met at Eleven of the Clock*

[MR. SPEAKER in the Chair]

### QUESTIONS AND ANSWERS

(See Part I)

11-53 A.M.

### PAPERS LAID ON THE TABLE

SUMMARY OF BUDGET ESTIMATES OF REVENUE AND EXPENDITURE OF AIR INDIA INTERNATIONAL CORPORATION FOR 1955-56.

The Minister of Communications (Shri Jagjivan Ram): I beg to lay on the Table a copy of the summary of the budget estimates of Revenue and Expenditure of the Air India International Corporation for the year 1955-56, under sub-rule (5) of rule 3 of the Air Corporation Rules, 1954 [See Appendix III, annexure No. 16]

### NOTIFICATION UNDER INSURANCE ACT, 1938

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): I beg to lay on the Table a copy of the Ministry of Finance Notification No. S.R.O. 901, dated the 26th April, 1955, under sub-section (2) of section 2C of the Insurance Act, 1938. [Placed in Library. See No. S-229/55]

### LEAVE OF ABSENCE

Mr. Speaker: The Committee on Absence of Members from the Sittings of the House in its Tenth Report has

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recommended that leave of absence may be granted to the following Members for the periods indicated in the Report: (1) Rt. Rev John Richardson (2) Shri N. C. Chatterjee (3) Shri Rohini Kumar Chaudhuri (4) Shri Tridib Kumar Chaudhuri (5) Dr. N. B. Khare (6) Shri B. Shiva Rao (7) Shrimati Ila Palchoudhuri (8) Shri C. P. Mathew (9) Shri Sofi Mohd. Akbar. I take it that the House agrees with the recommendations of the Committee.

Several Hon. Members: Yes.

Leave was granted.

Mr. Speaker: The Members will be informed accordingly.

### ELECTION TO COMMITTEE

#### PUBLIC ACCOUNTS COMMITTEE

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

"That the Members of this House do proceed to elect in the manner required by sub-rule (3) of rule 242 of the Rules of Procedure and Conduct of Business in Lok Sabha, one Member from among their number to serve on the Committee on Public Accounts for the unexpired portion of the year 1955-56 vice Shri V. V. Giri resigned."

Mr. Speaker: The question is:

"That the Members of this House do proceed to elect in the manner required by sub-rule (3) of rule 242 of the Rules of Procedure and Conduct of Business in Lok Sabha, one Member from among their number to serve on the Committee on Public Accounts for the unexpired portion of the

[Mr. Speaker]

year 1955-56 vice Shri V. V. Giri resigned."

*The motion was adopted.*

Mr. Speaker: I have to inform the House that the following dates have been fixed for receiving nominations and withdrawal of candidatures and for holding election, if necessary, in connection with the Committee on Public Accounts:

Date for nominations.	Date for withdrawal.	Date for election.
2-8-1955	3-8-1955	5-8-1955

The nominations to the Committee and the withdrawal of candidatures will be received in the Parliamentary Notice Office upto 4 P.M. on the dates mentioned for the purpose.

The election, which will be conducted by means of the single transferable vote, will be held in Committee Room No. 62, First Floor, Parliament House between the hours 11 A.M. to 1-30 P.M.

#### PRESS AND REGISTRATION OF BOOKS (AMENDMENT) BILL, 1952

The Minister of Information and Broadcasting (Dr. Keskar): I beg to move for leave to withdraw the Bill further to amend the Press and Registration of Books Act, 1867.

Mr. Speaker: The question is:

"That leave be granted to withdraw the Bill further to amend the Press and Registration of Books Act, 1867."

*The motion was adopted.*

Mr. Speaker: The Bill is therefore withdrawn.

#### PRESS AND REGISTRATION OF BOOKS (AMENDMENT) BILL, 1955

The Minister of Information and Broadcasting (Dr. Keskar): I beg to move for leave to introduce a Bill

further to amend the Press and Registration of Books Act, 1867.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Press and Registration of Books Act, 1867."

*The motion was adopted.*

Dr. Keskar: I introduce the Bill.

#### STATE BANK OF INDIA (AMENDMENT) BILL

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move for leave to introduce a Bill to amend the State Bank of India Act, 1955.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the State Bank of India Act, 1955."

*The motion was adopted.*

Shri A. C. Guha: I introduce the Bill.

#### PAPER LAID ON THE TABLE

STATEMENT GIVING REASONS FOR PROMULGATING THE STATE BANK OF INDIA (AMENDMENT) ORDINANCE.

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to lay on the Table a copy of the explanatory statement giving reasons for the immediate legislation by ordinance as required under rule 89(1) of the Rules of Procedure and Conduct of Business in Lok Sabha. (See Appendix III, annexure 24.)

#### INDIAN TARIFF (AMENDMENT) BILL, 1955

Mr. Speaker: Before we proceed to the usual business, I have to make a statement. The Indian Tariff (Amend-

ment) Bill, 1955, was passed by this House on the 26th July 1955. Under article 110 of the Constitution I have certified that this is a money Bill. When such a Bill is passed by the House, it is the duty of the Secretary of the House to transmit it to Rajya Sabha for its recommendation. It is provided in the Constitution that the Rajya Sabha shall, within a period of fourteen days from the date of receipt of the Bill, return it to the Lok Sabha with its recommendation. As hon. Members are aware, the Rajya Sabha is not yet in session and if the Bill is sent to that House immediately, the period of fourteen days will lapse before the Rajya Sabha meets on the 16th August 1955. I am, therefore, directing the Secretary of the House not to transmit the Bill to the Rajya Sabha immediately but to wait for some time so that the period of fourteen days does not terminate before the commencement of the session of the Rajya Sabha.

**Shri M. S. Gurupadaswamy** (Mysore): Can this be done? Can it be kept pending?

**Mr. Speaker:** It is not kept pending, but only the ministerial act of despatch from one House to the other is delayed or postponed. There is no time-limit fixed, but it is understood that there should be no delay as far as possible.

**Shri Raghavachari** (Penukonda): It is purely a matter of procedure—to send it by post or by communication. Where is actually the need for consent of the House for this?

**Mr. Speaker:** I cannot follow the argument of the hon. Member. What does he say?

**Shri Raghavachari:** The process of communication can be delayed to suit other consequences, but I do not know why the permission of the House is needed.

12 Noon

**Mr. Speaker:** I am not asking for any permission of the House. I am merely inviting the attention of the House to a certain act of my own.

taken on my own responsibility, so that Members may be aware as to how this Secretariat is functioning. If attention was not paid to this small matter at the time of transmission, the result would have been that fourteen days would have elapsed before the Rajya Sabha began their session.

The President would have certified the Bill and the Rajya Sabha would have had no occasion or opportunity of making its recommendation. The only course, therefore, was to hold over the despatch from one sector of this House to another sector. The interpretation has been—we are told by people conversant with law and experienced in law—that even when the Rajya Sabha is not in session, a Bill can be sent to the office of the Rajya Sabha, to its Secretary and if the Secretary receives the certified copy of the Bill, it is received by the Rajya Sabha. That is the difficulty and therefore, I wanted the Secretary not to remit the Bill immediately.

**Shri Kamath** (Hoshangabad): In order to obviate this difficulty, could not you have suggested to Government that this Bill should be taken up later in the session? Do not Government heed your advice?

**Mr. Speaker:** In fact they consult us; not that they do not; but sometimes it does not become possible and, to err is human.

**Shri Kamath:** That is quite clear now.

**Mr. Speaker:** If the hon. Member had waited for a minute, he would have heard my request. I was going to say that in future, Government should take care to so arrange its programme when the other House is not in session that a contingency of this type might not arise. The Secretary of the House is bound to transmit the Bill as soon as it is passed and is ready, unless he has directions from me to the contrary. I do not want to intervene and give directions every time but this time all have been taken unawares and so I thought I should

[Mr. Speaker]

give the direction and apprise the House of the situation.

Pandit K. C. Sharma (Meerut Distt.—South): I think it will amount to circumventing the rule.

Mr. Speaker: There is no rule; it is not a question of circumvention. The rules are meant for doing business and not for obstructing business.

# SPIRITUOUS PREPARATIONS (INTER-STATE TRADE AND COMMERCE) CONTROL BILL

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri Kanungo on the 29th July 1955:

"That the Bill to make provision for the imposition in the public interest of certain restrictions on inter-State trade and commerce in spirituous medicinal and other preparations and to provide for matters connected therewith, be taken to consideration."

Amendments printed on the second and other lists will be taken up. The time allotted is three hours of which 14 minutes has been taken up.

Shri Bogawat (Ahmednagar South): This Bill is very useful in those States where prohibition is made applicable.

[MR. DEPUTY SPEAKER in the Chair]

In the Bombay State, the Prohibition Act of 1949 is made applicable but there were a number of difficulties. You very well know that Bombay State is surrounded by other States and especially our district is surrounded by Hyderabad State and seven talukas are also surrounded by that State. A number of things are happening in those States. The distance to the outskirts of Bombay State from my district is only about eight miles; sometimes 15 or 20 miles. All the people who are addicted to drinking go to such places and either bring the wine to this State or they drink

enough there and thus want to foil the attempt of the Bombay Government.

I feel that several amendments are necessary in this Bill. For instance I can point out that in clause 3 sub-clause (1)(b) after the words "export from any State or transport from one place to another to sell any spirituous preparation for the purpose of its import into a prohibition State" the word 'consumption' should be there. It should be ".....for the purpose of importation or consumption in a prohibition State." The people in Hyderabad are selling liquor just on the border; on the borders liquor is consumed on a very large scale. So, the word 'consumption' should be there.

Similarly, I find that on page 3, lines 17 and 18 read: ".....building or enclosed space". Here, the word 'enclosed' should be taken out because even in the open space these articles are concealed. These things are concealed under a heap of cow dung. The people who prepare illicit liquor not only keep it in such places as are mentioned here but they keep it in lands also so that they will not be caught. They transport from one place to another. All these things are going on. So, I suggest that the word 'enclosed' should be omitted; similarly in line 21 also, this word should be taken out. The word 'land' should be substituted so that it will read: ".....space, land or vehicle....." These two things are very material in clause 8.

Then, if we go to sub-clause (d), in line 32, we find the words: "...arrest him and any other persons in the company." After the words 'any other person', we must put the words 'whom he believes to be an associate' because these associates are very much helpful to them. They not only assault the police officers or the prohibition officers but sometimes even kill them and so these associates are very dangerous people and these things are going on under their protection. So,



in order to protect the public workers or the officers or the Home Guards, it is very material that the words suggested by me should be inserted in clause (8) sub-clause (d).

Then I come to sub-clause (3) of clause 8 which empowers any officer of the prohibition or excise department to investigate certain offences. If we give all these powers to any officer and to every ordinary person of these departments, there is every likelihood that they would bring trouble to innocent people. These things are taking place. In order to avoid harassment and trouble to respectable people, it is quite essential that such enquiries should be made by officers not below the rank of a sub-inspector. So, in sub-clause (3), after the words "The State Government may empower any officer of the prohibition or excise department ....", the words "not below the rank of a sub-inspector" may be added. These words are very material in this section.

If we go to clause 9 we find that in line 8, it reads: ".....for the conduct of the business of the company, as well as the company....."

Now, it would be wrong on our part to prosecute any person who has no knowledge of, or with whose connivance or consent no act is done. There are sleeping partners in a company who know nothing about the activities of the company. We know there are several pharmacies and even pharmacies prepare some medicines. Supposing some mistake is committed by the active partner and no such licence is taken, then the other partners should not be held liable. Therefore, in order to save innocent people who are not at all a party to any such offence, the word "company" should be taken out and only those persons that are mentioned there—director, manager, secretary—should be held liable. But, other officers who are not active persons in the company should not be held liable. So, it is very material to take out the words "as well as the company".

Then I come to clause 10. This clause is not a good clause according to the law of jurisprudence. It will be wrong to prosecute a person in possession of spirituous preparations because he fails to account satisfactorily. Clause 10 reads like this:

"In trials under this Act, it may be presumed unless and until the contrary is proved....."

So, the burden of proof is thrown on the accused. It says:

".....that the accused has committed an offence under this Act or the rules made thereunder in respect of any spirituous preparations for the possession of which he fails to account satisfactorily."

Now, supposing by chance any person comes in possession of some spirit for the purpose of lighting a stove or something like that, then he is liable to be punished. Such a case did happen. One man was asked to light a stove or gas light. He was in possession of spirit and the owner was not there. The man concerned was caught and the innocent man was convicted because he had no knowledge of the crime. He was only told by the owner and for that the innocent person was convicted for two months and awarded some fine. Therefore, this burden of proof which is put under clause 10 is not according to the principles of jurisprudence. We know that several pharmacies also prepare many such medicines wherein there is alcohol and in such cases if the burden of proof is cast on the person in possession of such an article then it will be against justice and there would be too much harassment and trouble. It is also likely that the police would bring many innocent people into trouble.

The prohibition policy has done much for the poor people in our country. They are now saving the money which they used to spend uselessly. Nowadays we see that many families are becoming more and more happy though there is illicit preparation of liquor in several parts of the country where there is prohibition. In order



[Shri Bogawat]

to avoid this and also to avoid the several persons doing illegal business this Bill will be very helpful. I can tell this House that even doctors and other educated people in order to earn lakhs and lakhs prepare tinctures and make money. If educated people do this it is really a shameful act. It is shameful that in order to earn money they should deal in such article when the Government is trying to save people from such a vice. In my town there were several types of spirituous articles called दसीस, छत्तीस, बड़ताकोत and so on. There were a number of shops trading in these things. When the police took some step so as to arrest these people, these articles started disappearing.

Therefore, in the interest of the poor people and in the interest of the country, it is a very good thing that this important Bill is brought before this House. These tinctures and other spirituous articles were coming from Punjab to Bombay and they made lakhs and lakhs of rupees.

Shri D. C. Sharma (Hoshiarpur): From Punjab?

Shri Bogawat: You can make enquiries. When there was no such Bill all these things were going on and people not only drank these bad spirituous articles but there are instances where even death took place. Some people died on account of these bad drinks. You make enquiries and you will come to know that I am right.

Shri D. C. Sharma: I am only asking the hon. Member about the source of his information.

Mr. Deputy-Speaker: Order, order. There is no aspersion against Punjab. The hon. Member is only saying that some people in Punjab are trying to make as much money as possible by dealing in these spirituous articles. That is only what he said.

Shri Bogawat: That is the only intention. I never meant to say anything about the whole of Punjab. There are some people in Punjab who

send these articles to my State. My intention was only that and not beyond that.

Shri D. C. Sharma: What about Bombay?

Shri Bogawat: Bombay is doing much. Bombay has already done much and our Chief Minister is doing his best to see that prohibition is made effective. But, there are faithless people—I must say, 'traitors'—who, in order to fill their bellies, are doing all these things. If there were no such people prohibition would have been fully successful in Bombay State.

Without saying much, I offer these humble suggestions and I hope the hon. Minister will take into consideration what I have said and try to amend clause 8 and also clause 10.

Shrimati Sucheta Kripalani (New Delhi): Sir, I fully support this Bill which is now before the House because I consider that it has come not a day too early. There was a persistent demand on the part of the States where prohibition is in force that an all-India Act should be enacted, which would prevent inter-State traffic of liquor under the garb of legitimate trade. This kind of illegitimate trade has assumed fairly large proportions. Therefore, it is very necessary to pass such a Bill.

Now, in the States where prohibition is in force, there are two problems which are very serious for them: one is the problem of illicit distillation and sale and the second is the problem of manufacture and distribution of spirituous preparations, with high alcoholic percentage with a definite view to sell them as a beverage. As far as illicit distillation and sale is concerned, from our study it has been revealed that this problem is not a problem peculiar to prohibition areas. It is a problem in the wet areas also. This problem arises from the fact that people want to make profit. Just as people adulterate food in the same way illicit distillation goes on. In the

course of our enquiry it was revealed that at Calcutta which is not a dry area illicit distillation is going on on a fairly large scale. I consider that illicit distillation is a crime which has to be dealt with by the State as any other crime.

As far as the sale of spirituous preparations in the name of medicines and other things is concerned, this is a crime peculiar to the prohibition areas. Now, what are the difficulties that the States have to face in this connection? I would like to give you certain illustrations from the reports of some of the States. In Bombay, after the decision of the Bulsara case where the Supreme Court held that the restrictions placed by the Bombay Government were unreasonable and offended against the Fundamental Rights—article 19, the result was that there was a great rise in the manufacture of tincture, essence and all sorts of things like that. The figures are like this: In 1950, 24,643 lb., in 1951, 36,620 lb. and in 1952 it went up to 26 lakhs lb. So, you can see how in the name of legitimate trade dealers took advantage of the law.

Then, I have got here a report from Madras Government which makes very interesting reading. The Madras report reveals that liquor was sold in the garb of drugs, toilet preparations, culinary preparations, aerated water and other flavouring essences. Here is a very interesting case. The provisions of Prohibition Act of Madras do not apply to lawful consignment of liquor or intoxicating drugs carried through the Madras State. Taking advantage of that a company tried to sell liquor during Transit from Mysore to Travancore. I would like to read out to you the short report which is very interesting.

"Taking advantage of this provision (Section 17 of the Act) certain dealers in this State imported large quantities of spurious spirituous medicinal preparations manufactured in Mysore into the Travancore-Cochin State

through this State. The main object of this import was to sell such preparations in the Madras State on their way. For instance, a consignment of 4,000 lbs. of tinctures was seized by the Prohibition staff at Burliar, in the Nilgiris district in April, 1954. On verification it was found that the consignment was exported by one Sunder Chemicals, Bangalore to Ashok Stores, Trichur, through this State, by road. The export permit issued by the Excise Commissioner, Mysore, authorised the importers to take the consignment by road through this State. But the consignment in question was detained at Burliar on its way from Coimbatore to Ooty, i.e., the lorry was proceeding towards the opposite direction instead of from Ooty to Coimbatore. The Board was satisfied that this consignment was intended to be disposed of clandestinely in this State. The question of prosecuting the dealers was referred to the Government. They observed that no action could be taken against the consigner and the consignee as long as they were protected by the permits issued by the Mysore State Excise authorities".

So, the consignment had to be released. When they were in such a fix, they tried to issue a notification to prevent such occurrences. But this notification had to be revoked because of the Bulsara judgment. This is what it says:

"A notification prescribing licences for the sale of spirituous preparations was issued in the year 1951. Under this notification spirituous medicinal preparations as are found in the recognised pharmacopoeias and such of the patent preparations which were approved by the Board from time to time were permitted to be sold. This notification had to be revoked as a result of the judgment of the Supreme Court on the Bombay Prohibition Act".

[Shrimati Sucheta Kripalani]

Here also they could not do anything. Then, as a result of this, huge quantities of spurious medicines were being dumped in the Madras State. Here is something about it:

"As the State Government have entered into reciprocal arrangements in regard to imports and exports of spirituous medicinal preparations manufactured under bond and, as these arrangements dispense with the issue of import permits by the State of import, it was observed that large stocks of spirituous medicinal preparations were being dumped into this State for misuse. The quantity of these preparations so imported was very excessive. With a view to have a sort of control over the imports made into this State, the reciprocal arrangements were so modified as to require the obtaining of a prior import permit from the Board in each case".

When the need of securing prior import permit came into force, the dealers became even more clever. They challenged it in the courts by writ.

"Messrs. Gowri Shanker Pharmaceutical Works, Bangalore, filed a writ in the Madras High Court, challenging the Board's orders imposing restrictions on the quantity of these preparations imported into this State."

The Court held it as illegal and as a result there was again a steep rise in the use of these spurious medicines. Ultimately, the Madras Government had to issue a notification imposing restrictions on the sale, import, and possession of these preparations. All medicines having more than 3 per cent. of alcohol were controlled and they had to maintain accounts in the shops of the sale of such medicines.

Now, you know that apart from these medicines, varnish and denatured spirit are also consumed by people. The report to which I refer-

red earlier says that liquor containing traces of shellac and termed as varnish was being freely sold to ex-addicts, and this was used in huge quantities for consumption. So far I have referred to the Government reports. Now, I shall read out to you from a very interesting private letter which I have received from Kandla, the new port that the Government are building and from a new refugee township which is being built there. Some of the refugee leaders have complained that they are starting a new life there and they want everything to be set there on a good footing but there also this crime is being committed to a large extent. I shall read out relevant portion of the letter. It is a long letter giving all sorts of facts, about illicit distillation, etc. Here is what it says:

"At Khari Rohar, Kutch Chemical Works is manufacturing illicit liquors in large quantities which is sold at Gandhidham and other places under different names. The labels on these bottles are as under: (1) Ecvawinum, (2) Extracts, (3) Licres, (4) Churnas, (5) Rectified spirits, (6) Denatured spirits, (7) Cologne water, (8) Sagar-na-neer".

An Hon. Member: What is the last word?

Shrimati Sucheta Kripalani: "Sagar-na-neer"—that is a Sindhi word meaning "water of the sea". The letter goes on to say:

"I have been reliably informed that the proprietor of this firm is exporting averagely one wagon in every two months to Asarva station near Ahmedabad where, with the connivance of the excise authorities, he is freely selling these bottles and making huge profit. He books these wagons either from Gandhidham or Anjar stations and pays Rs. 300 to Rs. 500 as bakhshish to the railway police and booking authorities.

One full wagon contains between 360 to 500 packages; each package contains two to four dozen bottles. The last wagon that he had booked was in the month of February, 1955. He manufactures all these liquors under the permission of excise authorities."

Then it says:

"It is learnt that there is a firm at Anjar which is manufacturing such illicit liquor under different labels. One of the popular label is "Eu-de-cologne" which is freely and openly sold in the market and consumed as liquor".

This is even more interesting:

"Almost every hotel, tea-shop and food-shop stocks this Eu-de-cologne and sells it openly for purpose of consumption as liquor. This has been going on for years and nobody takes notice of it. If statistics are taken, the merchant in Anjar manufactures fifty to hundred times more Eu-de-cologne than can possibly be consumed in the small territory of Kutch for toilet".

Then I shall refer to what Kumari Annie Mascarene spoke some time back in Parliament. She brought a bottle which contained—what was supposed to be—tincture manufactured in one of the Travancore-Cochin factories. So, this crime is prevalent on a very large scale, and the States have to take enough power to solve this problem. The crime has been going on unchecked. Therefore, this measure is absolutely necessary and it must be implemented early. If we really want to have prohibition in the country and if we intend gradually to increase the extent of prohibition in this country, this measure is absolutely necessary.

I am very glad to find one clause in this Bill—clause 10 which tries to check the companies from being absolved of all liabilities. You know that rich people, powerful people stand at the back of crime. They are

the organisers of the crime and they have their agents, small people who are their hirelings, who work for these rich people. They get caught and they bear the brunt of punishment. Therefore, it is absolutely necessary to see that those powerful people proprietors of companies who are really the brain behind all this crime are caught and given proper punishment. So, I welcome this Bill as a very necessary one for the proper implementation of the Prohibition Policy.

**Shri A. K. Gopalan (Cannanore):** This Bill is to make provision for the imposition, in the public interests, of certain restrictions on inter-State trade and commerce in spirituous medicines and other preparations and to provide for matters connected therewith. In the Statement of Objects and Reasons, it is said that certain powers to make rules regulating certain matters connected with the movement, transport and sale of spirituous preparations entering into inter-State trade and commerce are to be taken so that these spirituous preparations are not misused as alcoholic beverages. As far as the objects and reasons are concerned, I agree with them. But I have to bring forward here the position in Madras. Madras State is an area where there was prohibition for the last so many years. As far as I know, in the District of Malabar, where there is full prohibition, the number of people who are taking alcohol, in some form or other, is more than what we found before prohibition was introduced. Not only that. As far as jails are concerned, if you take the number of offenders who break this prohibition rules, you will find that this number is increasing every year. Furthermore, the illicit preparations that they are taking from their house and other places are such that many persons who take these things, suffer from diseases and the number of such persons who get some kind of disease is also increasing. The Ramamurthi Committee on prohibition in Andhra State—I wanted to get the report, as it is not here—also said that as far as the effect of prohibition is

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concerned, the number of people who had been taking liquor now, when compared to earlier periods, is increasing; it is not only increasing but it has gone up by leaps and bounds. The effect of prohibition has also not been as much as those who introduced prohibition expected. As far as the medicinal preparations are concerned, where alcoholic drinks are added, if this Bill is going to stop that practice, I have no objection, because when I went to Nilgiris and other places especially where there are plantations, there is what is called essence which is sold in large quantities. This is sold openly and people are taking it. When planters come there, they purchase Rs. 5,000 or Rs. 6,000 worth of this essence and take it. This happens in places where there is prohibition and the police is not able to see the intoxicated persons walking along the roads. So, such preparations like the essence which are really very injurious are being sold. When I first wrote to the Chief Minister of Madras asking about the preparation of this essence and its banning, the reply that I got was to this effect: If one essence is banned, after two months the name is changed. First it will be some plantation essence, but afterwards it will be pineapple essence or something like that. So by the time they ban the first thing, the name is changed and so it is not possible to stop it.

In Kerala as well as other parts of India there are ayurvedic medicines called *asavas* and *arishtas*, and there is a little alcohol contained in all these medicines. If this Bill is passed into law, preparation of *asavas* and *arishtas* will have to be stopped. Not only that; if this Bill is passed, the restrictions it imposes will come in the way of other ayurvedic medicines that are sent from one place to another. This will be a blow to all the genuine ayurvedic medicines that are prepared. What will happen if this Bill is passed? Whatever may be the intentions of the authors of this Bill, after this Bill is passed, these *asavas* and

*arishtas* that contain only a very little bit of alcohol today will go underground. There will be no *asavas* and *arishtas*; and because they have got the liberty to add more of alcoholic contents, just as other medicines that are prepared and sold legally today, more alcohol will be added to the *asavas* and *arishtas* also. Therefore I say that under this Bill some exemption must be given to *asavas* and *arishtas* that are now sold and which, we understand, as they are sold in ayurvedic shops and other places, are not only not injurious, but are used by the people in villages and other places where there are no hospitals. Even though they contain a little bit of alcohol, is it not better for the people to take these *asavas* and *arishtas* rather than take other medicines which are very injurious and which spoil the health of the people?

We had not been able to implement prohibition completely; we had not been able to decrease the number of persons who have been taking alcohol. In clause 3 of this Bill it is stated:

"The Central Government may, by notification in the Official Gazette, make rules regulating such import, export, transport or sale, and such rules may prescribe the form and conditions of licences therefor, the authorities by which such licences may be granted and the fees that may be charged with respect thereto, and any other matter required to render effective the control over such import, export, transport or sale."

Now every officer of the Departments of Prohibition, Excise, Police, Revenue and Public Health can get into these places and do whatever he likes. Previously it was only an officer of the Excise Department who could do it. Not only that. The State Governments also are empowered to do whatever they like. If this Bill is passed, it will be a blow to the preparation and sale of genuine ayurvedic medicines like *asavas* and *arishtas*. In States where there is prohibition

this Bill will decrease the effect of prohibition, because when people are not allowed to prepare genuine medicines, they will add more alcoholic things and sell them, just as just those medicines which are legally sold in the shops today.

My request is that before this Bill had been brought before us, the Government should have tried to implement prohibition strictly. The Government appointed a committee; Shri Ramamurthi's committee went into the question and its report is there. It would have been better to discuss that report and see what are the things that have been said in that report, how prohibition can be enforced and what are the defects in the implementation of prohibition. The Government should first of all see that in all places where there is prohibition, it is implemented. If we had been able to secure success in that, this second step should have been taken. When that first step itself is a failure, this will also become a failure. From the practical experience that we have of the working of the Prohibition Act, I do not think that this Bill will help us. What will be the effect of this Bill on the *asavas* and *arishtas*? Today in the villages whenever people get some disease—stomachache or something like that—they get some *asavam* or *arishtam* which are very cheap and take them. If this Bill is passed, preparation of *asavas* and *arishtas* will be stopped and they will make it a thing only of profit and see that more alcoholic contents are added and sold secretly.

The intention of the Government is to see that by prohibition the practice of taking alcohol must be stopped. I submit that this Bill would add more danger instead of doing some good. If the Government wants that it should be passed, my request is that at least *asavas* and *arishtas* must be excluded, just as they have exempted *asavas* and *arishtas* in Andhra. However, a check upon it can be kept. If the Bill is passed as it is without reference to *asavas* and *arishtas*, I am sure it will be a blow to the ayurvedic system of

medicine and we will not be able to encourage it. This is all I have to say on this matter.

**Shri Ramachandra Reddi (Nellore):**  
This Bill looks so innocent and small, but I am afraid that it is one of the most dangerous pieces of legislation that has been brought before this House. If it has been proved by any State that has been adopting the Prohibition Act that prohibition has been successful there, then probably it would have been time for the Central Government to come forward with a Bill like this to implement the success of prohibition. But, we have known through the reports that have been prepared elsewhere and also from our own experience how badly the prohibition law has failed in every State. I know personally the working of the prohibition law both in Madras and in Andhra. We are aware that the recent report published by Ramamurthi Committee is proof positive that prohibition has completely failed. As a matter of compromise, the report has said that certain liquors and intoxicants may be released first for consumption and later on others. So, it has to be recognised that this Bill is premature here, especially because the general opinion in the country is that prohibition has failed everywhere.

I shall now refer to a few clauses in the Bill which require some attention. Clause 3 makes provision for a notification in the Official Gazette to make rules regulating such import, transport, sale, etc. A practice that has been developed in this House is to formulate a small Act and later on come with long rules. Unfortunately, this practice has been allowed in this House and it has not been in any way helpful to legislation. As a matter of fact, these rules ought to be incorporated in the Act itself. Or, the draft rules should be published along with the Bill so that the legislators may have an opportunity of looking into the rules and finding out the severe penalties that they sometimes impose and try to convince the House about the advisability of reducing some



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of the severe punishments. The Bill has been before the House for the last four months. By this time, the drafting department must have drafted the necessary rules. It would have been advisable on the part of the Government to place the rules before this House so that the Bill and the draft rules might be considered more thoroughly and carefully by this House. This House has been denied the right of criticising the rules which might have been with greater advantage placed before this House at this stage. I have also to suggest that such rules as these should first be published in the Gazette and a few days' time, say three weeks or six weeks, given inviting any criticism on the draft rules and then the rules should be finalised. The method that the Government are now following is, outright they publish the rules and the rules are put into practice. This is a method which I am not able to follow or understand. Any suggestions that would be possible on the rules themselves are now denied to this House. I do not see any reason why Government should feel shy or hesitate to publish the draft rules along with the Bill so that we could have had a comprehensive discussion upon the entire Bill.

Coming to clause 5, I feel that the penalties that are proposed are very heavy. After all, it may happen that sometimes, the cases that are foisted upon the innocent people would have a very adverse effect upon these innocents and they will go to jail or they will have to pay a fine to the extent of Rs. 1,000. Of course, some enthusiastic Members of this House have given notice of amendments for increasing the penalties. We have seen the working of the Prohibition Act in the States. Prohibition has not been successful; but the method of harassing and the scope for harassment of the innocents have been increased to such an extent that every person whether he belongs to a political party or not is more than convinced that prohibition has been a failure. Nobody says

that drinking is good and that prohibition is bad. But, the working of the law has to be taken into consideration before we press for further enforcement.

In clause 8 provision has been made to give power to enter, search, seize and arrest without warrant and investigate offences. Power has been given to the Revenue and Health departments also. I do not see why the Revenue department should be empowered like that. Of course, Public Health has connection with prohibition and excise people because sometimes the Public Health department will have to examine people that are drunk. I was told of a very peculiar case. In a particular town in my State, two police people brought a man that was supposed to have been drunk, to a doctor for examination and certification according to the rules. The doctor found that both the police people were drunk.

Shri B. S. Murthy (Eluru): Also.

Shri Ramachandra Reddi: But, he had no jurisdiction over them. He had to simply 'certify that the culprit that had been brought before him was drunk or not. As regards the police, there was nobody to produce them before him. This is a single instance that I have mentioned here. If anybody has the patience to go through Ramamurthi's report, he will find numerous instances where the prohibition law has been flouted openly and daringly. When the psychology of the people has been developed to that extent, to think of prohibition, and further restricting the preparation and transport of these drugs would be a sheer waste of time as well as sheer ignorance of facts.

In clause 8(1) provision is made to enable officers to enter at any time by day or by night into any such house, building, enclosed space, or vehicle, vessel or aircraft. These are some of the places where such illicit articles are hidden. But the provision to enter a house also by day or by

night is one which cannot be appreciated at all. They can break open any door whether it is the door of a house where there is liquor or not, whether there is any spirituous preparation or not. Also they can detain and search any person. My fear is this. The Prohibition Act has failed in some of the States where Prohibition has been given effect to. It has, on the other hand, given opportunities to the police authorities to treat the people not as human beings, but as something which is very objectionable. Innocent people are, as a matter of fact, brought to book, cases are foisted upon them and a process of regular blackmailing is also going on. If there are jealousies, social, political or trade jealousies in a particular place, and if one man wants to harm the other, naturally he goes to the police man and gives him the necessary instructions as well as bribe and asks him to foist a case. Even under the controls which we fortunately have been relieved of recently, such foisting of cases had been going on. To-day, the prohibition law has become very weak and it has become a strong resort for corrupt officers to blackmail, to bring in vexatious and malicious cases against people who are innocent. In these circumstances, any further legislation to augment the difficulties that have been imposed by the prohibition laws in the States would not only not be useful, but, on the other hand, they are going to be very dangerous.

In clause 10 provision has been made for presumption of possession of spirituous preparations. This presumption clause is against criminal jurisprudence. Anybody can be presumed to have committed a mistake or a crime and innocent people in most cases will come under this, whereas the real culprits by some other means escape. Are we going to pass a law which is going to harm the innocent and help the culprits to a larger extent than what it is today?

Further, in clause 13 enough protection has been given to the officers,

whether they behave in good faith or bad faith. It reads:

"No suit, prosecution or other legal proceedings shall lie against any officer or person empowered to exercise powers or to perform duties under this Act for anything in good faith done or intended to be done under this Act or the rules made thereunder."

This good faith has completely escaped some of the officers who are asked to administer this law. When that is the case, there is no meaning in simply beguiling ourselves with the idea that good faith still remains there and since they do it in good faith they should be protected. This sort of protection, I am afraid, will be only productive of greater crime which will be certainly assisted by the officers who, in the name of good faith, may do all that is possible in bad faith.

I have got only one other point. In clause 9 provision is made for charging offences by companies. Clause 9(1) says:

"If the person committing an offence under section 5 is a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly."

In most companies, usually there will be a servant or attendant or helper at all times of the day or night. He might not know what is actually happening there. He might not know that his boss has put in some liquor or spirituous preparation in the establishment, but when he is there if a police officer comes and arrests him, he will be naturally punished though he is innocent.

In certain companies there will be some sleeping partners. They might



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not know what is actually happening in the course of particular transactions and they will also be brought under this section. They simply lend money or contribute money for the transaction of trade and commerce and they might not know what is going on there, and yet such people, because they are partners in the company, will be brought to book. These are some of the objectionable matters which require greater scrutiny and deletion wherever it is possible.

In the end, I can only say that there is every possibility under this proposed legislation for the misuse of powers and foisting of cases and the wreaking of vengeance against people who are adversaries in trade or social or political matters. *Mamuls* have already been established in every police station under the Prohibition Act and I will not be surprised if the *mamuls* are enhanced, for the crimes will not be detected, because the *mamuls* hereafter will come from the bigger trade rather than the small distillers. I can cite a number of cases where such foisting has been resorted to, but I do not like to weary the House with those instances. The very reference to some of the paragraphs in some of the reports that have been published against prohibition would certainly convince this House that the prohibition law has failed and this spirituous law also will fail.

Shri Frank Anthony (Nominated—Anglo-Indians): I do not propose to oppose this Bill. I feel that Government, as usual, has been well-meaning in bringing it forward and, perhaps, so far as the Bill contains any principle, they intended it to be a principle in the right direction. But, I am a little sorry that almost, as usual, this Bill exhibits Government's inverted sense of priority. As my hon. friend, Shri Gopalan has rightly pointed out, if the basic policy of prohibition has been even partially successful, then this measure could

have come in as a secondary or even a tertiary measure in order to tighten up some of the loose ends of the fringes of the prohibition policy, I am one of those who believe—and perhaps a number of people in the House also believe with me—that this ship of prohibition is in an increasingly leaky state and only one of the smaller holes in this ship can be sought to be plugged by a measure of this description. I believe that we have been treated in the country not only to a State-wide but almost to a nationwide campaign of self-deception so far as prohibition is concerned. I am one of those people who drink in great moderation, exercising the greatest sobriety and maximum of restraint.

Shri Kamath (Hoshangabad): That is obvious.

Shri Frank Anthony: In spite of that I find myself sorely tempted when I go to these so-called prohibition States. Whenever I go to Bombay I intend to observe the law, but I find that people come and offer me the best of Scotch whisky at prices lower than those available in the white market.

So far as country liquor is concerned, that, as every one who is honest will admit, is not only the most thriving, but easily the most popular cottage industry in places like Bombay and Madras, and I know that to a lesser extent these spirituous preparations are resorted to by persons who can afford them. But there is one thing to be said, not in favour, but by way of qualification, and that is that they are not nearly as dangerous as some of the more evil and foul preparations which the poorer people are drinking as a matter of course and as a matter of habit.

1 P.M.

When I was touring the Madras State not so long ago, in almost every place that I visited, particularly in the railway colonies without exception, every doctor told me this, that the health of nine out of ten railwaymen is being ruined today at the age of 34 or 35.

An average railwayman on the running staff is getting blind or semi-blind at this age. So much for the success of your prohibition policy. They are drinking evil, foul, deleterious, body-destroying stuff—not zingiberis and Eau-de Cologne, the kind of spirituous preparations that you are providing against which are comparatively harmless. They are drinking what the men refer to as “snake juice”, boot-polish, varnish and things like that which burn. It is boot-polish, varnish, and other evil stuff that is doing the harm. But with a Bill like this, you do not even begin to touch the fringe of the problem. As Shri A. K. Gopalan has said, you must attack the weaknesses of your prohibition policy on a much wider and larger scale. I am not against prohibition. I have seen the extent to which families are demoralised and how they are destroyed by this excessive drinking, particularly among the poorer sections of the people. If you are going to introduce prohibition, then attempt to make it even a partial success. Do not pretend to preach to the country that prohibition is already a success. It is not a success. More and more, it is a failure today. And it is an increasing failure not because of zingiberis and Eau-de-Cologne which are the spirituous preparations which are not so injurious, but because of not even arrack, not even of what the Gonds drink in Madhya Pradesh—recently, I was shooting in Madhya Pradesh, and I saw there that the men, women and children all drank preparations from the *mahwa* plant, which the doctors told me do not destroy their health to that extent—but because of varnish, boot-polish, and all these things which are available by the gallons in Bombay and Madras, in spite of the effusions of your State Government’s contradicting it. It is these that are destroying the health of the people.

As I said, I am not against a measure of this description, but let first things come first. My own fear is that, as the previous speaker has

already indicated, this will only increase the already increasingly wide trail of corruption and demoralisation among your prohibition staff. I know that in Bombay the police have a tradition of comparative honesty, and when I say this, I say this without pointing a finger at any State. But what about the other States? My hon. friend must know of them as well as I do, that there are States where the police are inured to and have been reared in a tradition of incorrigible corruption. I am not talking of Bombay. Bombay has not got that tradition. But once we bring in this in every state, we will be immediately giving every conceivable hostage to an already corrupt police to be more corrupt and oppressive. Not only is this malace of corruption going to destroy your police morale, but more than that, you would be bringing within its destructive ambit all kinds of other departments, public health, excise, revenue, and all these other people. It is there that I object.

I say let this provision be there, and I am not going to oppose it. But I am definitely going to ask the hon. Minister this question. I feel that this provision has as usual been prepared in a haphazard kind of way without any particular attention being given either to principle or to facts as they obtain in the country today.

For instance, take some of the provisions of this Bill. I am not going to deal with them at any great length. There is clause 6 which reads:

“In all trials for offences under this Act or the rules made thereunder, the magistrates shall follow the procedure prescribed in the Code of Criminal Procedure 1898, for the trial of summary cases in which an appeal lies”.

Why have you singled out these particular offences, these comparatively minor offences for a summary procedure under this Bill? That is what I am constantly opposed to in this House, namely this complete lack of principle, lack of rationale in what-

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ever we do, particularly in this ill-digested spate of legislation which is thrown at us the whole time. Under the Criminal Procedure Code, there is a certain principle, and there is a certain rationale. And what is it? It is that offences punishable with more than 6 month's jail should be triable as warrant cases. But here you impose a punishment of Rs. 1000 fine or imprisonment for a period of one year or both, and yet in the next breath you say that it should be triable summarily.

Mr. Deputy-Speaker: Is it not a fact that according to the recent amending Bill, in all police prosecutions summons trial is there instead of warrant trial?

Shri Frank Anthony: No, that is not being changed; so far as I am concerned, up to one year, no. The warrant procedure has been changed to this extent that they have taken away one of the rights of cross-examination, but as far as I am aware, no change has been made in the definition of warrant and summons cases. And a warrant case is one in which the offence is punishable with imprisonment for six months and more. That is what I feel.

Pandit Thakur Das Bhargava (Gurgaon): Many warrant cases have been changed to summons cases. Many cases which should be triable as warrant cases have been changed under the recent legislation to summons cases.

Shri Frank Anthony: But the basic definition is the same. Even under section 260 of the Criminal Procedure Code, the magistrate who is specially empowered can try certain offences summarily.

Mr. Deputy-Speaker: I am talking of the recent amendment to the Criminal Procedure Code, by which in the case of police prosecutions, what were warrant trials hitherto could be carried on in the form of summons trials.

Shri Frank Anthony: Not quite. But in any case, the definition remains the same. These particular offences, all fall within the definition of warrant cases. Why should they not be tried according to the warrant procedure? What is the rationale behind your provision? I say that I would be quite prepared to accept this provision provided there is some rationale behind it. I know the Supreme Court, which is entitled to the greatest respect, has qualified the application of article 14 of the Constitution, and has stated that there can be discrimination if there is some ratio behind, if some intelligible differentiation is being made between the normal law and the other law. But what is the intelligible ratio here for discriminating between a man, who is perhaps very highly placed, who is the head of a company, and who faces one year's jail, and a commoner who is also facing trial after having stolen Rs. 51 worth of property? Under the Criminal Procedure Code, you will see that there is a ratio; offences in respect of property which is of more than Rs. 51 value come under a particular category; theft and misappropriation of property of the value of more than Rs. 50 cannot be treated by summary procedure. But here you are flouting all that. What is the ratio here? I do not quite understand at all. Why this obsession and this fetish of prohibition? All right, you make it an offence, and I am quite prepared to argue that it is not an offence in the correct sense of the word and that Government's own handling of the position was that it was not an offence. But here I accuse Government of being guilty of moral ambivalence and two-facedness in this matter. In Bombay—and this is the tragedy of it—you say it is an offence, and you send people to jail, and all the moral and the penal consequences of an offence under your penal status are visited on people. But suppose there are two people who drink, one a military man and the other a commoner. For the military

man nothing happens. But suppose the other man does the same thing then you brand him as a criminal and you send him to jail. The same position holds good as between a foreigner and an Indian. But I say that an offence is an offence under any concept of jurisprudence, it cannot be qualified and it cannot be distinguished. Even if the offence is committed by a foreigner, still it is an offence. But today suppose a Britisher sits and drinks and laughs in the face of an Indian, he is not punished; but if that Indian does the same thing, then he goes to jail. Similarly, a military man may carry liquor with him, and that is not an offence. But when somebody else does it, it is an offence. Therefore, I say that because you are dealing with something which falls within the ambit of morality, you are guilty of moral ambivalence in this case. If it is an offence, then you make it an offence for everyone including foreigners and every class of Indians. But do not come here striking about wildly and irresponsibly and saying it is such a heinous offence. A man may have thieved or misappropriated, but he will be given all the protection of an elaborate procedure, but this man who has zingiberis in his house gets summarily sentenced and is sent to jail for one year. Let us have some kind of perspective in this matter. I am not opposing what you are doing, but I only say, let us have some kind of perspective so far as this Bill is concerned.

**Mr. Deputy-Speaker:** Are we going into the general discussion regarding prohibition and into the general possibility of prohibition as to whether it can be enforced or not?

**Shri Frank Anthony:** I am not going into that.

**Mr. Deputy-Speaker:** This is a small Bill, which controls import of certain drugs into the areas where prohibition is in force.

**Shri Frank Anthony:** I was only supporting my general thesis, namely why should we have a summary procedure for something which is an

offence with one person and is not an offence with another, when in really heinous cases visitable with the same punishment we have an elaborate trial according to the warrant procedure. There is no point in saying, as has been stated here, that the procedure will be that 'for the trial of summary cases in which an appeal lies'. What does this mean? That means the procedure laid down in section 264. It is purely illusory. The court has only to give some of the heads of the findings, the barest reasons only, and all the lacunae and all the illegalities which may have occurred would not appear on record, and the man has no grounds for really agitating his case in appeal.

Then there is this also. It is a well-recognised principle of general criminal jurisprudence that in no case where a public servant is involved should there be summary procedure. That is almost a sacrosanct axiom of our Criminal Procedure Code. But today a man may be a government servant; he will still be subjected to summary procedure. Here again we are flouting certain principles of this Criminal Procedure Code which has stood the test of time and which was marked by genius, in so far as it was inspired by a coherent set of principles and ratios.

Then there is this clause 8. Here again, I do not understand what is being done. Somebody here is apparently very very angry about all these people who are trying to evade prohibition. We have set at naught every principle contained in the Criminal Procedure Code. Here we are giving all kinds of summary, blanket, unqualified powers of search to everyone. Now, Sir, we have in the Criminal Procedure, careful procedure, salutary safeguards with regard to search. Ordinarily, a search warrant can be issued by a Magistrate. He has to satisfy himself. In the most emergent cases, an investigating officer, under section 165, has to record his reasons why he could not get the search warrant. Even then, he is sub-

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ject to the procedure set out in sections 102 and 103. He has to get respectable witnesses of the locality. All that has been jettisoned. Even today, with all these safeguards, your venerable Pandit Thakur Das Bhargava will tell you to what extent wanton, illegal searches are made, to what extent seizure memos are fabricated, to what extent even with these safeguards with regard to search witnesses, people are harassed, all kinds of false seizure memos are prepared. I just do not understand it. Why are we superseding the ordinary law of the land in the case of a niggling, inconsequential measure of this sort, when in the most heinous cases we have given careful, statutory guarantees against illegal search—irresponsible search? We have said there must at least be two respectable witnesses. All that is gone by the board. Merely because you say somebody is selling Eau-de-Cologne somewhere. I just do not understand it.

Then there is this provision in clause 10. Here again, the fundamental presumption of innocence, has been set at naught, in a provision like this. Why are we perverting the basic principles of jurisprudence, civilised democratic jurisprudence, to which we pay lip-service? Why we are we, for the purpose of this small trifling Bill, setting all that at naught? I do not understand it.

One final word I want to say. I see my learned friend, Pandit Thakur Das Bhargava, has tabled amendment; I shall speak on it at the time. We are giving all these sweeping powers to all sorts and kinds of people, powers which are already being abused so far as the Criminal Procedure is concerned, in spite of ample and careful guarantees. You are today giving ready-made, handles weapons of extortion and blackmail not only to the police but also to the excise. You already have—the number being legion—professional witnesses, professional informers; but today you are giving an open charter. That is what is going

to happen. Feuds and vendettas will be pursued; it may be a social business, political business and so on. That is why, I say we must have some kind of deterrent. I know of cases—I am everyday dealing with—where a bottle of whisky has been put in somebody's box and another bottle has been planted in somebody's house. It is happening everyday. It will happen under this clause more and more. I was very heartened to see an amendment in the name of my friend, Pandit Thakur Das Bhargava, in this connection. If we are giving all these new blanket powers, subverting all our known principles of criminal jurisprudence, at least let us have some kind of deterrent against false information and against false and illegal searches.

**Shri Kamath:** In view of the interesting controversy that this Bill has evoked, may I suggest that the time allotted for this may be extended by at least one hour?

**Mr. Deputy-Speaker:** I am unable to do so.

**Shri S. S. More (Sholapur):** Does that rest with the Chair?

**Mr. Deputy-Speaker:** The recommendation of the Business Advisory Committee has become the order of the House. I cannot do anything. Now, we started at about 12-02 P.M. The other day we spent 14 minutes. Therefore, 2 hours 46 minutes remained. So we may finish it by 2-50 P.M. There are some amendments here to be considered during the clause by clause consideration stage. I think we will start the clause by clause consideration at 2 P.M.

**Shri Barrow (Nominated—Anglo-Indians):** According to procedure, the House will have the power to extend the time, if necessary, ignoring the recommendation of the Business Advisory Committee.

**Mr. Deputy-Speaker:** Merely because one hon. Member says it, I am not going to put it to the House.

Shri B. S. Murthy: One hour is over now.

Mr. Deputy-Speaker: I think we are misunderstanding the scope of the Bill. The question is whether particular kinds of spirituous preparations containing alcohol which are harmful ought to be allowed in a prohibited area. We are not going into the general question, whether there should be prohibition or not.

Shri V. B. Gandhi (Bombay City—North): In the very opening sentence of the statement of objects and reasons, we are informed that this Bill has been brought before this House at the instance, at the representation, of certain States which have had prohibition in force. In the brief speech which the Minister, Shri Kanungo, made, he also made this connection between the issue of prohibition and this Bill very clear. But I want to say that the issue involved in this Bill is bigger than that of prohibition. The issue involved is the issue of getting the laws of this country respected by citizens. In other words, the issue is this: will this Parliament, the guardian of all laws, sit quiet and look on passively while prohibition laws in some States are being rendered nugatory—are being reduced to farce—by citizens of other States—neighbouring States—which do not have prohibition laws? That is the issue. It is well known that the people of this country are by instinct law-abiding, but it will not do to expose them too much to temptation.

Now, let us see what exactly is happening in the State of Bombay. In Bombay, we have a good prohibition law. We have good people, people who are normally law-abiding. And, by the terms of the prohibition law itself, it is the duty of the Government of the State of Bombay to see that alcoholic drinks are not made available to the people in the State. And yet, what do we find? Alcoholic beverages in one form or another, in the form of spirituous medicinal preparations and other kinds of preparations are being freely made available

to the people, for those who want to drink. This is a very serious state of affairs for a State which claims that it has prohibition in force in that State. It is very disturbing, therefore, to see the extent to which this kind of tempering with the law of prohibition in Bombay is going on.

I shall just give a few figures. Some of these figures have already been quoted before but they do bear repetition. First, I shall just take four cities in the State of Bombay, like Ahmedabad, Bombay, Poona and Thana. In Ahmedabad, the imports of spirituous medicinal preparations in 1953-54 and 1954-55—for four months—are as follows:

I am talking about Ahmedabad district, of course, and in 1953-54, 9,06,000 lbs. of these medicinal preparations were imported. From the figures for four months in the next year, it works out at an annual average of 13 lakh lbs.

Then, we come to Bombay. Bombay is a city which has always been first in most good things. And, I am ashamed to confess that it is trying to be first in this business also. The figures for Bombay are—In 1952-53, 1,63,000 lbs. were imported. Next year, in 1953-54, the figure went up to 4,97,000 lbs. and for 1954-55, the average is going to work out at 8,60,000 lbs. So, from 1,63,000 two years ago, the figure for the ensuing year is going to be 8,60,000 lbs., indeed, a very sad state of things to reflect.

Then, coming to Poona, that great centre of learning and culture, what do we find there? In 1953-54, the imports were 58,000 lbs. For the next year, on the basis of the figures available for four months, the average is going to work out at 1,23,000 lbs.

Very near Bombay, just 20 miles outside Bombay city, there is a sleepy old town called Thana which has got this illuminating record. In 1952-53, it was 840 lbs.; next year, it went up to 36,000 lbs., and a year after that it is going to have an average worked



[Shri V. B. Gandhi]

out at 40,000 lbs. So, from 840 lbs., to 40,000 lbs. in two years. That is as far as imports in these cities are concerned.

Now, I come to the figures for some of the tinctures for the State as a whole. These tinctures can serve, as you know, as alcoholic beverages because some of them have an alcoholic content of 70 to 80 per cent. Take for instance, one of the tinctures very often mentioned in this debate, tincture zingiberis. In Bombay, in 1950, the import of this tincture from other States was nil. In 1951, it was 5,525 lbs. In 1952, it went up to 51,682 lbs.

Then, there is another tincture called tincture cinnamon. In 1950-51, the imports were nil. In 1953, they suddenly jump up to 7,824 lbs. They come up to 21,000 in 1953.

There is then another tincture called auranti. Auranti holds the record for all them. Here are the figures. In 1950, it was 9,456 lbs. In 1951, it was 7,000 lbs. but in 1952 it went up to 45,000 lbs. and in 1953 there is an almost meteoric rise to 2,89,000 lbs., 2,89,000 lbs. in 1953 compared to just 9,000 lbs. in 1950.

The total imports of all these tinctures from the States outside Bombay is as follows. In 1950, the total imports were 24,843 lbs., and in 1953, 26,09,011 lbs. Let us pause, just for a minute, and reflect on these figures. In 1950, it was 9,456 lbs. In 1951, it was 26,09,011 lbs. This is a very disturbing state of affairs for a State like Bombay which has tried, I think, its best to enforce a good law made by the people of the State. This reminds me of an old Sanskrit saying which says:

कामातुराणां न भयं न सज्जा ।

I think, the time has come now to change it and say:

मदितराणां न भयं न सज्जा ।

That, exactly, is the state so far as respect of law is concerned.

Shri S. S. More: सत्तातुराणां ?

श्री कामत : अधिकारातुराणां न भयं न सज्जा ।

Shri V. B. Gandhi: This is the state of affairs so far as respect for law is concerned. In view of this very serious state of affairs, this House, I am quite sure, will give its whole-hearted support to this Bill.

Having said this, I still have some personal reservations. If we must give assistance to save the prohibition laws of these States by passing a central law, by all means, let us give it. But, I want those of us who are experts in constitutional law to examine and see if article 302 is the most appropriate article to be invoked for giving such assistance. After all, we are here dealing with Part XIII of the Constitution which principally deals with freedom of inter-State trade, commerce and intercourse. In the Statement of Objects and Reasons, we find it mentioned here that a State law is not likely to be as effective as a central law. I presume that according to Government it is possible to have a State law to check this import of these spirituous medicinal preparations—to save the prohibition policy. I would also draw attention to article 304(b), under which also it is possible for a State to have some kind of law to restrict imports of such preparations into its jurisdiction, of course, in this case with the sanction of the President. I have no doubt that for a good cause like this there would be no difficulty in obtaining the sanction of the President. However, I am leaving these matters here to be examined further by such of the Members who are experts in Constitutional Law. I personally have my own misgivings. With this one personal reservation, I request the House to give its wholehearted support to this measure.

Shri Dhulekar (Jhansi Dist.—South): There can be no two opinions on the question that we should check the use of spirituous liquors to the



extent that we should benefit our country. I have a very great complaint against hon. Ministers who have sponsored different Bills that they never care for the speeches that are made by different Members on different Bills and they never try to see what objections were placed in connection with the previous Bills. The greater complaint is that our speeches are never analysed and never considered by the Cabinet, but only by the Minister of Health or the Minister of Finance or the Minister today who is piloting this Bill. These Ministers never care to see what are the real objections that we have placed before them. Simply to say that because this is a Bill in which the words "spirituous liquor" occur and because one Mr. Dhulekar is always advocating the cause of ayurveda, the point of view that was placed before should not be considered, is not understandable. I challenge the hon. Minister to reply to this question whether one bottle of *asav-drakshasav*—can be consumed by one person and then he would become tipsy or whether he would get greater sexual pleasure. Always spirituous liquors are used for two purposes. The first purpose is to become tipsy, and after some time, to forget the worries of this world. The second purpose is this. These spirituous liquors are taken for enhancing the sexual pleasure. I want the hon. Health Minister to prove whether ayurvedic medicines called *asav* and *arishta* have ever done this thing or not.

Mr. Deputy-Speaker: Do they contain a percentage of alcohol?

Shri Dhulekar: Yes. I want a reply from the hon. Minister before this Bill is proceeded with why *asavs* and *arishtas* should be put to a check. Why don't you put this check on medicinal preparations containing alcohol, whether self-generated or otherwise, of such and such degree in them? For example, if it contains 10 per cent., 15 per cent. or 20 per cent., it will be considered a spirituous

liquor and if it does not contain that much, it will not be considered so. I got an assurance from the hon. Finance Minister that when the rules would be made, it would be definitely put in the rules that only those *asavs* will be included as spirituous liquor which will contain a particular percentage or amount of alcohol.

Then, I again put a direct question to the hon. Minister and also to Shri Gandhi as they were talking about tinctures. Have they ever seen  *vaid's* shops surrounded by a hundred people in Bombay? Nobody has seen it. If it is spirituous liquor, why do not people flock round the shops of *vaid's*?

Shri V. B. Gandhi: Neither are they standing before the chemists' shops.

Shri Dhulekar: You have given the figures of enhanced sale in tinctures, eau-de-cologne, etc. Why don't you produce figures showing, say, that in the Bombay State previous to prohibition, 10,000 gallons were sold of *asavs*, and now about 2,00,000 gallons are sold?

Mr. Deputy-Speaker: Are *asavs* prohibited under this Bill?

Shri Dhulekar: Yes, because they have said in the Bill "self-generated".

Shri R. S. Diwan (Osmanabad): The sale of *asavs* is being controlled by the Government, though they are not prohibited.

Mr. Deputy-Speaker: Is it the contention of the hon. Member that *asavs* and *arishtas* contain this chemical compound  $C_2H_5O$ ?

Shri Dhulekar: My submission is that they certainly contain alcohol, but they contain such a small quantity of it that they can never be called a spirituous liquor. You are controlling prohibition. Very well. You are controlling drink. I do not question your right to stop all those things, which under the cover of medicine may be used as spirituous liquor. I have been putting this question before the House. The Director-General of Health is there

[Shri Dhulekar]

and the Council of Medical Research is there. You have got a legion of doctors in the country. Why should they not come out with a report that *asava* and *arishta* are things which are used as wine, people are going tipsy, thousands of bottles of *asava* and *arishta* are being used as liquor? In that case, I will certainly submit to it. You want to kill Ayurveda in this way. My complaint is this. No hon. Minister puts forward our speeches before the Cabinet. Why are they not placed before the Cabinet? My request is that our plea should be placed before the whole Cabinet and then let the thing be decided on the floor of the House. We have got the strength of passing any law because we have got a majority. Some time ago when a duty was levied, a promise was given that if it is found that *asava* and *arishta* contain a particular degree of alcohol in them, then only they will be considered spirituous drink. Why do you put the word 'medicinal'? You can say 'any preparation'. But you say 'any medicinal preparation containing alcohol whether self-generated or otherwise.....'

Mr. Deputy-Speaker: Hon. Member wants exemption to *asava* and *arishta*. Is that the point?

Shri Dhulekar: I want exemption for those medicinal preparations which may contain alcohol but which cannot be used as spirituous liquors or beverage.

Mr. Deputy-Speaker: Such medicines will be given free licence for being imported.

Shri Dhulekar: I put another question. We are Indians. Everybody knows that a Brahmin cannot take wine. Have you heard of a case of a Brahmin taking *asava* and having been ex-communicated in the whole history of India. Show me an instance where a Brahmin had been ex-communicated in any part of the

country during these thousands of years for taking *asava* or *arishta* because it was spirituous.

The Deputy Minister of Commerce and Industry (Shri Kanungo): They were not ex-communicated even for taking whisky.

Mr. Deputy-Speaker: I am afraid the hon. Member is under a misapprehension. There is nothing particularly with respect to *asava* unless hon. Member wishes that whatever it might contain, it ought to be exempted. Otherwise, there is nothing to prevent the Government from giving free licence for the import.

Shri Dhulekar: From the scientific point of view, I say that self-generated alcohol cannot be of such a degree as to give a man any kind of tipsiness or sexual pleasure. That is my scientific definition of it. Therefore, persons were prevented from drinking wine and those who did were ex-communicated. But they were never prohibited from using *asava* or *arishta* because they did not serve that purpose at all. Therefore, to define spirituous preparation as 'any medicinal preparation, etc., etc.' is wrong. This should be investigated. Under the cover of prohibition and ban on wine, you are doing something which is harmful to the country. What did hon. Member Shri Frank Anthony say? And why did he say so? He did because he found that what you had done was not in the proper manner. If this definition is kept, what will happen? Two bottles of *asava* cannot be taken to Bombay State; a person should take a licence. Why should he take a licence when he is quite innocent and when it does not produce any harmful effects? First of all you should prove in this House that *asava* and *arishta* which are written in Ayurvedic books are of such a nature that you have to control them. If you prove that it is a spirituous preparation of such a nature, there should be inter-State control and I have no objection to it.

**Shri Kamath:** Sir, an assurance was given in this House on Thursday by the Speaker before my motion was taken up and he said that if a business was taken up and it was felt in the House that more time was required, it might well be extended by taking the consensus of opinion in the House. There was a categorical assurance. I, therefore, move that the time may be extended.

**Shri S. S. More:** I am trying to subject this particular measure to my scrutiny more as a lawyer. I am not taking my stand on the morality or otherwise. But the real question is: how far the prohibition which has been put into effect in the different States is capable of legal enforcement and how far this particular measure, if enacted, will supplement the efforts of those who are out to make prohibition illegal distillation proof.

I come from a province which can very proudly say that it was the first to introduce prohibition. But we will have to admit with a lot of shame that prohibition has failed there completely and entirely. One I.C.S. officer was commissioned to go into the working of this and Mr. Bhansali submitted a report and he had so many things to say about this. I am not going into the ethics of prohibition but I am going to tell you and this House the evil effects and the legal consequences which have emerged from this. Criminal law practitioners in the Bombay State have realised—some to their grief and some to their advantage—that as far as prohibition cases are concerned, it is not the evidence that matters.....

**Mr. Deputy-Speaker:** Prohibition or no prohibition, does the hon. Member want all sorts of wretched things to be manufactured? If they drink alcohol directly that is one thing but here the preparations are varnish, etc.

**Shri S. S. More:** Your question is perfectly legitimate. But my submission is this. Assuming for the sake of argument that there are so many wretched things which are

harmful and injurious to the health, I ask whether the law that is being sought to be placed on the statute book will serve the purpose or whether it will be an engine of persecution or a strong and weighty weapon in the hands of blackmailers. If prohibition in certain provinces where it has been put into effect has bred corruption and taken it to the very roots of the administration, then this measure will take it to the non-prohibition States because it applies to the whole of India. What is the purpose? From the Bombay State spread so many tinctures and ginger beers and all that sort of thing. An attempt is being made by this measure to stop this flow which is more powerful than the flood of Brahmaputra—I should say it is worse. That is the purpose, if I have understood the Bill correctly.

What will be the effect? Please read clause 3(b):

"No person shall, in the course of inter-State trade and commerce, export from any State or transport from one place to another or sell any spirituous preparation for the purpose of its importation into a prohibition State."

How can all these stages be watched vigilantly and controlled? Take an instance. In Assam something is manufactured; then it is sold by that manufacturer to a man from Bengal; from Bengal he travels to Punjab and from Punjab the goods may go to Gujarat and from there it infiltrates into the Bombay State. According to this particular clause, all those persons who might have contributed to its arrival at Bombay from Assam will be responsible and will come under the penal clause. If that is so, it will be a very mischievous weapon in the hands of those who will be called upon to suppress it.

I may raise the question of constitutional propriety of this measure. I find that under certain articles, Government can impose certain restrictions on trade and commerce and this Bill is sought to be placed

[Shri S. S. More]

on the statute book under item 42 of List I—Trade and Commerce. But, its real purpose is not to put restrictions on trade and commerce from the trade aspect of it; it is from some other aspect and I have got my own doubts. It is not the practice of this House to go into the constitutional validity of the matter and therefore, I will not raise that point. I will simply content myself by raising the suspicion by expressing my own doubts.

I do agree with my friend Shri Frank Anthony that the well-known principles of criminal justice and fairplay have been thrown overboard. Take, for instance, this clause 8. An army of officers belonging to different departments is endowed with all the powers of going into anybody's house. There is a conception under the English Law that an Englishman's house is his castle and unless certain conditions are present nobody can enter that castle. Now, what happens here? Our castles are reduced to the state of mud huts and anybody can go into that mud hut at any time, Sir, I should like just to put a case to illustrate my point. Supposing any Member who happens to be an Opposition Member here is on the plan of somebody else who is out for blackmailing, then he has only to convey the information: "Well, Shri More is possessing something" to an officer. That officer can go at any odd time and he can knock at my door. If after doing some good work, which I am supposed to do here, I feel exhausted and I am not in a mind to open the door—because I do not know what is the purpose of the visit—that officer can break open the door and look upon my refusal to open my door as positive resistance to his attack. That is what is said here: "In case of resistance, break open any door and remove any other obstacle to such entry". Shri More will be the poor obstacle coming in his way and he can fairly knock him out. That will be perfectly all right and this officer who has become the

instrument, whether conscientiously or unconscientiously, of someone who is out to trap Shri More, will be protected by this good clause. I will be placed in the dock and then I will have to disprove the presumption that whatever is found with me.....

**Shri A. M. Thomas (Ernakulam):** What do you think if Pandit Thakur Das Bhargava's amendment is accepted?

**Shri Frank Anthony:** That is nothing.

**Shri S. S. More:** I am not so hopeful that his amendment will be accepted. He is in the habit of giving very good amendments but they meet the fate which usually amendments meet in this House. Therefore, my submission is that this Bill is going to ride like a coach through all our objections and the points that we raise, though we may be interested in strengthening prohibition. I know that drinking is an evil. It is a very bad thing and it has ruined many houses. But, we politicians also know that the drink addict is as bad as the election addict. It is not only liquor which is an intoxicant but even power also is an intoxicant. Therefore, there are so many things which have to be prohibited and banned.

We are minting legislation like anything. The legal profession is bewildered. The legal people are at a loss to know what is going to come off tomorrow. If they take up a case and something comes off tomorrow then the whole thing goes out.

**Mr. Deputy-Speaker:** Of all the professions why should the legal profession be upset?

**Shri S. S. More:** My submission is that, with all my best sympathy for prohibition I would say that the efforts of those—I do admire their efforts—who are out for it, are misplaced efforts and they are not producing good results. On the contrary they have become a charter to the illegal distiller. Sir, with your

permission I will quote a case in a minute and then close. Once a boy in his teens was taken to the jails. A friend of mine was in jail and he was out to reform that boy.

**Shri Kamath:** In Sholapur or Bombay?

**Shri S. S. More:** I am not going to give the location of the case for the information of my friend. My friend in the jail who was out to reform the boy said: "Well, my young boy: you are the future hope of our country. Why do you come here under this prohibition?" The boy said: "I have to live. What can I do?" My friend told him: "You can go to the country-side and do some agricultural work". The boy asked: "Sir, if I follow your advice what will be the wages that I get? I shall get a rupee and a half. That will not be enough for me." Then my friend told the boy: "In that case you can go to the city and get some employment". To that, the boy replied: "I am not sufficiently educated to get employment. All the same I can get Rs. 2 per day." Then the boy said: "Mr. Reformer, I am in this business. I am distributing 20 bottles per day and I get a commission of Rs. 2 per bottle and when I am here in jail the good friends of mine who have dragged me into this business are giving Rs. 200 per month during my absence to my aged mother. She has been to see me this morning and she has said that some unknown person went and handed her a closed envelope which contained Rs. 200. Now, do you say that I should go and do agricultural labour or I should go to some other employment?" I am not narrating this instance because many persons who are in other professions may be tempted to come into this business and I will be hauled up for abetment, and for making prohibition unsuccessful. Sir, in Poona particularly—leave aside Bombay—it has a bad reputation as far as goondalism is concerned for a very long time. (*Shri Asoka Mehta: Question.*) The question is from the

proper quarter to which I refer. In Poona these illegal distillers have divided into two camps. They have roped in all the goondas. As far as unemployment is concerned some innocent people are finding this employment, but those who have some element of goondalism are properly employed. They go on murdering. In our Poona city, which I am referring to, so many murders have taken place in the open. When a man is murdered his funeral is attended by thousands of persons. They go on brandishing their knives saying:

खून का बदला खून से लेंगे

The police in a very pitiable manner go on watching the whole show, with what motive, I do not know. I say Sir, that prohibition by Draconian law would not be successful. We should generate the social conditions by which the drink craving ought to be removed. In Russia and some other countries—I can now very well mention Russia because our Prime Minister has come back from Russia leaving part of his heart there and the odium that attached to the utterance of those who talked about Russia has gone.

The Czar was out for prohibition. On the 1st of January, 1917, before the revolution was staged, under the orders of the capitalists the Czar introduced prohibition. It did not succeed and the evil effects that we see in this country followed after they introduced prohibition. The revolution was successful and those who staged the revolution saw that certain social problems, certain social conditions and the ulcer of poverty were responsible for creating those conditions. They went to the root and changed the social conditions. They created conditions of recreation and mental contentment with the result that the people are drinking without being tipsy. I do not mean to say that if a man takes a peg or two it is harmful. That belongs to the modern amenities that are made

[Shri S. S. More]

available by science. For instance, if a man has put in sufficient labour that man can take a peg or two. I will not say that he should not do it. As tea is permissible and as coffee is permissible to a South Indian, so also a peg or two should be permitted to Shri Frank Anthony and others. We should not pass such laws which are incapable of enforcement, which will only generate corruption, which will only help blackmailers and which will only help those who are out to wreak their vengeance on others.

With these words I express my full support theoretically to such measures but all the same I am very diffident in giving my wholehearted support because my mind is full of many doubts that I cannot say that this Bill will serve the object for which it is designed.

**Mr. Deputy-Speaker:** Now, the hon. Minister. I will call Pandit Thakur Das and others on the amendments.

**Pandit Thakur Das Bhargava:** Some of them have been given today. I know the fate of these amendments.

**Mr. Deputy-Speaker:** I will call upon him to speak on the amendments.

**Pandit Thakur Das Bhargava:** I have sent 14 amendments today which perhaps will not be allowed. I want to say something about them.

**Mr. Deputy-Speaker:** With regard to his amendments and also relating to any other amendment, he can speak then.

**Pandit Thakur Das Bhargava:** On my 14 new amendments also?

2 P.M.

**Mr. Deputy-Speaker:** Anything on this earth. So far as such amendments are concerned, I am trying to divide the time available among the hon. Members. I will now call upon the hon. Minister and I will give opportunity for those

Members who have not spoken, later on.

**Shri Frank Anthony:** May I request you to hold over the discussion on the amendments till tomorrow? There are very many controversial matters that have come up and some of us have not spoken yet.

**Mr. Deputy-Speaker:** The amendments have been there all along. Regarding the amendments that have been tabled today, unless the hon. Minister accepts, I do not waive notice. That is the practice.

**Shri Frank Anthony:** There are certain basic objections. We have had no time to study them.

**Mr. Deputy-Speaker:** We will get along with the amendments. The hon. Members may speak then. I will now call upon the hon. Minister.

**The Deputy Minister for Commerce and Industry (Shri Kanungo):** My task has been made very simple and I am grateful to the Members of the House for saving me the trouble of defending the Bill which has been introduced in this House. I cannot do better than Shrimati Sucheta Kripalani and Shri V. B. Gandhi and others who have spoken on this Bill.

I do not want to go into a dissertation on the merits or demerits of prohibition. The Bill, as Shri Frank Anthony has described, is only meant to plug a small leak. Whether there are big leaks or whether the ship is not sea-worthy, I am not here to discuss that point. I have to see whether the provisions of this Bill will serve the purpose for which they are meant and the limited purpose of this Bill is to regulate the inter-State trade in particular commodities.

Shri S. S. More has raised some doubts. I myself have none. The point is that this particular measure has been introduced in this House after a good deal of discussion and a good deal of consideration. All the States have been consulted and it has



been presented with the full knowledge that it is going to put certain restrictions on trade which is not desirable: I mean 'trade' in the broad sense of the term. The Bill merely provides for regulating in such a way that the States and the Central Government know what is happening and how it is happening.

There have been objections about certain salutary provisions of criminal jurisprudence and all that. I need not go into them. These provisions are not new to this Bill. The urgency has been felt by the administrations who have got to deal with this matter of the existing laws like the Drugs Act, the Abkari Act, etc., and it is found that those laws are not adequate for the purpose as has been described well by several speakers. Therefore, I submit that this Bill, when accepted by the House, will serve the purpose of regulating the trade in spirituous preparations so that legitimate trade in that line will not be hindered or hurt and the undesirable aspects of the trade—misuse of medicinal preparations and misuse of similar material, etc.—will be prevented. That being the limited purpose of the Bill, I hope that the Bill will be accepted by the House.

As regards the amendments, without anticipating what amendments are permitted and what amendments are not permitted, I may say that most of them are such that they make the purpose of the Bill nugatory. I will speak on them when they are discussed and I am prepared to accept any reasonable amendments, and particularly the one by Pandit Thakur Das Bhargava if it is re-worded.

**Shri Dhulekar:** May I put a question? Can a box of homoeopathic medicine be despatched from Calcutta to Bombay, according to this Bill, without getting a licence?

**Shri Kanungo:** Everything can be despatched but only under the rules that are provided.

**Shri Dhulekar:** Even a package containing just Rs. 5 worth of such medicine cannot be sent.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to make provision for the imposition in the public interest of certain restrictions on inter-State trade and commerce in spirituous medicinal and other preparations and to provide for matters connected therewith, be taken into consideration."

*The motion was adopted.*

*Clause 2.—(Definitions)*

**Shri Kamath:** I beg to move:

In page 2, line 2, for "medicinal" substitute "non-medicinal".

Firstly, may I briefly invite the attention of the House to the Constitutional provisions in this context, and secondly, how, if this amendment is not accepted, a number of difficulties will arise in the execution of this law. I am convinced that this Bill bears on its face the imprint of Bombay's Chief Minister, Shri Morarji Desai, and I am sure that that is the only State which has requested the Central Government to move in this matter.

**An Hon. Member:** Madras also.

**Shri Kamath:** Not with as much force as Shri Morarji Desai put in. The Bombay Prohibition is so interesting that the Supreme Court has had to interfere in that matter. That Act said that no person shall manufacture liquor, no person shall export liquor, no person shall sell liquor, etc.

**Mr. Deputy-Speaker:** The simple point is, "for 'medicinal', substitute 'non-medicinal'". That is the only question.

**Shri Kamath:** Article 47 of the Constitution says that the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of such drugs which are injurious to health. Of course, this is only the second part of that article.



**Mr. Deputy-Speaker:** The point is that in the guise of medicinal preparations many things are done. Some medicines are more of alcoholic drinks than medicines. So, it has to be regulated by rule.

**Shri Kamath:** I am coming to that. The State is shirking its duties and its responsibilities in this matter. What would have been more to the point and more correct and more proper was that the State, through its machinery, should certify the preparations as medicinal and non-medicinal. As far as non-medicinal preparations are concerned, this Act would apply. As far as medicinal preparations are concerned, there would be no restriction whatever on the import, export, transport, sale, carriage or even personal possession and consumption. I will explain the practical difficulty that might arise. Suppose I want to take a preparation mentioned in this Supreme Court Judgment of 1955—B. G. Phos....

**Mr. Deputy-Speaker:** What is it that the hon. Member is referring to?

**Shri Kamath:** I am referring to a recent judgment delivered in February, 1955 in which the Supreme Court acquitted the Regional Transport Officer, Bombay who was convicted by the Bombay High Court for having in his possession some B. G. Phos which contains 17 per cent. of alcohol, and which is universally regarded as a medicinal preparation. I will not refer to *asavas* or *arishtas*; but suppose I want to take a bottle of B. G. Phos from Nagpur to Bombay....

**Mr. Deputy-Speaker:** Nobody prevents you.

**Shri Kamath:** But I will have to hold a licence, because Bombay is a State where there is complete prohibition.

**Mr. Deputy-Speaker:** The only point which the Government wants is that it should have the right to find out whether a particular preparation is really medicinal or not. If it is really medicinal, it will allow.

**Shri Kamath:** If the Government certifies that a preparation is medicinal, that would be much better than having this sort of blanket provision.

**Mr. Deputy-Speaker:** Clause 3 (1) says:

"No person shall, in the course of inter-State trade and commerce,—

(a) import into a prohibition State any spirituous preparation; or

(b) export from any State or transport from one place to another or sell any spirituous preparation for the purpose of its importation into a prohibition State; save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules."

Therefore, there is nothing prohibiting the import of medicinal preparations containing alcohol. Only some rules and regulations have been framed for the purpose of finding out whether a certain preparation is a medicine or not. I do not see how else the clause can be drafted. Nobody prevents the import of *bona fide* preparations; the Government or the authority concerned will declare whether it is *bona fide* or not.

**Shri Kamath:** Would it not be much more easy if the Government certifies instead of adding a clause like this? If we have the word "non-medicinal", Government will certify that it is non-medicinal and the restrictions can be imposed.

**Mr. Deputy-Speaker:** A preparation which is medicinal in name may be non-medicinal. Therefore, call it by any name, the Government have the right to say that it is a non-medicinal preparation. It is one thing for hon. Members to say "we shall be perfectly entitled to drink to our hearts' content"; on the other hand they may say, "in the interests of the community, having regard to Article 47 of the Constitution, something should be done to prevent drinking." Therefore, some

regulations had to be made; of course the regulations ought not to be abused.

**Shri S. S. More:** If this Bill is passed, the result will be that all these restrictions will be imposed on the people in the non-prohibition States also. The whole country will be affected.

**Mr. Deputy-Speaker:** This is not a blanket provision saying that nothing shall be imported into a prohibition State. Many things will still be allowed to be imported.

**Shri Kamath:** I am putting forward a practical difficulty. Suppose I wish to take a dozen bottles of B. G. Phos from Nagpur to Bombay. Bombay is a prohibition State, and so, will I not have to apply for a permit?

**Shri Kanungo:** If it is not for trade you need not apply for a permit.

**Shri Kamath:** I have known people being taken from Dadar station and interrogated by the Bombay police.

**Mr. Deputy-Speaker:** Of course powers ought not to be abused. I think surely the Government will take sufficient care, especially when hon. Members are so alert.

**Shri Kamath:** Government has not taken care; it has been so indifferent to public health. The police in Bombay have oppressed people.....

**Mr. Deputy-Speaker:** What has the hon. Minister to say about harassment?

**Shri Kanungo:** It is presumed that any harassment that occurs in the administration of law will be corrected.

**Mr. Deputy-Speaker:** The question is:

In page 2, line 2,

for "medicinal" substitute "non-medicinal".

*The motion was negatived.*

**Mr. Deputy-Speaker:** There are no other amendments to clause 2. A number of amendments have been given to me at a late hour. The practice is that those amendments which

are brought at a late hour will only be accepted if the Government accepts them; otherwise I do not waive the rule of notice.

**Shri Kanungo:** After the speech of Mr. Dhulekar, this matter was considered carefully. This Bill is mainly designed to prevent large-scale trading under uncontrolled conditions in *bona fide* medicines which are used for *mala fide* purposes; therefore, I am not prepared to accept the amendments received late.

**Mr. Deputy-Speaker:** The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Clause 3.—(Control of inter-State trade etc.)**

**Mr. Deputy-Speaker:** There are no amendments to clause 3.

**Pandit Thakur Das Bhargava (Gurgaon):** Before the clause is put to the vote of the House, I want to speak on it.

**Mr. Deputy-Speaker:** To what amendment is the hon. Member referring to?

**Pandit Thakur Das Bhargava:** My amendments come under the rule of notice.

**Mr. Deputy-Speaker:** But I understand the hon. Minister is accepting a couple of amendments of Pandit Bhargava.

**Pandit Thakur Das Bhargava:** Those were given long ago; today I gave notice of about 14 amendments.

**Shri Kanungo:** I am accepting his amendment No. 23 to clause 8:

In page 3, lines 32 and 33,

omit "any other persons in the company."

**Mr. Deputy-Speaker:** The hon. Minister accepts amendment No. 23. He also accepts Pandit Bhargava's amendment to the new clause 10A.

**Pandit Thakur Das Bhargava:** My amendment is to clause 10A as amended by his office. At the same time I propose to speak on clause 3 as well as the other clauses. My amendments may or may not be accepted. Regarding clause 3(1)(b)....

**Shri Kanungo:** I have already said that I am not going to accept any amendments.

**Pandit Thakur Das Bhargava:** Of course it rests with the hon. Minister to accept it or not; but so far as the question of speaking on clauses or pointing out certain things is concerned, it rests with the Member. I am only speaking on 3(1)(b).

**Mr. Deputy-Speaker:** Any hon. Member can speak on any clause which is put to the vote of the House.

**Pandit Thakur Das Bhargava:** Clause 3(1)(b) reads like this:

"No person shall, in the course of inter-State trade and commerce, export from any State or transport from one place to another or sell any spirituous preparation for the purpose of its importation into a prohibition State."

My humble submission is, while selling is an offence, purchasing is not an offence. If a person goes from Bombay or any other State and wants to import these things and sell them in Bombay, the purchaser is not guilty; but the seller is guilty. I do not understand this.

**Mr. Deputy-Speaker:** The purchaser comes in under the Bombay Act. Prohibition is only on import into or export from some other State into a certain State. Therefore, unless there is prohibition which makes sale or purchase there objectionable, this would not apply at all independently.

**Pandit Thakur Das Bhargava:** Suppose there is a State in which there is no prohibition. A person who goes there from Bombay, purchases certain articles. He cannot be prosecuted.

**Mr. Deputy-Speaker:** No.

**Pandit Thakur Das Bhargava:** But, at the same time, a person who sells can be prosecuted.

**Mr. Deputy-Speaker:** Except in an unprohibited area. Anybody who is selling in a prohibited area will be liable.

**Pandit Thakur Das Bhargava:** Suppose a person belongs to a prohibited area. He is liable. I sell in a non-prohibited area. I can do anything; I can manufacture anything. Suppose a person comes from Bombay and wants to purchase something.

**Mr. Deputy-Speaker:** If it is for the purpose of carrying it to Bombay....

**Pandit Thakur Das Bhargava:** It is for the purpose of importing it into Bombay.

**Mr. Deputy-Speaker:** He is liable.

**Pandit Thakur Das Bhargava:** He is not liable. The purchaser is not made liable here.

**Shri S. S. More:** He may be prosecuted within the limits of Bombay.

**Pandit Thakur Das Bhargava:** Even there, it will be very difficult to get him convicted. So far as the purchaser in a prohibition State is concerned, he is immune whereas the person who sells is liable. If they want to see that there is no import into Bombay, they should prosecute the purchaser also.

**Mr. Deputy-Speaker:** He will come under clause (a).

**Pandit Thakur Das Bhargava:** Importing is a physical act. Clause (b) deals with another case. "Export from any State or transport from one place to another or sell" is an entirely different matter. Import is quite different. Logically, the purchaser should have been made much more guilty than the seller. The seller may not know, but the purchaser knows that it is for import. It seems to me that if the purchaser is made guilty, it would be much better and the object of this Bill will be better achieved by making the purchaser guilty.

**Mr. Deputy-Speaker:** If he goes into a prohibited area with these articles, he is an importer.

**Pandit Thakur Das Bhargava:** As an importer he will be guilty under clause (a). Here the case is one of exporting from any State or transport from one place to another or sale. The purchaser should also be brought here.

**Mr Deputy-Speaker:** A man who sells will be guilty. The other man when he gets into Bombay he will be caught.

**Pandit Thakur Das Bhargava:** Why at that time? What does it matter if one goes to a prohibited area or an unprohibited area? I am guilty as soon as I sell. Why is not the purchaser guilty?

**The Minister of Defence Organisation (Shri Tyagi):** The purchaser goes away; the seller is there.

**Pandit Thakur Das Bhargava:** The seller can part with his goods to anybody. He is not guilty. If he goes to a non-prohibited area, he can be caught. If he goes to a prohibited area, he will be presecuted. Where is he going away from India, though you have gone from here to there? The length of the arm of the law is great and he could be arrested in any place. I would therefore like that so far as sale is concerned, you may introduce the word 'purchase' here.

**Mr. Deputy-Speaker:** "Transport from one place to another"; will he not come under this?

**Pandit Thakur Das Bhargava:** If it is a sale in a non-prohibited area, there must be export or transport. You are making the seller guilty. Logically, the purchaser is more guilty than the seller. It is but wise to include the purchaser.

**Mr. Deputy-Speaker:** Unless this man manufactures, how can that poor man purchase?

**Pandit Thakur Das Bhargava:** You are right. If you had allowed me to speak in the first stage, I would have said this very thing that you are saying. I congratulate the hon. Minister who has brought this Bill. It would be better if the Government had taken power under article 62 of the Union List and seen that all these things are controlled. First of all, you allow things to be manufactured. Then, you want to put inter-State control and see that they are not sold away. Why do you allow these things to be manufactured? Why do you allow these things to be transported?

**Mr. Deputy-Speaker:** Some States have not introduced prohibition so that people could drink to their heart's content.

**Pandit Thakur Das Bhargava:** Article 47 setting out the directive principle applies to the whole of India. It is quite wrong to suggest that some States are prohibited and some are non-prohibited. It is the duty of the Government to see that these principles of directive policy are followed in all States equally.

**Mr. Deputy-Speaker:** It is only a directive.

**Pandit Thakur Das Bhargava:** All directives are binding upon the Government. I know that liquor is responsible for a large number of murders in the whole of India. All the evils flow from out of this. I am glad that this Bill has been brought. It is good so far as it goes. At the same time,.....

**Mr. Deputy-Speaker:** What I am stating for the consideration of the hon. Member is this. There is not even an amendment that every purchaser also ought to have been brought within the clutches of the law.

**Pandit Thakur Das Bhargava:** I have sent in the amendment today. On the 29th I went through this Bill. I have sent about 14 amendments

[Pandit Thakur Das Bhargava]

today. It is very unfortunate that there were two holidays before today. Even if there is no amendment, there is no bar. We are all working in a co-operative spirit. If there is any amendment which would help to achieve the object of the Bill better, there is no harm in accepting the amendment. Even oral amendments can be accepted. You may remember that in the Criminal Procedure Code (Amendment) Bill, so many oral amendments were accepted.

Mr. Deputy-Speaker: Anyway, it is difficult in the case of a hasty amendment like addition of purchase. We do not know what it will lead to.

Pandit Thakur Das Bhargava: Seller and purchaser are two parts in the same transaction. As regards the other amendments, the hon. Minister may, if he likes, accept any of them. I am helpless under the rules. I would put all the amendments to his consideration.

Mr. Deputy-Speaker: Has the hon. Minister anything to say? Pandit Thakur Das Bhargava asks, why is the purchaser who has the intention to take it to a prohibited area, allowed to go scot-free?

Shri Kanungo: It is very difficult to prove the intention of the purchaser. Intention of importing into any prohibited State is a difficult proposition to prove.

Pandit Thakur Das Bhargava: The hon. Minister is right. But, it is much more difficult in the case of the seller.

Shri Kanungo: Therefore, I want to stop with the seller and not get confused.

Mr. Deputy-Speaker: The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clause 4 was added to the Bill.*

#### Clause 5.—(Penalties)

Shri M. M. Gandhi (Panch Mahals cum Baroda East): I beg to move:

In page 3, for lines 2 and 3 for lines 2 and 3 substitute:

"two years and also with fine which may extend to two thousand rupees".

Shri Kanungo: I am not accepting the amendment. There are two opinions on it.

Mr. Deputy-Speaker: The question is:

In page 3, for lines 2 and 3 for lines 2 and 3 substitute:

"two years and also with fine which may extend to two thousand rupees".

*The motion was negatived.*

Mr. Deputy-Speaker: The question is:

"That clause 5 stand part of the Bill."

*The motion was adopted.*

*Clause 5 was added to the Bill.*

Clause 6.—(Procedure to be followed by magistrate)

Pandit Thakur Das Bhargava: In respect of clause 6, Shri Frank Anthony has already made a point. I have given notice of an amendment. There is an amendment today. I am not speaking on it because I am not allowed to speak on it under the rules. The point is that the trial will be a summary one. The first thing that shall have to be proved will be that the sale or the export, if it comes under clause 3 was for the purpose of its importation into a prohibition State. The hon. Minister just now stated that it is too difficult to prove in the case of a seller. He is perfectly right.

Mr. Deputy-Speaker: What he said was that it is too difficult to prove in the case of a seller: much more is it so in the case of a purchaser.

**Pandit Thakur Das Bhargava:** The real gravamen of the offence is selling for importation into a prohibition State. It is very difficult to prove this, as it will be a matter between the seller and the purchaser. No witnesses will be present; no documents will be there, or even if there are any documents, they will be so drawn as not to indicate the purpose. In this transaction both the parties will try to conceal the purpose. All this would mean that it would be too difficult to prove a charge. So, every case will fail unless it is tried summarily.

Moreover, we have got this tradition in India: people are very much afraid of being convicted. Even under cases under section 323, if there is a conviction and a fine of say Rs. 200 or Rs. 300, he appeals up to the Supreme Court. This is because people do not want to be convicted. It is a very healthy state of affairs: people are so particular about their dignity and respectability. This is a feature peculiar to India. It was stated on the floor of this House some time back that statistics in the U.N.O went to show that Indians were the people who were the least offence-minded in the whole world. If you wish to maintain this sense of dignity and respectability of the people of our country, you ought not to make convictions very cheap. One of the strongest arguments advanced by us against the amendment to the Criminal Procedure Code made recently was that it made convictions too cheap.

If you are going to make offences under this Act triable summarily, what will happen? A high officer of a company, a secretary of a company will be made vicariously guilty under clause 9, if you keep it as it is. At the same time the powers that you are giving under clause 8 are simply unheard of. I am very glad that the hon. Minister indicated his intention of accepting an amendment to this. I have never seen or heard of a law, in my life, of the nature which is now before us, under which any person

on this earth can be arrested, whether he is guilty or not.

**Mr. Deputy-Speaker:** Is it not possible for a high officer of a company to foist the blame on a chaprassi?

**Pandit Thakur Das Bhargava:** What does a company mean under section 8? A company does not mean a registered company. A company only means a collection of people. I may be having a bottle in my pocket. The whole crowd or meeting of people in whose company I am at the time can be hauled up. All the relations in my house, all the members of a joint family can be hauled up, because one person is considered to be in unlawful possession of a bottle of some preparation.

**Mr. Deputy-Speaker:** I want a clarification from the hon. Minister. From the explanation it is clear that a "company" means any body corporate and includes a firm. Do associations of people come under this definition?

**Shri Kanungo:** I suppose Pandit Thakur Dasji is referring to clause 8, last line of sub-clause (d) "and any other persons in the company".

**Pandit Thakur Das Bhargava:** I am referring to clause 9 as well as to clause 8.

In clause 9 you are making a provision under which people will be made vicariously guilty. Associates and relations of a director of a company will be arraigned for an offence. Over and above this you want this offence to be tried summarily.

**Mr. Deputy-Speaker:** They want to avoid clubs—evening clubs.

**Pandit Thakur Das Bhargava:** All persons will be arrested under that.

**Mr. Deputy-Speaker:** Tell me your company and I shall tell you who you are!

This is too loose—association of individuals. The hon. Minister may



[Mr. Deputy-Speaker]

consider about this vicarious responsibility or liability.

**Pandit Thakur Das Bhargava:** I am very glad that Pantji is here with us today. In the Untouchability Bill we had a clause like clause 9. He was pleased to give us an exposition of that provision; he was also pleased to accept certain amendments suggested by us. The very amendments which he then accepted, I have put to this measure. I would therefore request the mover of this Bill to take the benefit of his advice.

I would now refer the House to the word "company" occurring in clause 8 as well as clause 9. Clause 9 enmeshes many persons, who are not covered under the ordinary law. Under sub-clause (d) of clause 8 "any officer of the department of prohibition, excise, etc., can detain and search any person whom he has reason to believe to be guilty of an offence punishable under this Act or the rules made thereunder, and if such a person has any spirituous preparation in his possession and such possession appears to him to be unlawful, arrest him and any other persons in the company."

This is too Draconic. I have never seen, or heard of a law like this. Any person, under this, can be arrested whether he is guilty or not,—any person, man, woman or child.

श्री कानुन : नया कायदा है !

**Shri Kanungo:** I am not pressing it.

**Pandit Thakur Das Bhargava:** You are pressing clause 9 all right.

**Shri Kanungo:** Please do not confuse clause 8 with clause 9.

**Pandit Thakur Das Bhargava:** I am glad my hon. friend proposes to take it away. I am perfectly within my rights in calling his attention to this aspect of clause 8.

Now, what is the difference between a warrant case and a summary case? As my hon. friends More and Anthony

have already pointed out, bottles may be planted and cases of a false nature are likely to be brought. In all these cases planting is very easy. Various High Courts have repeatedly observed that plantings have to be excluded. If you make these cases triable summarily, the apprehension which my hon. friends have may come out true. These will mostly be cases involving inter-State trade, in which big persons will be involved.

Looking to the nature of the cases likely to arise, and the vast powers which the hon. Minister wishes to give to every Tom, Dick and Harry, I am of the opinion that you are not justified in prescribing summary trial for these cases. I should like that the hon. Minister may be pleased to consider whether it should not be warrant procedure.

**Shri Frank Anthony:** I have already indicated my opposition to this clause and I hope even at this late stage the Minister will be persuaded to accept the amendment which was given by my hon. friend Pandit Thakur Das Bhargava.

The hon. Minister did not deal with some of the specific points which we indicated. My question to the hon. Minister was this. Here we are prescribing summary procedure for offences which will be punishable with one year's imprisonment or a fine of a thousand rupees. Even in that misconceived piece of legislation with regard to the Criminal Procedure Code representing all kinds of patch work, even there we did not see fit to interfere with the definition of a warrant case. Now, under the existing definition of a warrant case, this punishment represents offences which fall within the purview of warrant cases. I want to know from the Minister what are the special reasons for singling out offences under this, as I say, comparatively negligible measure, for summary procedure. Does he consider these offences more heinous, more difficult to nail to the



counter, does he think these offences involve more or greater moral turpitude than theft, misappropriation, all of which, if they involve amounts of more than Rs. 50, are tried by regular warrant procedure? I want to know the reason because to me it is quite certain that this is a flagrant violation of article 14 of the Constitution. What is the reason for denying equality of law to people who are exposed to being convicted to one year's jail under this particular provision? What is the reason for singling them out? I do not understand it, and as I have said, I would like the Minister to give some reason for bringing this kind of draconian measure. I am not questioning the limit of punishment. I say, all right, give them a year, give them a thousand rupees, but why are we subverting these accepted principles of criminal jurisprudence? What is the reason for setting aside the basic principles in the Criminal Procedure Code? It is well settled now that no public servant should be tried summarily. Here, if a public servant is involved, he will be tried summarily. What is the reason for perverting and subverting our fundamental principles of criminal jurisprudence in this small measure? If the Minister can satisfy me, I shall be glad.

**Shri Kanungo:** I do not know if I can satisfy the House on the points raised by him. In fact, I am not very sure about it.

The purpose of this particular clause in the Bill is to deal with the offences of importation and exportation and sale of particular commodities which have become very widespread.

**Shri Frank Anthony:** So has misappropriation become widespread.

**Shri Kanungo:** There are large number of cases, and unless they are finished and decided quickly, the purpose of this law will be defeated. That is the only reason.....

**Shri S. S. More:** Which he can think of.

**Shri Kanungo:** .....which is important to my mind. Of course, I agree with Shri Anthony that to the absolute principles of jurisprudence, such provisions are offensive, but yet, in view of the conditions as they are, in view of the widespread nature of the misuse of the present freedom that is there.....

**Shri S. S. More:** May I know whether the hon. Minister has got necessary data at his disposal to support his contention that such cases are becoming very wide-spread?

**Mr. Deputy-Speaker:** Hon. Members themselves have said so.

**Shri Kanungo:** The very speeches that have been made on this Bill this morning will show how much wide-spread it has become. When particular items which were being consumed at the rate of 800 lbs. have suddenly jumped to lakhs of lbs., what are they used for? They are not certainly used for medical purposes.

**Shri R. S. Murthy:** Shrimati Sucheta Kripalani has given figures just now.

**Shri Kanungo:** Therefore, though it is offensive to the theories of jurisprudence, I am yet submitting it to the House that because of the particular position that we happen to find ourselves in today in society, we have got to accept it.

**Shri R. D. Misra (Bulandshahr Distt.):** I would like to ask one question. According to section 260 of the Criminal Procedure Code, only a district magistrate or a magistrate of the first class specially empowered in this behalf, or any magistrate invested with powers of a magistrate of the first class can try cases summarily. Does the Minister mean here that the ordinary magistrates will try these cases summarily?

**Shri Kanungo:** Not at all.

**Shri R. D. Misra:** It is provided in section 262 of the Criminal Procedure Code:

"(1) In trials under this Chapter, the procedure prescribed for

[Shri R. D. Misra]

summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter."

Does he mean that if the case is tried summarily, the magistrate shall be entitled to pass a sentence of one year in the case when there will be no record?

Shri Kanungo: You are right to that extent.

Shri R. D. Misra: Then it means that the magistrate will be able to pass only a sentence of three months, while you have provided that the punishment shall be one year. It is useless to put one year in this clause. You can have only three months because the magistrate cannot pass a sentence of more than three months if the case is tried summarily.

Mr. Deputy-Speaker: Does it make a difference between a case where an appeal lies, if it is tried summarily, and a case where no appeal lies.

Shri Frank Anthony: That means that certain requirements are laid down as to what has to be inserted in the record.

Mr. Deputy-Speaker: In cases where an appeal lies, can there be a higher punishment than three months?

Shri Kanungo: I suggest let us hold our patience for a while and let us see whether this procedure is being misused anywhere or not.

Mr. Deputy-Speaker: Hon. Members wanted a less period. Because it is to be tried summarily, no Judge or a district magistrate can pass a sentence exceeding three months. Therefore, automatically under this section it is reduced to three months.

Those who are in favour of reducing it will satisfy themselves by that.

The question is:

"That clause 6 stand part of the Bill."

Those in favour will say "Aye".

Some Hon. Members: "Aye".

Mr. Deputy-Speaker: Those against will say "No".

Some Hon. Members: "No."

Mr. Deputy-Speaker: The "Ayes" have it.

Shri Kamath: The "Noes" have it.

Mr. Deputy-Speaker: Hon. Members who are against will kindly stand in their seats. There are only six. Those in favour of the motion—an overwhelming majority. The clause is passed.

Shri Kamath: Division.

Mr. Deputy-Speaker: There is no question of division when there are only six supporters.

Shri Kamath: The House should assemble.

Mr. Deputy-Speaker: It is left to the Chair. The hon. Member is an old parliamentarian. He knows the rules very well. I find the motion is supported only by six people.

*The motion was adopted.*

*Clause 6 was added to the Bill.*

*Clause 7 was added to the Bill.*

*Clause 8.—(Power to enter, search, seize, etc.)*

Shri R. D. Misra: I beg to move:

In page 3, line 33,

for "in the company" substitute:

"whom he has reason to believe to be guilty of an offence punishable under this Act or the rules made thereunder".

में अमेंडमेंट का मतलब यह है कि बिल के क्लॉज ८ में जो "इन दी कम्पनी", के अल्फाज आये हैं, उनकी जगह पर मैं चाहता हूँ कि यह रख दिया जाये कि अगर वाकई उसकी कम्पनी में कोई ऐसा शख्स हो.....

**Shri Kanungo:** May I submit that I am accepting the deletion of these words? So, this amendment is not necessary at all.

श्री आर० डी० मिश्र : मैं कहने का मतलब तो यह है कि अगर वाकई कोई ऐसा शख्स हो जो जर्म में उसके साथ शरीक हो, अगर वह वाकई उस के ट्रान्जेक्शन के अन्दर शरीक हो और थानेदार को या एक्साईज अफसर को बकीन हो कि वह आदमी उसमें शामिल है तो उसको जरूर पकड़ना चाहिये और इस कानून के बमोजिम उसको भी सजा देनी चाहिये, लेकिन अगर उसके खिलाफ कोई जर्म न हो तो उसे पकड़ना नहीं चाहिये, भले ही वह किसी मुजरिम की कम्पनी में पाया जाय। मैं अमेंडमेंट यह है कि ऐसे बंक्स आदिमियों को छोड़ देना चाहिये, सिर्फ उसी आदमी को पकड़ना चाहिये जो कि वाकई मुजरिम हो, अतएव अगर और उसकी कम्पनी के लोग उस जर्म में शरीक हों, तो उन सब को पकड़ लेना चाहिये।

**Mr. Deputy-Speaker:** The hon. Minister is accepting the other amendment by Pandit Thakur Das Bhargava to omit the words 'and any other persons in the company'. So, this amendment does not arise at all. I think the hon. Member wants to qualify the words 'any other persons in the company' for he feels that that expression is too wide. So, in its place he wants something else to be substituted. But the hon. Minister is willing to accept the amendment of Pandit Thakur Das Bhargava for deleting the words 'and any other persons in the company'. So, the hon. Member's amendment goes out.

**Pandit Thakur Das Bhargava:** I beg to move:

In page 3, lines 32 and 33,

omit "and any other persons in the company".

Apart from this amendment, I have got certain other amendments also on which I propose to speak. For instance, there is one amendment which reads:

In page 3, line 15,

after "taken down in writing" insert "and signed by him".

The clause as it stands reads:

"Any officer of the department of prohibition, excise....., who has reasons to believe from personal knowledge or from information given by any person and taken down in writing.....".

I want that the words 'and signed by him' be added after the words 'taken down in writing'. The point here is this. The hon. Minister has been pleased to indicate that he is going to accept another amendment of mine, which I had given notice of as a new clause 10A, but he wants that it may be called as new clause 8A. The second part of that new clause 10A (amendment No. 9) reads thus:

"Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to one year or with both."

The hon. Minister has stated that he is going to accept this provision. In fact this is based on a similar provision in the Central Excises and Salt Act, namely section 22 of that Act. It appears from this that the hon. Minister has been pleased to accept the principle that if a person, as under section 182 of the Indian Penal Code, wilfully does any act whereby another person is brought to book, in a case of an ordinary nature the former can be proceeded against criminally and brought to book if the information given by him was false. If that is so, then we must see that that person cannot escape. Supposing

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he gives some information and it is reduced to writing, but he is not made to sign it, then it is open to him to come forward and say later, I never gave this information, the officer himself has written it down, I am not responsible for it and so on, or he may say a hundred and one of such things. But if the information is signed by him, then he will be pinned down. As an instance, I might call the attention of the hon. Minister to section 54 of the Criminal Procedure Code, where the informant goes and reports about any offence, and after he has made his report, he is asked to sign the report or to thumb-mark it in token of the fact that he is responsible for that statement. Only in the case of statements under section 162 etc. a person cannot be made to sign. But a person who really moves an officer and who really moves the criminal law is a responsible person, and therefore we want that if he brings a case against another person out of vengeance or retribution or animosity, then he should be made responsible for his act.

Mr. Deputy-Speaker: All that the hon. Member wants is that the words 'and signed by him' should also be added after the words 'taken down in writing'. What has the hon. Minister to say on this?

Shri Kanungo: It is not necessary to prove that any information is wilfully and maliciously false. A mere signature is not going to prove that.

Shri B. S. Murthy: Why not?

Pandit Thakur Das Bhargava: Quite right. A mere signature may not prove it. But that statement along with the signature will prove it.

Shri Kanungo: It is a question of the evidential value of a bit of information. As against that, we have got to see that many informants would not like to sign their names.

Shri Frank Anthony: This is an incitement to every blackmailer and every professional.

Shri Kanungo: I leave it as it is. The question of any information having been wilfully and maliciously given should be left to the courts to decide in the circumstances of the case. I shall not shut out information coming to me from persons who are reluctant to do so otherwise.

Mr. Deputy-Speaker: Then, I shall put this amendment to the vote of the House.

Pandit Thakur Das Bhargava: I have to speak on other amendments also. This is not my only amendment.

Mr. Deputy-Speaker: Very well. I shall put this amendment to vote first.

The question is:

In page 3, lines 32 and 33,

omit "and any other persons in the company".

*The motion was adopted.*

Mr. Deputy-Speaker: The hon. Member may speak about his other amendments. I am not allowing those amendments, because they are not accepted by Government. But he may speak generally on them, and be as brief as possible.

Pandit Thakur Das Bhargava: Under clause 8(c), any officer of the department of prohibition or any other department authorised in this behalf may:

"seize such preparation and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder";

But what is the procedure to be followed after the seizure? What is to happen after the goods are seized? Where will they be kept? What use shall be made of them, and how will

they be dealt with? The Bill is absolutely silent over these matters. My humble submission is that any such preparation or any such article to which clause 8(c) applies should be liable to confiscation if there is a conviction, and if there is no conviction, then those things should be returned back. We have got provisions like this in the Criminal Procedure Code also, and there is no reason why we should make this law absolutely barren without full provisions being made in respect of all those matters.

You will be pleased to see further that clause 8(d) also contains some objectionable matters. It reads:

"detain and search any person whom he has reason to believe to be guilty of an offence punishable under this Act or the rules made thereunder.....".

So far, I have got no objection. Certainly, if a person is guilty, detain him and search him. But the sub-clause further says:

".....and if such person has any spirituous preparation in his possession and such possession appears to him to be unlawful, arrest him and any other persons in the company".

Now, of course, the words 'and any other persons in the company' have been removed. But still I take exception to this portion which I have just read out. Suppose a person is in a non-prohibition State, where the possession of such goods is not unlawful; then on the very words of my friend, he can dispose of his goods for any purpose except that of importation. Suppose I am in possession of certain goods, and such possession is not unlawful, I want to know how possibly I can be arrested, unless it be that the sub-inspector or the officer himself has committed an offence. It is an offence only in the prohibition State. If the law of the prohibition State justifies such arrest or such detention, I have no objection to such arrest or detention in that

State. But outside that State, the possession is not unlawful. In that case, how will it be said that such possession appears to the officer to be unlawful? For, in this non-prohibition State, there is no law which makes the possession or even the manufacture of it unlawful; and therefore, this provision cannot apply. Unless and until the law of that particular State justifies such arrest, such persons could not possibly be arrested.

Mr. Deputy-Speaker: What is the difficulty? He would not be arrested.

Pandit Thakur Das Bhargava: He would be arrested.

Mr. Deputy-Speaker: He will not be arrested unless an offence is committed under this Act, i.e. unless he has exported or imported into a prohibition State.

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Pandit Thakur Das Bhargava: Importation can only take place if the thing has gone to a particular prohibition State. There, in the prohibition State, the law of that State would apply.

Mr. Deputy-Speaker: He puts it in the train and sends it to Bombay. In transit, this man can be arrested...

Pandit Thakur Das Bhargava: I have no objection.....

Shri Kanungo: If the possession is for unlawful purposes. One of the unlawful purposes is intention to import into another State.

Pandit Thakur Das Bhargava: First of all, suppose the article is in my shop. Can I be arrested? I can't be arrested.

Shri Kanungo: If I can prove that he has intention of exporting it to some prohibition State.

Pandit Thakur Das Bhargava: Intentions are never penal. I may have the intention of exporting it to heaven or hell.

Shri Kanungo: That is for the courts to decide.

**Mr. Deputy-Speaker:** With all respect to Pandit Thakur Das Bhargava, whatever is the offence, it is not intended to create an offence which is not an offence, irrespective of the mental attitude. We have already laid down in clause 3, which we have passed, the conditions. One is, import into a prohibition State of any spirituous preparations; the second is, export from any State or transport from one place to another etc. That is, he puts it into the train, purchases a railway receipt for sending it to Bombay. Then, so far as he is concerned, he has done the act and he can be arrested.

**Pandit Thakur Das Bhargava:** If the goods are in a railway train or in any other vehicle, they are not in possession. You will kindly see that he can only be arrested when he is in possession of those goods.

**Shri Kanungo:** For unlawful purposes.

**Mr. Deputy-Speaker:** Or for transporting from one place to another.

**Pandit Thakur Das Bhargava:** It is not there.

**Mr. Deputy-Speaker:** He is carrying it. He is carrying it in his own lorry from one place to another for the purpose of sending it across the border. He can be arrested. We are not exhausting all the several cases here by giving illustrations. To whatever case it applies, it applies. It is not as if it does not apply even to a single case. We are not arguing as in a court whether a particular case comes within its purview or not. We are laying down the law for all people. I believe the hon. Member has said enough about this matter.

**Pandit Thakur Das Bhargava:** If you will kindly permit me, I have to say something more. My submission is this: there are two kinds of cases. There is the prohibition State and the non-prohibition State. In the prohibition State, they have got laws where possession of such articles may

be punishable. So far as the possession of these articles in a non-prohibition State is concerned, possession by itself does not make a person guilty. Only selling makes him guilty. Otherwise, he is not guilty. My submission is that if you want to make it an offence, that possession is guilty, you can only make it in the prohibition State. In the non-prohibition State, you cannot make possession guilty. This is what I submit.

**Shri Kanungo:** First of all, it is not offence; it is under what circumstances, a man can be arrested. Secondly, what is lawful and what is unlawful will depend upon the nature of the circumstances as they are. Therefore, I do not think I can accept this amendment.

**Mr. Deputy-Speaker:** The words at the end of sub-clause (1) of clause 8 "or is being transported in any vehicle, vessel or aircraft to any place or is in transit" are generally to cover many cases. A particular case may or may not come within that.

**Shri Frank Anthony:** I am also opposed to this particular clause for the reason that it gives blanket and sweeping powers not only to police personnel but to members of other departments like the revenue and the public health sections. In seeking to answer my question with regard to clause 6, the Minister pleaded as his justification for superseding the fundamental principles of criminal jurisprudence, a large number of these cases. I must submit with the greatest respect to the Minister that this has never been a reason—an acceptable reason—in any civilised democracy for jettisoning fundamental principles of jurisprudence and even in this particular case merely because—this is purely an *ipse dixit* on the part of the Minister—we have a large number of cases. Surely, there will be a large number of theft cases in the country.....

**Mr. Deputy-Speaker:** This has nothing to do with it.



**Shri Frank Anthony:** I am dealing with search. It is the same here. Here we are giving summary powers; as I have already said, even with regard to the most heinous offence involving the worst features of moral turpitude, search can only be undertaken provided there are certain safeguards. Search can only be undertaken under certain safeguarding circumstances; you have all kinds of checks and brakes. Then if the investigating officer decides that there is no time, the article may disappear, he can, after recording his reasons, take action under section 165. Here no reasons have to be recorded. In every case a man can take action merely on his own volition. However, high the man may be, however irresponsible his motives may be, there is absolutely.....

**Mr. Deputy-Speaker:** Hon. Members have been saying in one breath that illicit distillation is going on, a boy is prepared to go to jail because he earns Rs. 2 every bottle. This is such an offence and the whole community seems to be hand in glove, and the Government are finding it difficult. This is alleged on the one side. On the other side, it is said leniency for the man to escape also ought to be there.

**Shri Frank Anthony:** With all due respect, are these provisions of lenience or the minimum provisions which we regard as necessary to protect even the worst criminal in the country? Here we are giving a carte-blanche, as I say, to any corrupt official, to go and search without the safeguard of having to provide even two respectable witnesses. In every other case, he has to take two respectable people with him.

**Shri S. S. More:** I believe these are powers in the nature of powers given to an officer for the purpose of investigations etc. So this will be confusing the relevant provisions of the Criminal Procedure Code.

**Mr. Deputy-Speaker:** Under sub-clause (4) of clause 8, he is governed by the provisions of the Criminal Procedure Code.....

**Shri Frank Anthony:** For the purpose of investigation.

**Mr. Deputy-Speaker:** Powers must be subject to all the rules. Those powers are not without any responsibilities.

I assume that for the purpose of search, all the relevant provisions of the Criminal Procedure Code will be applicable.

**Shri Frank Anthony:** If the hon. Minister accepts it, it is all right.

**Pandit Thakur Das Bhargava:** Sub-clauses (3) and (4) are there. But the difficulty is quite different. Suppose a man is arrested by a health department man. Who will send him to the police station or the Magistrate? There is no provision. Under sections 10 and 20 of the Central Excise and Salt Act, when a man is arrested, he will be sent to the police station; then the person in charge of the police station will deal with him, as the law requires, but there is no such provision here. I have given two amendments to that effect also. As soon as he is arrested, he must be sent not to the house of the person.....

**Shri S. S. More:** Even a health officer will be empowered under sub-clause (3), and to that extent, he is an officer in charge of a police station.

**Shri Frank Anthony:** If my hon. friend will accept the interpretation that all this is governed by the provisions of the Criminal Procedure Code, including the provisions regarding search and seizure, I shall be only too happy.

**Shri Kanungo:** It is assumed that that there will be a horde of locusts in the shape of officers of different kinds; it is also assumed that all of them are corrupt and bad, and they



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are being let loose on the citizens of this country for the purpose of harassing them. I submit that it is an entirely wrong presumption.

Shri Frank Anthony: That is not the presumption.

Shri Kanungo: It is not a case of anybody or any particular department or anything. The State Government is going to empower officers specifically for this purpose. That safeguard is there.

Mr. Deputy-Speaker: Rules also will be made.

Shri Kanungo: Yes. Rules have got to be framed. Therefore, all the apprehensions of the Members are unfounded.

As regards the interpretation as to how much it will be controlled by the Criminal Procedure Code, I am not going to interpret that. But within the framework of this Act, I believe and I submit that there is enough protection for any bona fide action of any citizen, and any chances of harassment or oppression are safeguarded against.

Mr. Deputy-Speaker: The question is:

"That clause 8, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 8, as amended, was added to the Bill.*

**New Clause 8A.—(Vexatious search, seizure, etc.)**

Pandit Thakur Das Bhargava: Sir, I beg to move new clause 8A. Instead of 10A it will become 8A. I beg your permission to move it at this stage.

Mr. Deputy-Speaker: The hon. Member wants permission to move 8A instead of 10A?

Pandit Thakur Das Bhargava: Yes, Sir. I am moving the amendment—not the amendment which is given notice of—but in a slightly amended form.

I beg to move:

In page 4, after line 4, insert:

"Vexatious search, seizure etc. by officers exercising powers under the Act.—8A. (1) Any Officer exercising powers under this Act or under the rules made thereunder who—

(a) without reasonable ground for believing that it is necessary so to do, searches or causes to be searched any house, building or enclosed place or any vehicle, vessel or aircraft;

(b) vexatiously or unnecessarily seizes any spirituous preparation or any document or other article;

(c) vexatiously or unnecessarily detains, searches or arrests any person; or

(d) commits as such officer any other act to the injury of any person without having reason to believe that such act is required for the execution of his duty;

shall for every such offence be punishable with fine which may extend to two thousand rupees.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to one year or with both."

Mr. Deputy-Speaker: What about the hon. Minister?

**Pandit Thakur Das Bhargava:** He is going to accept it.

**Shri Kanungo:** I accept it.

**Mr. Deputy-Speaker:** This is a safeguarding provision by which the excesses of these officers about which so much has been said here has been checked.

The question is:

In page 4, after line 4, insert:

*"Vexatious search, seizure etc. by officers exercising powers under the Act.—8A. (1) Any Officer exercising powers under this Act or under the rules made thereunder who—*

(a) without reasonable ground for believing that it is necessary so to do, searches or causes to be searched any house, building or enclosed place or any vehicle, vessel or aircraft;

(b) vexatiously or unnecessarily seizes any spirituous preparation or any document or other article;

(c) vexatiously or unnecessarily detains, searches or arrests any person; or

(d) commits as such officer any other act to the injury of any person without having reason to believe that such act is required for the execution of his duty;

shall for every such offence be punishable with fine which may extend to two thousand rupees.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to one year or with both."

The motion was adopted.

New clause 8A was added to the Bill.

**Pandit Thakur Das Bhargava:** I have tabled two amendments:

(1) In page 4, line 8,

omit "as well as the company".

(2) In page 4, line 19,

omit "or is attributable to any neglect on the part of".

First of all, I would just submit for your consideration that last time when we were discussing the Untouchability Bill the same provision was there. This is a standard provision of the Government. So far as the previous provisions are concerned, I am very glad that the government have seen their way to change the provisions comparable to these in other Act. Now, they have evolved a better procedure. At the same time, I am very glad that on the last occasion when I moved an amendment Shri Pantji, our venerable Home Minister kindly accepted the amendment in respect of this also. First of all, he said that the word 'company' here is unnecessary and I realise the force of it. What is the company? It consists of thousands of shareholders or hundreds of them, who have nothing to do with the management of the company as such. They have seen the memorandum and articles of association and they have bound themselves by it but they never agreed that if the company or the officers misbehave they will be mulcted. If a company is punished thousands of persons are being punished. Suppose the company is fined Rs. 10,000, who suffers? The innocent persons, the shareholders who have nothing to do with the management, who know nothing about the offence are punished. It is all right that if those persons who are responsible are being punished even for their connivance or an overt act. If they do not exercise full diligence etc. I quite understand those persons may be hauled up who are actually guilty or who have been

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vicariously guilty; those persons who according to the provisions of section 9 are in charge of the affairs of the company though they may have nothing to do with the particular offence. But I cannot understand how the entire company shall be held liable.....

Mr. Deputy-Speaker: It can be only when he is responsible or in charge of the company.....

Pandit Thakur Das Bhargava: Responsible for the business of the company. Supposing I am in charge of company and a person commits an offence in regard to the purchase of sugarcane, I am responsible.....

Mr. Deputy-Speaker: Or the business in respect of which the offence is committed?

Pandit Thakur Das Bhargava: I wish it were so. I have given many amendments in this House which have been brushed aside. You are perfectly right when you import these words that a person must be held responsible in respect of the particular matter in respect of which the offence is committed. These words are not there and I am complaining against that. I even accept that a person may be made responsible for the misdeeds, for his not doing anything. I want that scapegoats should not be put up and persons who are really responsible should not escape. I have got the same mentality as many of my friends. But, at the same time, I cannot understand why a company is being made responsible.

Mr. Deputy-Speaker: If the fine of one thousand rupees cannot be realised from this man, from whom is it to be realised?

Pandit Thakur Das Bhargava: Is a secretary or a managing agent who gets thousands of rupees so poor that you cannot realise the money from him? (Interruption). What has the company done; what have the shareholders done?

Shri S. S. More: May I ask a question of my hon. friend? Certain companies do manufacture certain so-called medicines which are consumed by the public. If the shareholders are reaping the profits of such a manufacture which is eventually held criminal, they should suffer the consequences. Otherwise, according to my friend's suggestion, there will be one way traffic of profit and no punishment.

Pandit Thakur Das Bhargava: My friend fully knows that in the civil law of this country, if you appoint an agent he can do all the work but you cannot appoint any person for committing any offence. There can be no agency for committing a wrong. What the memorandum and articles say is that we shall have this kind of trade and that kind of trade etc.....

Mr. Deputy-Speaker: There need be no fear that the company is going to be jailed.

Pandit Thakur Das Bhargava: Has a company any mind? After all, in all these things *mens rea* is there. Has the company any mind? Juristically speaking, this is a wrong thing. I do not want to leave those persons who are actually responsible. But a company which has got no mind which has got no *mens rea*, my friend wants should be punished; that is the whole body of shareholders. My humble submission is that in criminal law there can be no agent for committing a wrong. Therefore, the company as such should not be responsible.

The second point which I want to bring to the notice of the House is the words 'or is attributable to any neglect on the part of' should not be there. I am not objecting to the words 'with the consent or the connivance of' but only to 'attributable to any neglect on the part of'. My humble submission is this. In the criminal law of this country, in the Penal Code, we know of only three or four provisions in which the question of neglect comes in. In all cases

where an offence is committed, it is the *mens rea* which makes a person responsible; otherwise, even if a person commits a hundred wrongs he will not be responsible. When there is no advertance to the consequences of an act which is being done, or when a person is fully non-cognizant of the things that are taking place, no neglect has ever been considered the subject-matter for which a man can be held responsible. According to all rules of criminal jurisprudence, the words 'attributable to neglect' should not be there. It is only when a person is guilty or even vicariously guilty that he can be held liable but when his mind does not go with the act to say that he is responsible is to accept a doctrine which is unknown to the criminal law of this country, or to the criminal law of any other country. If the mind does not go with the act then you are not responsible for the act. This is what Shri Krishna Maharaj says in the Gita. "If one's mind does not go with the act even if he kills three worlds he is not guilty". I do not know the mind of the framers of the rules. In every Act you find this. It was only Pantji who was kind enough to agree to make this change because he knows it is unjust to penalise a person for mere neglect. I would, therefore, humbly submit that in respect of these two matters about which there is a precedent in this House, the word 'company' may be taken away.

Shri Bogawat: May I say a word?

Mr. Deputy-Speaker: It is time already. Let the hon. Minister reply to this.

Shri Kanungo: I do not want to reply in detail. We had the same arguments from Pandit Thakur Das Bhargava in connection with an Act which was discussed in this House last session—The Essential Commodities Bill. The identical section which is here was there and it was fully debated and I submitted all the arguments that I could and I do not

want to repeat them now. I would only say that there is enough safeguard for *bona fide* persons to protect themselves.

With regard to the point that shareholders of a company may be punished by a fine levied on the company, to my mind the subject deserves it, because if they leave the affairs of the company in charge of an agent or a managing agent who is not competent and who goes on committing offences then they certainly deserve this.

Pandit Thakur Das Bhargava: There is no reply about what had happened to the last Bill. I would like to refer to the proceedings of the last session of Parliament. Parliament should be consistent in this matter.

Shri Kanungo: I am not prepared to accept it in this case.

Pandit Thakur Das Bhargava: May I submit to the Chair to kindly see that at least there is uniformity in the Ministers' actions? The hon. Home Minister gives a lead and are we in our right not to accept that lead now? The House is committed to the amendment being accepted and if the hon. Minister wants to ignore my arguments, let him controvert them and I shall be quite happy. But if the arguments are good, he cannot ignore them.

Shri Kanungo: I certainly do not say that the arguments are not enough or good. I would only say in this case, that the particular Bill to which the hon. Member is referring, is entirely different. Here on this Bill and on agnate subjects about medicinal preparations, etc.,—Kumari Annie Mascarene raised this point—companies are engaged in this trade and are making profits out of such illegal trade. Therefore, we want that the companies should be punished.

Pandit Thakur Das Bhargava: May I know then why that provision was inserted in the Untouchability Act, if it was not relevant there?

**Mr. Deputy-Speaker:** The hon. Member is very enthusiastic about this matter, but he is a good lawyer and knows that even in *res judicata* every case depends upon the facts of the case. There is no question of *res judicata* in this particular case.

The question is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

*Clause 9 was added to the Bill.*

**Mr. Deputy-Speaker:** There are no amendments to clauses 10, 11 and 12.

**Shri Kamath:** May I have a word on clause 10?

**Mr. Deputy-Speaker:** I think I must now gullotine as I have already exceeded the time by half an hour.

*Clause 10 (Presumption from possession of spirituous preparations.)*

**Shri Kamath:** There is no question of a discussion.....

**Mr. Deputy-Speaker:** The House agreed to allot only three hours. In deference to the wishes of the House and because a number of contentious matters were being raised, we are going on still. But I must have concluded this at 2-45 P.M. and we are at 3-25 P.M. Therefore hon. Members will kindly be brief.

**Shri Kamath:** Not more than a minute. The Supreme Court, in its recent judgment in the case of *Behram Khurshid Peshikaka versus the State of Bombay*, delivered in February 1954 observed that it is a cardinal principle of criminal jurisprudence as administered in this country that it is for the prosecution, and prosecution alone, to prove all the ingredients of the offence for which the accused has been charged.

**Shri S. S. More:** He is putting forward exploded canons!

**Shri Kamath:** To take a concrete case, the hon. Minister answered, with some difficulty a little while ago, with reference to the possibility that I might carry *drakshasav* to Bombay six or a dozen bottles, that if it is proved that it was not for the purpose of import, I would be let off. It is presumed that I was carrying them without a licence as medicinal preparations. The Minister stated that I will not be proceeded against in case it is proved that it was not meant for import. Now, who is to prove that it was not meant for import? Here the Supreme Court held that once the accused indicated his defence the onus once again shifts on to the prosecution to negative the defence. Therefore, I would ask this question: Will I have to prove that it was not for the purpose of import or will the prosecution prove that it was not for personal use but for import into the State of Bombay? That is a concrete question and I want to know on whom falls the onus of proof.

**Shri Kanungo:** Courts will be guided by the judgment of the High Courts, but here the provision of the Bill says that the very fact of possession gives the presumption of *mala fides*.

**Mr. Deputy-Speaker:** Just as in cases where theft is committed, possession of stolen property leads to presumption and possession itself is proof.

The question is:

"That clause 10 stand part of the Bill."

*The motion was adopted.*

*Clause 10 was added to the Bill.*

*Clauses 11 and 12 were added to the Bill.*

*Clause 13. (Protection of action taken in good faith.)*

**Mr. Deputy-Speaker:** So far as clause 13 is concerned, there is an amendment which is barred by the amendment that has been carried by

the House—the one moved by Pandit Thakur Das Bhargava. Therefore, there is no amendment to clause 13.

**Pandit Thakur Das Bhargava:** The words "or intended to be done" may be taken away. Such removal is just in consonance with the amendment carried. The amendment made is that if a person vexatiously or unnecessarily does anything, then the public servant will be responsible. Here, these words may mean that if anything is done in good faith, we do not want to tease any public officer. But if he has done nothing in good faith but only intended to be done in good faith, then we do not intend to protect him as intentions belong to the realm of the non-mundane and cannot be proved concretely.

**Shri S. S. More:** This clause is by itself inconsistent with the amendment which was passed—clause 8A. My suggestion is that in view of clause 8A, which has been accepted by Government and is now part of the statute, it will automatically rule out these words "or intended to be done", because if there is any such presumption of good faith, then clause 8A has no existence. Without any amendment by any hon. Member, it will be a matter for your decision that these words will have no reason to be there.

**Mr. Deputy-Speaker:** 'Good faith' applies to both. It may be said that the one follows from the other and both of them need not be there, but the one is not inconsistent with the other.

**Pandit Thakur Das Bhargava:** Vexatiously or unnecessarily.....

**Mr. Deputy-Speaker:** The one is exclusive of the other. If there is no good faith either for an act done or intended to be done, then it comes under clause 8. If it is done in good faith or if it is intended to be done in good faith, clause 13 applies. One alone may be enough but there is no harm in having both, because one is negative and the other is positive.

Amendment No. 5 of Shri Raghubar Dayal Misra does not arise after clause 8A has been accepted.

The question is:

"That clause 13 stand part of the Bill."

*The motion was adopted.*

*Clause 13 was added to the Bill.*

*Clause 14.—(Saving of local and special laws.)*

**Pandit Thakur Das Bhargava:** If you kindly look at article 302 of the Constitution, you will be pleased to see that Parliament has specifically been given these powers.

"Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest."

Now, here the words 'reasonable restriction' are not there whereas in article 304 the words 'reasonable restrictions' are there so that the powers of the Parliament are much greater than the powers of the State legislatures in regard to these matters. We cannot by virtue of this clause here say that the State Act will prevail over the Act enacted by this Parliament.

If you kindly see article 254 of the Constitution, you will see that, if the Parliament as well as the State have competency to enact on the same subject and if there is a State law and the law of this Parliament, then this Parliament's law would prevail and to the extent of the inconsistency between the State and the Parliament laws the State law will be void. Can we go against the provisions of the Constitution and say that any greater restrictions imposed by the States will be there in spite of the fact that they are inconsistent with the law made by Parliament.



[Pandit Thakur Das Bhargava]

My submission is that it is really redundant. If there is a State law and the State law is quite in accordance with the articles of the Constitution then the Parliament law does not touch it. If there is a Parliament law on that very subject matter, then the law of Parliament shall prevail; whatever we may say, that part of the law of the State which is inconsistent with the law of this Parliament will be void.

Shri Kanungo: It is not only sections of the Act which are contemplated under this particular clause; there are also the rules and regulations and all other things. It is quite conceivable that there will be certain rules and regulations in a particular State and they may be on the same subject on which there may be some rules framed under the Central Act. In such cases the State rules and regulations will prevail. It does not put any restriction on the inter-provincial trade because no State can legislate on inter-provincial trade which is governed by this particular Bill. If there is any provision which is duplicated there and the punishments or obligations are not identical then that legislation alone will prevail.

Pandit Thakur Das Bhargava: That is exactly what I am asking. So far as a State is concerned, it has nothing to do with the inter-State trade that is dealt with under article 302 of the Constitution. In its own sphere the State has got perfect liberty to legislate as they like. But when there is a conflict between these two laws, then the law of the Parliament shall prevail and to the extent of repugnancy the State law will not be operative. That is given in the Constitution. How can we override the provisions of the Constitution? Hon. Minister has not replied that point.

Shri S. S. More: May I ask a question? Clause 5 prescribes a punishment of one year's imprisonment or a fine of one thousand rupees or both.

Supposing there is a provincial legislation in which the punishment prescribed for a similar act is much more than what is prescribed here, will clause 14 then operate and will that provision continue to be valid against this provision made by the Parliament?

Mr. Deputy-Speaker: Hon. Members are aware that it is not competent for the Chair to decide by a ruling all these matters. It is ultimately the House that has to decide whether it is constitutional or unconstitutional. All the same, I would like to urge upon hon. Members the consideration of this matter. Parliament could have instead of saying so in this Bill, taken clause after clause and section after section each one of those State acts and said that we adopted that Act. Then it would have become part and parcel of this Bill. Therefore, this Act will override that or will be in consonance with that Act. Instead of saying so, by a general clause—clause 14—it is said that we adopt all those provisions and notwithstanding the conclusions that we have come, if that provision is different from this provision, that provision shall be treated as part and parcel of this Act of Parliament. That is all what it says.

Pandit Thakur Das Bhargava: Is it consistent with our dignity not to consider such provisions individually and pass on omnibus clauses inconsistent with the provisions of article 254 in this manner?

Mr. Deputy-Speaker: We have said in this House and in this Parliament that we extend the Bombay Act to PEPSU and to Delhi. Why should we depend upon a minor satellite Act and forego all our rights and responsibilities? There is nothing wrong. It is only for the purpose of brevity; we do so instead of incorporating all of them here. We have incorporated, so to say, the provisions of the provincial Acts without saying so in detail here. So, if they are different

they must be treated as part and parcel of the provisions in this Act passed by us.

Shri S. S. More: The usual formula is that provisions of such State legislations which are consistent are accepted. But the effect of this overriding clause will be that provisions which are inconsistent—even they will get validated.

Mr. Deputy-Speaker: What I say is that they ought not to be treated as inconsistent. We may take every provincial legislation and say that so far as Bombay is concerned, the punishment will be two years; so far as Madras is concerned, it will be three years and so on and so forth. What I mean to say is that clause 14 should be interpreted to mean that all those provisions of the State Legislature which are different from some of the provisions here must be treated as part and parcel of this Act. In those circumstances, there is nothing unconstitutional.

The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

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

Shri Kanungo: I beg to move:

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

This is a small Bill....

Shri S. S. More: Very innocent too!

Shri Kanungo: To my mind everyone is agreed about it. I suppose the opposition to the principles of prohibition has been transposed on this minor Bill and so, I think, it has created so much of controversy. Now that it has ended, I again submit that it is a very small matter. I again repeat Mr. Anthony's description that it is a provision to plug a very minor hole.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

## PRISONERS (ATTENDANCE IN COURTS) BILL

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move:

"That the Bill to provide for the attendance of prisoners in Courts and for obtaining their evidence therein be taken into consideration."

This is a tiny, non-contentious measure which does not call for any elaborate explanation or justification. The Bill was introduced in December, 1953 and it has been resuscitated after more than a year and a half. The hon. Members had ample time to sleep over it. It has not disturbed them in any way and therefore, they might let it go into the statute-book unscathed and unchallenged.

The Bill only provides a simple procedure for securing the attendance of prisoners for giving evidence in courts and for answering any charge which might be framed against them by any criminal court. The prevalent law on the subject is cumbrous and dilatory. It provides a very circuitous route and in place of such a route we are now, by this Bill, providing a direct channel of communication. The courts can send their directions straight to the officers of the prisons concerned. Under the Prisoners' Act which was passed in the antediluvian age in 1900, references had some times to be made to the State Governments or to the High Court. The matters with which we are concerned here are of a purely routine character. They do not call for the exercise of any discretion or judgment. Therefore, under this Bill a simple procedure has been prescribed to enable the courts to order the officers in charge of the

[Pandit G. B. Pant]

prisons to send to them the persons whose presence may be needed for giving evidence and in some cases for standing a trial. So, I hope all Members will unanimously adopt this Bill and we will have the benefit of saving an hour for free air outside.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the attendance of prisoners in courts and for obtaining their evidence therein, be taken into consideration."

Shri Raghubir Sahai (Etah Distt.—North-East cum Budaun Distt.—East): Sir, I welcome this Bill. In fact every provision should be welcomed and every measure should be welcomed which has the purpose of lessening or reducing the time of the trial of a case. Recently this House had the opportunity to take up the amendment of the Criminal Procedure Code. The very object—perhaps, one of the main objects—of that Bill was to shorten the trial of criminal courts. We all know how ably that measure was piloted here by the former Home Minister as well as the present Deputy Home Minister. That Bill was passed both by this House as well as by the Rajya Sabha. We hope that it will just come into operation and we shall have time to know that it has shortened the trials—I mean the criminal trials—to a very great extent.

I feel that this Bill which has been moved by the present Home Minister has also got that very object in view. As has been explained by him the present law involves a lot of delay in the trial of criminal cases as well as civil cases where the evidence of a prisoner who resides in a different jail is to be recorded. As the present law stands it is necessary for a court, if the prisoner whose evidence is to be recorded resides in a different jail, to send that order to the District Magistrate or the S.D.M. under whose jurisdiction that jail lay, or, if the distance of that jail

was a hundred miles or more, then the order had to be passed through the High Court or the State Government. That involved a lot of delay. Now, by the passage of this Bill all that delay would be avoided.

Sir, with your permission I might give an illustration which would show how by the present law such delays are caused. I happened to be in the Budaun District jail in the year 1941. It so happened that Shri Mahavir Tyagi, the present Minister of Defence Organisation was also brought in from Dehra Dun to Budaun District jail. Unfortunately he was involved in a Prisons Act offence. By the time the case came up against him for that offence I was transferred to the Fategarh Central Prison. That trial took place in my absence. Shri Tyagi quoted me as a defence witness. Because the Central Prison was situated more than 100 miles from Budaun the order for my summons had to be passed through the Allahabad High Court and before I was brought to Budaun District jail some couple of months had elapsed. It so happened that the trial was very much protracted. Shri Tyagi was, therefore, put to a lot of trouble. All this delay could have been avoided if this necessary change had been brought in the law as it stood then.

I entirely agree with the purpose and with the object of this Bill. But, with your permission, Sir, I would like that a slight or a minor amendment may be accepted by the hon. the Home Minister. Unfortunately, I could not give proper notice of this amendment. I thought that I would be able to give it on Saturday, but it was a holiday. I have this morning given my amendment to the Secretary as well as to the Deputy Home Minister and I think it might have been studied by this time. The amendment is that in clause 5 I want that in line 42, after the word "detained" the words "in custody in or near the court" may be removed; and, instead of that the following words

may be added: "If the prisoner has to remain there for more than one day and if there is a jail, in the jail, and if there is no such jail, in such suitable place in which the officer accompanying him thinks fit from the point of safety". Now, my only purpose in bringing in this amendment is to make the meaning entirely clear, for, the retention of these words "detained in custody in or near the court" do not make the meaning clear. Supposing a prisoner is got from Fategarh District jail to Budaun for his evidence being recorded and a particular date is being assigned for his evidence to be recorded and on that particular date either the case is not taken up or the examination of that witness is not finished, then he has to be sent back to some place where he ought to be detained.

Where can he be detained? He cannot be detained in the court or near the court. There are places where there are no jails. Supposing a first-class magistrate is holding his court in a tahsil town. Now, in most of the tahsil towns or taluk towns there are no jails, but the Magistrate can directly ask the officer-in-charge of the jail to send the prisoner. The officer-in-charge of that jail sends him in custody. The prisoner reaches the tahsil. There is no place where he could be detained. So, it should be left to the officer-in-charge who accompanies him to send him to the jail. If there is a jail, and to keep him there till his evidence is over or the charge for the answering of which he is brought, is over. If there is no jail, then he should be placed in proper custody, either in the police lock-up or in any fit place where he can be kept from the point of view of safety. Therefore, the addition of these words will make the meaning clearer. I hope the hon. Home Minister would be pleased to accept this minor amendment that I have introduced.

There is another very simple clause on this Bill. For certain reasons,

if a prisoner is so required to be present in a different place, his presence can be held back or he may not be sent. For instance, if he is infirm or sick or if his term expires shortly and so on and so forth, he can be held back. These are very proper reasons for which the officer-in-charge can refuse to send him. So, all these are very salutary provisions and I warmly welcome this Bill and support it entirely.

श्री अशोक शर्मा (नरगाँवा) : मुझे इस बिल के मुताबिक ज्यादा बातें नहीं कहनी हैं। सिर्फ एक दो चीजें कहने के लिये लड़ा हुआ हूँ। यह एक मामूली सा बिल है। इस से पहले जो कानून था उस की तरह कुछ संवीदीगियाँ पैदा हो गई थीं, जन्हीं को दूर करने के लिये कुछ बाटों एक साथ बिल की हींसलत में रक्खी जा रही हैं।

जैसा होम मिनिस्टर साहब ने फरमाया कि पहले का जो बिल है उस को एक एन्टी-डिस्ट्रिब्युशन एक्ट में बनाया गया था। इस सिलसिले में मैं भी होम मिनिस्टर साहब से विस्तृत सल्लूक हूँ। मगर एक चीज जो मैं बोलता हूँ वह यह है कि एक दफा एंसी है जो उसी एंटी डिस्ट्रिब्युशन एक्ट में बनाई गई थी, मगर हमारे होम मिनिस्टर साहब ने उस दफा को भी इस कानून में डाल कर दिया है। मेरा मतलब पुराने कानून की दफा ४२ से है जो कि इस कानून की दफा ४ है। जिस की तरह अगर किसी मजबूर को या गुरु या मजबूर को किसी मुकदमे में सहायत देने की जरूरत पड़े तो उन को जेल में ही रखने के लिये कहा गया है, इस बाबत कि उन को अपनी सहायत का फायदा पहुंचाने से बाध रक्खता था। मेरी समझ में नहीं आता कि हमारे होम मिनिस्टर साहब जब एक तरफ कहते हैं कि यह एन्टी डिस्ट्रिब्युशन है तो फिर ऐसे क्लॉकर्स को एन्टी डिस्ट्रिब्युशन है उन को इस कानून में जाने की जरूरत उन्होंने क्यों महसूस की। मैं यह इस लिये कहता हूँ कि यह सपासी पार्टियों के लिलाफ पड़ता है। ऐसे कौंदियों को जिन की

[श्री आर० एन० रंढाड़ी]

सहाय्य की वरुद्ध सोसाइटी को पड़ती है, वरुद्ध जिन को किसी तरह वरुद्ध की बिना पर हुक्म चल रहा समझती है कि उन को कैद में ही रक्खा जाय, उन की अगर किसी अवस्था में वरुद्ध भी है तो भी उन को पेश नहीं किया जाता।

श्री रघुवीर सहाय : उन का बयान कमिशन से लिया जा सकता है।

श्री आर० एन० रंढाड़ी : कमिशन से तो लिया जा सकता है, अगर दूसरे लोगों से उन को डिस्टर्बमेंट क्यों किया जाता है? अगर आप को किसी चीज का खतरा है, अगर उन कैदियों के भाग जाने का खतरा है, तो ज्यादा गार्ड्स रख सकते हैं, काफी इन्स्पेक्शन कर सकते हैं। लेकिन वह डिस्टर्बमेंट इस बिना में रक्खा गया है, वह मेरा आशय है। जो ऐसे कमानिन् हैं जिन को हमारे होम मिनिस्टर साहब एन्टी इन्सिपियन कहते हैं, वह वर्गीकृत सामान्य के जमाने में बनाये गये हैं। लेकिन ऐसे कमानिन् को इस बिना में क्यों शामिल किया गया, वह मेरी समझ में नहीं आता। बहुत से ऐसे कानून या डिप्लोमैटिक्स के खिलाफ भी पड़ते हैं उन को भी जब हमारी कांग्रेस हुक्म चल रहा रही है। जिस तरह से बहुत से एन्टी इन्सिपियन चीजें जब इस्तेमाल की जा रही हैं, उसी तरह से साफ इस चीज को भी शामिल कर दिया गया है। मैं दफा ४ की मुलातिफ्य करता हूँ और होम मिनिस्टर साहब से विनती करता हूँ कि वह मेरी इस चीज को कन्सिडर करें।

दूसरी चीज जो मैं एंजान के ध्यान में लाना चाहता हूँ वह यह है कि जब कैदियों को बेलस्थान से कोर्ट में ले जाया जाता है, तो उन के साथ किस तरह का सुल्क किया जाता है। एक पार्टी का मेम्बर होने की हिसाब से, एक इन्फरमरी हिसाब से मुझे इस का काफी अनुभव है। उन लोगों के साथ इन्सानों जैसा बर्ताव नहीं किया जाता। उन को हथकड़ीयां पहना दी जाती हैं। हम ने कहा है मामूली

कैदियों से अच्छा सुल्क किया जाता है, लेकिन जो सपासी कैदी होते हैं, उन को हथकड़ीयां पहनाई जाती हैं और जानवरों की तरह उन को एक दूसरे से बांध दिया जाता है, और इस तरह वे कैदियों को कैदस्थान से कोर्ट में ले जाया जाता है और वापस लाया जाता है। यह ऐसा तरीका है जो कि मैं एंजान के सामने लाना चाहता था।

इस सिलसिले में मुझे और ज्यादा कहना नहीं है सिवा इस के कि दरजस्त जो चीजें इस से पहले के कानून में पेशीदियों की थीं, उन को दूर करने के लिये यह बिल लाया गया है और इस का मैं स्वागत करता हूँ और होम मिनिस्टर साहब से विनती करता हूँ कि साथ ही से दफा ४ जो है उस को वह निकास देने की कोशिश करें।

Shri Raghavachari (Penukonda): I welcome the provisions of this Bill generally. I have only very few remarks to make, and they relate only to very small points.

The first point that I want to submit is that provisions are limited to the prisoners who are in jails situated within the State in which the court functions. For instance, I belong to Andhra and the jail is situated in Mysore. I do not mean to say that all the Andhra State jails are in Mysore State, but certainly for the ceded districts and the other districts, the jail is in Bellary and Bellary is now outside the Andhra State. Therefore, it means that the provisions of this Bill are of no avail to us in those parts.

Mr. Deputy-Speaker: That is only in respect of a civil court.

Shri Raghavachari: This applies to civil courts also. That is the real difficulty I am referring to. So, that is a matter which may possibly be considered. Some other provision may be made so that a jail though situated in a particular State may be considered to be a jail falling

within the State wherefrom the order of confinement of the prisoner is issued.

The other point is this. My friend was mentioning the need for amending a certain phrase in clause 5. In this connection I wish to invite his attention to clause 9(e) which says:

"the escort of prisoners to and from courts in which their attendance is required and for their custody during the period of such attendance".

I feel that there has been a contemplation of the possibilities of these difficulties and hope that they can certainly be covered by the rules to be made.

There was some reference to some inconveniences. Though I do not wish personal experiences to be here, narrated, nevertheless, it happened that I had to go as a witness to a civil court when I was in Ballary a prisoner. Then the difficulty was the court had to make some provision for the custody of the prisoner. The court to which I had to go had little accommodation. In such cases, we will have to be sent to police custody or other places. The place where we had been put up namely Bellary was convenient and we had liberties and it had no irksome provisions of a sub jail. Such difficulties might arise, but in making the rules. I expect that some provision will be made in respect of cases of that kind. That is the second thing which I wanted to submit.

4 P.M.

There is only one other thing which I feel is a serious matter. Always when a man is in some jail—district jail or some jail—if anybody wants to have him brought to a near place where all his relations are, it is not very difficult for a party in court to give his name as a possible witness and be prepared to pay the expenses of the man being brought all the way. The man himself may

be unwilling to come. So, once you give a right like this that the man can be summoned, it is likely to be abused in some cases. That is the possibility, though I hope that a court in such a situation may possibly exercise a little care before it actually summons and not examine him on commission, as is otherwise permissible.

सरकार २० एच० सहगल (बिलासपुर) : यह जो बिल माननीय होम मिनिस्टर साहब ने इस हाउस के सामने पेश किया है, मैं इस का स्वागत करता हूँ। मुझे जहाँ तक बेलों का मुजायना करने के बाद तजुर्बा हासिल हुआ है उस की बिनाह पर मैं कह सकता हूँ कि वहाँ पर जो अंडर ट्रायल रहते हैं, जो कैदी रहते हैं, जिन को कि मान लीजिये सॉ मील दूर जाना होता है, उन लोगों को तीन तीन और चार चार महीने तक, जब तक कि हाई कोर्ट से आर्डर्स न आ जायें, जेल में ही रहना पड़ता है। इस बिल के जरिये से यह सुविधा हो जायेगी कि अब वे कम से कम समय के भीतर जा सकेंगे।

मैं एक माननीय सदस्य ने यह कहा कि जो क्लॉक नं० ४ है इस क्लॉक के मुताबिक उन का स्थान यह है कि यह कानून किसी पार्टी के लिए बनाया जा रहा है। मैं जर्ज करना चाहता हूँ कि किसी सास पार्टी के लिए यह कानून नहीं है। बात जसल में यह है कि जो लोग डकैतियों के मामलों में इन्वाल्ड होते हैं या जो लोग कल्ल के मामलों में इन्वाल्ड होते हैं यह क्लॉक उन लोगों पर ही लागू होती है। मैं माननीय दोस्त अगर यह चाहते हैं कि ऐसे लोगों को हथकड़ी लगा कर न ले जाया जाये तो मैं उन से पूछना चाहता हूँ कि यह कहाँ तक ठीक बात होगी। आज कल किसी भी राजनीतिक कैदी को हथकड़ी लगाकर नहीं ले जाया जाता है। हाँ १५ अगस्त, १९४७ से पहले लोगों को, जो कि राजनीतिक कारणों की वजह से गिरफ्तार किये जाते थे, हथकड़ी लगाकर ले जाया जाता था, लेकिन अब उन को हथकड़ी लगाकर नहीं ले जाया जाता है। इस लिये यह कहना कि ऐसे लोगों को जो कि डकैतियाँ करते हैं या कल्ल



[सरदार ए० एस० सहगल]

करते हैं, इधकड़ी लगाकर न ले जाया जाए मरें विचार में गलत बात होगी। हम ने देखा है कि जब कल जो लोग सत्याग्रह करते हैं और उन को गिरफ्तार किया जाता है तो उन को इधकड़ी लगाई नहीं जाती है।

इस के साथ ही साथ एक माननीय सदस्य जो सब से पहले बोले हैं क्ताब ५ पर कहा है कि हर एक पहसील में जेल नहीं होती है। उन की यह बात ठीक है। लेकिन यह बात भी सही है कि हर एक पहसील में लाक-अप तो होता है वहां पर जब किसी प्रिजनर को ले जाया जाता है और स्टैंटमेंट बगैरह जो उसे देना होता है और मान लीजिये कि दूसरे दिन उसकी पेंसी है तो वह पहसीलदार या एस० डी० जो० के हुकम के मुताबिक वहां के लाक-अप में रखा जा सकता है। यह इस लिये जरूरी है ताकि उस कैदी को जिस को कि खों मील से दूर जो जेल है वहां पर रखा गया है वहां पर ले जाने के बजाय वहीं पर लाक-अप में रखा जा सके।

इन शब्दों के साथ जो बिल रखा गया है उसका मैं स्वागत करता हूं।

Shri Vallatharas (Pudukkottal): A more comprehensive outlook in favour of the courts in order to secure the attendance of prisoners for purposes of trial could have been taken. This subject should have been considered along with the Criminal Procedure Code (Amendment) Bill wherein a relevant consideration can be given. But now a part of the Prisoners Act is segregated and is sought to be codified separately. Along with it, we will have to look into certain provisions of the Prisons Act also. Once we separate a chapter from a main Act, care must be taken to see that some of the definitions are provided very clearly in the New Act that is to be brought, so that for definitions, the two Acts may not be referred to. In an independent legislation of this kind all the definitions must be brought here and they should from

part of the new Act. Legal drafting should always consider that a statute which is sought to be introduced must be self-contained and as far as possible references to other statutes must be minimised. If you take the definition given here, it says:

"Prison includes any place which has been declared by a State Government, by general or special order, to be a subsidiary jail," etc.

In the old Prisoners Act which was enacted some decades ago, the conception of a prison should have been limited at that time; now we have got across so many aspects of the prison that it is quite essential that the definition of a prison must be stated in the main Act. If I am to give a definition of 'prison' correlating all the aspects of the Prisoners Act and the Prisons Act I would say:

"Prison means any jail or place used under the order of the State or the Central Government for the detention of prisoners."

In the course of the Act, I do not see any provision enabling the Central Government to establish a prison. If at all any person has to be confined by the Central Government, it should be in a prison created by the State and not by the Central Government. We must find some provision to enable the Central Government to declare certain places as jails, so that under the growing needs of the enforcement of law and order, the Central Government may have its own institutions wherein detentions can be made. I feel that the Central Government must necessarily have the power to declare certain places as jails for detention of prisoners.

Prison includes also:

"any place for the confinement of prisoners who are exclusively in the custody of the police;"

I find this in the Prisons Act. There are certain places where the jurisdiction of the jail authorities does not prevail, but the police people are given exclusive custody of the prisoners. If under the present Act, these places cannot be considered as jails, a prisoner in such jails cannot be summoned by any court. Though this comprehensive conception has been placed in the earlier statute, the present statute does not adopt it. In my humble opinion, there is a lacuna here.

Prison includes:

"any place specially appointed by the State under section 541 of the Criminal Procedure Code."

This is also to be found in the Prisons Act.

Thirdly, prison should include:

"any place declared by the Central or the State Government in the official Gazette to be a subsidiary jail."

As it is, only the State Government can declare a place as jail; I want powers to be given to the Central Government also to declare certain places as jails.

Then, prison should include:

"any reformatory, Borstal institution and institutions of detention of prisoners under the Preventive Detention Act, 1950."

According to the Bill as it is,

"Prison includes any reformatory, Borstal institution or other institution of a like nature."

What are these other institutions of a like nature? When you want to enact a criminal law, you should be precise and definite. Civil law may be lenient or loose. In criminal law, there is no place for words like "etc., in such matters and in similar ways." The insufficiency of the legal conception will be demonstrated only by such expressions. We shall be able to conceive of all possible phases and put them definitely. Here, I disagree with the use of the words "or other institutions of a like

nature". What is that like nature? We cannot allow the courts of law to infer or interpret it as they like. We must be definite. I think it is better that we add here the places where the prisoners are detained under the Preventive Detention Act. Prisoners under this Act are detained in Central jails or in other places specially created for that purpose. Simply because a person is taken as a detention prisoner under the Preventive Detention Act, Government has got a lot of control over that person. He will not be ordinarily sent to a court of law for giving evidence or for conducting his own cases. I say that the detention prisoners must be placed in these matters on a par with other prisoners, so that the power of the courts extends to sending for the detention prisoners also, unless for some reason or other the Government imposes the condition that they should not be taken out.

For these reasons, I say that the definitions of prison and prisoner must necessarily be put in here, and there should be no omission here in this respect because they are to be found in the other two Acts, and we cannot refer to those Acts every time.

That is not the way in which you have to consider this question. What does 'prisoner' mean? The Bill is silent. We will have to refer to the Prisons Act or the Prisons Act. Of course, now-a-days, a prisoner does not mean a prisoner of those days. He is a prisoner of the modern times, scientific days. A prisoner means a criminal prisoner, a convicted person or a civil prisoner, as defined in sub-clauses 2, 3 and 4 of section 3 of the Prisons Act. A prisoner includes a person detained under the Preventive Detention Act of 1950. As the Act stands at present, there is no reference to detention prisoners at all. Detention prisoners cannot be segregated to form an independent section. The necessity felt by the courts of law should cover these persons also.

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In that light, I would submit to the hon. Minister to consider the question and include a clear provision as to the definition of prisoner and prison in the light of the present day needs and also in the light of the definition provided by those two old Acts.

Clause 3(1) says:

"Any civil or criminal court may, if it thinks that the evidence of any person confined in any prison is material in any matter pending before it, make an order in the form set forth...."

I have to make a very important suggestion in respect of this clause. A prisoner also includes a civil prisoner. The whole tendency of this Bill borders upon the criminal conception. Only a criminal prisoner is sought to be brought before a court for trial to answer a charge against him. Or he is sought to be brought before a court to depose as a witness. Deposing as a witness may be necessary in the case of the civil prisoner as in the case of the criminal prisoner. There may be a civil prisoner against whom execution proceedings or a suit may be pending. Will he be denied the opportunity to be produced in the court to enable him to attend the suit or the proceedings? Suppose the court thinks that that man must have an opportunity to conduct his trial or participate in the trial of a suit or conduct an enquiry in execution proceedings. The civil court must have the power to send for that person if his presence is necessary in the trial of a suit or in execution proceedings. The privilege extended to a prisoner in a criminal case of being brought before the court to answer a charge against him,—a criminal case cannot go on in the absence of the accused and the law prevents the trial—should be extended to the civil prisoner also. Simply because one is a criminal prisoner and the other is a civil prisoner, there cannot be any discrimination against a civil prisoner. The civil prisoner cannot

be allowed to lose his rights whereas a criminal prisoner is allowed to conduct his case and get an acquittal. This section must somehow comprehensively canvass that position. In the case of both criminal prisoners and civil prisoners, whenever there are civil suits or execution proceedings instituted or pending against them in the civil court, the civil court, if it thinks that their presence is necessary for the proper conduct of the suit or execution proceedings, must have the power to send for them and allow opportunities to them to conduct the trial or execution proceedings, just as in a criminal case, the accused is enabled to do.

The clause further says:

"Provided that no civil court shall make an order under this sub-section in respect of a person confined in a prison situated outside the State in which the court is held."

When the Central Government is legislating, why should it narrow down to the small precincts of a State? Though a court of law is situated in a particular place for the sake of convenience, it has got extensive jurisdiction. A man in Calcutta may sue in a court in Trichinopoly on the basis of a contract or on the basis of a negotiable instrument. Under the existing provision, if the court wants a person concerned in that suit, to give evidence, it cannot send for that man from Calcutta. I concede there is inconvenience, delay, cost and other things. But, the initial right must be conceded here. It should be throughout India and not within the precincts of a State. In view of the great expenditure involved or of some serious inconvenience a person need not be brought, but a commission may be appointed. But, the initial right of a civil court to send for a person from any place in the Indian territory must be given here. The State barriers must be removed.

**Mr. Deputy-Speaker:** In the Civil Procedure Code, is there a power to compel the attendance of witnesses from beyond a distance of 50 miles or a particular distance?

**Shri Raghavachari:** He cannot be compelled.

**Shri S. V. Ramaswamy (Salem):** It is 200 miles.

**Mr. Deputy-Speaker:** Under the Civil Procedure Code, there is no right for compelling any person to come and give evidence if he is beyond a particular distance. The hon. Member wants something that is not provided in the C.P.C. if he is in confinement in a prison.

**Shri Vallatharas:** I would submit that in these cases, this distance of 50 miles or 250 miles is a question of convenience.

**Mr. Deputy-Speaker:** Even when he is free, he cannot be asked to come. When he is in jail?

**Shri Vallatharas:** When a person is in jail, he is not free. The court thinks that his evidence is useful; so the court must be given the power to send for him. In this case of 250 miles, a person cannot be compelled to come against his will. That is a different matter. Suppose he is prepared to come, what is the position? I am putting it this way. As days go on, we gain experience in litigation, under the present day conditions. Suppose a person of Madras is detained somewhere in the Punjab as a prisoner in some jail. He may be willing to go into the box and give evidence in Madras. The court may avail of his evidence. If he is willing, he may have a chance to come. All these are extreme contingencies. The substantial point is that these barriers of State must not be there. Any court which is authorised under the Bill within the Indian territory should be allowed to summon any person from anywhere in India. It must be all-comprehensive. Whether there are provisions regarding 50 miles or beyond 50

miles, the general principle must be there.

Sub-clause (3) says:

"No order made under this section by a civil court which is subordinate to a district judge shall have effect unless it is countersigned by the district judge....."

The existing provisions are so complicated that oftentimes delay is caused. The object of the present Bill is to prevent delay. If a judge lower than a district judge wants to send for a person, he must submit it to the district judge who must endorse it. After all, much progress is not made from the old Bill. The sub-judge and the district munsiff are not entitled to send for of their own accord. On the other hand, a first class magistrate, who is in the rank of a district munsiff is given power to send directly summons for witnesses. What is the preference that is given to a first class magistrate over and above a sub-judge or a district munsiff? Under the present system of the separation of the judiciary and the executive, a district munsiff is *vis-a-vis* a first class magistrate and the sub-judge or a district judge has the rank of a district magistrate. Why should there be a partial outlook discriminating between these two sets of people? While a first class magistrate can send a summons independent of the district magistrate, why cannot a sub-judge send summons independent of the district judge? A district munsiff has got original jurisdiction. He is a responsible person in a locality. Similarly also a sub-judge. They are not ordinary persons. They are not panchayat courts or small cause courts. They are responsible people having full qualifications and experience in whom original jurisdiction is invested. The sub-judge has also appellate powers over the district munsiff. These two persons should be entitled to send summons of their own accord without the endorsement of the district judge. Further, I would submit that in the case of civil courts lower in rank than a district munsiff alone, the

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endorsement of the district judge should be required.

"and no order made under this section by a criminal court which is inferior to the court of a magistrate of the first class shall have effect unless it is countersigned by the district magistrate....."

Nowadays, what is the difference between a first class and a second class magistrate? Every second class magistrate is a law graduate having put in a service of three or five years in the bar.

Shri Raghavachari: Not throughout India yet.

Shri Vallatharas: All right, we have stepped into it. In spite of the fact that violation of prohibition exists everywhere, we are trying to prevent it. Once you give a status to a court, when it should be occupied only by regularly qualified law graduates, and people who have got experience, we must give them a certain privilege and we must make their status also a bit respected by the public. So, I would submit even the sub-magistrates who are now B. Ls. according to the present system, must be entitled to send a summons of their own accord without the endorsement of the district magistrate. A criminal court which is lower than a sub-magistrate's court alone should be required to get the endorsement of the magistrate.

Coming to the next clause, sub-clause (2) reads:

"Before making an order under sub-section (1)....."

I concede that power should be given to the State Government and the Central Government to restrict the scope of removal of prisoners from a certain place. But Government should not be given an absolutely free hand. Government should not be allowed to grope in the dark or go about with eyes wide open without any object in view.

"(a) the nature of the offence for which or the grounds on which the person or class of persons is

detained in prison;"

There are 511 sections and there are other minor Acts. So, if the case of every person who happens to be convicted is sought to be taken for consideration, then the Government will begin to consider the position, ostensibly in an indiscriminate manner: this man is arrested for a nuisance under a local Act, this man is put into prison for two months for theft of a small ear-ring—all these simple cases they will have to consider. On the other hand, I submit Government will have to exercise their powers to restrict their power regarding the removal of prisoners only in certain defined cases, and for that their concern is only the question of law and order. For instance, two brothers quarrel, and one is charged for an offence under section 323 I.P.C. The man is sentenced for two months. It is not necessary that Government should exercise all its power to see whether this man should be allowed to be taken out of the jail to depose his evidence. These are small and silly matters about which no consideration can be had. But on the other hand, the responsibility must be greater. Instead of sub-clause (a), I suggest that Chapters VI, VIII, XVI and XVII of the Indian Penal Code and Chapter VIII of the Criminal Procedure Code alone must be the chapters which should apply, only the offences in respect of the sections contained in these Chapters should be the subject of consideration by the Government in respect of prisoners who are to be taken away. The offences relate to dacoity, murder, sedition against the State, serious rioting etc. Chapter VIII of the Criminal Procedure Code refers to good behaviour. Of course, it is quite an important matter. The right of the Government to exercise its powers to preventing the removal of these prisoners must be confined only to such sections of the criminal laws wherein the presence of the prisoner outside jail might lead to a disturbance of public peace and order or may lead to untoward events about which Government will have to be on guard

in the interests of the public. Only such things must be brought under the restrictive provision of clause 4.

Then, in cases of persons detained under the Preventive Detention Act also, when they are sought to be removed, the Government should necessarily enjoy the power to prevent that removal or permit that removal.

Then, there is the likelihood of any breach of the public order if the prisoner is taken to a place where the court is situated. Here, the wording is loose. Sub-clause (c) reads "public interest, generally". What is "public interest, generally"? Unless the removal of the prisoner endangers the public peace and order, there is absolutely no reason that is conceivable to justify the prevention of the removal of the prisoner for the purpose of giving evidence etc. So, sub-clause (c) is totally unnecessary and it must be removed. And instead of that there must be a specific provision, reading:

"the likelihood of any breach of public peace and order if the person is taken to the place where the court is situated."

Suppose "A" is an important personality in Nagpur and if he is taken to Rameswaram, there is practically no necessity for apprehension of breach of peace and order. Supposing he is taken to a place within 50 miles of Nagpur, there may be incidents in which public order may be endangered. Only in such cases the power should be used. General power saying "public interest generally" is too vague and it cannot be put into criminal legislation.

One of our hon. Members asked: when a prisoner is taken to the court, in whose custody will he be? In this connection, I must submit that I know in the Madras districts, many of the district magistrates and District and Sessions Judges have been thinking about how to see that the prisoners who are brought to the court are sent back to the jail so that they may be admitted into jail before the scheduled time for it to

close, whether it is 5 O'clock or 6 O'clock in the evening. I have seen that invariably in sub-magistrates' courts and first class magistrates' courts remand prisoners are kept till 7 or 8 O'clock in the night, whether they are removed or brought there. This is a system which we must straightaway condemn, and any magistrate who happens to detain a prisoner after 5 P.M. should be taken to task very seriously. And you know, our police, in spite of the fact that it is a necessary institution in our country, is neither civilised, nor advanced, nor intelligent, nor honest, nor at least self-respecting. In the darkness when prisoners are taken, at 6-30 or 7 P.M., a vindictive sub-inspector or some other people come and gives the prisoner four or five blows. I have seen so many cases and have written to local authorities, but they never care, but all these things, all these cruelties are going on before our very eyes. I appeal to the Central Government, because this is a Central Act, that there must be a strict injunction that remand prisoners must be taken to the jail or the place of detention before 5 P.M. from the Courts.

Pandit Thakur Das Bhargava (Gurgaon): It is not relevant to this Bill.

Mr. Deputy-Speaker: That is not relevant to the Bill at all. The hon. Member is going to the Criminal Procedure Code. The scope of this Bill is very limited. I am really surprised that the hon. Member should go on, referring to various other matters, after time and before time. After sunset and before sunset are not part and parcel of this Bill. Part IX of the Prisoners Act is sought to be amended by this Bill—that is about their attendance in civil and criminal courts as witnesses. Whatever happens to other prisoners in general, whether they are taken before time or after time, will be a matter for modification of the Criminal Procedure Code.

Shri Vallatharas: I would restrict myself to the observation that in



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respect of the prisoners who are taken out, they should never be detained after 5 P.M. in the court and sufficient previous caution must be taken to send them even earlier so that they may reach their place of detention before 5 P.M.

Shri S. V. Ramaswamy: Will not all these be provided by the rules?

Shri Vallatharas: In the rules they must be provided. There are so many rules existing. As a lawyer I have seen for 25 years, you have also seen though you are shy to admit because this is a national Government. Anyway, things are going on.

Mr. Deputy-Speaker: The hon. Member will kindly address the Chair.

Shri Vallatharas: But this is an internal affair and we should not be ashamed of admitting certain drawbacks and inconveniences and failures that occur in the course of administering justice in courts of law. We are here to correct and ameliorate them. I put it in a very noble and honest sense.

Coming to clause 7....

Mr. Deputy-Speaker: General observations are made at this consideration stage. If the hon. Member has got any particular details with respect to any clauses, he may speak when we come to the clauses.

Shri Vallatharas: I am against delegation of powers to the State Governments. In some other laws and statutes delegation exists. But that does not mean that we should follow that practice for all time. Here when we are enacting a Central legislation, we should see that the provisions of that legislation should be carried out under the guidance and direction of the Central Government. So, the rules which will have to be framed under this legislation must be framed by the Central Government, and I would submit that those rules must be placed on the Table of the House for

the perusal of Members of Parliament. In making those rules, I would submit, the case of prisoners should be given greater consideration than at present.

पीडित ठाकुर दास आर्गुमन्त : यह बिल निहायत अच्छा बिल है। इसके अन्दर ज्यादा नुकताचीनी की जरूरत नहीं है, लेकिन मैं दो, तीन बातों की तरफ तयज्जह दिलाना चाहता हूँ जो मुझे एक वकील की हिसियत से इसमें सूझी हैं।

आमतौर से ऐसा होता है कि जब कोई दायत होता है तो आफ्फ्रिजन्डर वह शिकायत करता है कि हमको पुलिस ने गवाहों को दिखला दिया है। आइडेंटिफिकेशन जो होता है उसमें आम एतराज यह होता है कि हमको जेलखाने से बाहर लाकर कोर्ट में लाये और हमको पुलिस ने इस्तेगार से गवाहान को दिखला दिया, इसीलिए आइडेंटिफिकेशन बिस्कुल गसत है। क्रिमिनल कोर्ट्स को पावर दी गई है कि ऐसे केस में, केस जंडर कमिटल में जब तक कि कोई क्रिमिनल बीमार न हो और उस वजह से जा सकने से मजबूर न हो, उनको जरूरत है कि उसको बुलाये और उनके बयान भी ले लें और उन पर चार्ज भी लगा दें। मेरी अदब से गुजारिश यह है कि प्रिजन्डर का खुद यह एतराज करना कि मुझे कोई किसी जगह भेजा जाय या न भेजा जाय, इसका इस सार एक्ट में कोई जिक्र नहीं है और जो कि निहायत जरूरी चीज है। आमतौर पर जिन आदमियों को डाकें बगैरह के मुकद्दमात में जहां कि सिनाल्स बड़ी जरूरी होती हैं, पुलिस उनको हिदायत करती है कि तुम उनका मुंह ढांपे रखो, अगर कहीं कोर्ट बगैरह में लाना होता है तो उस वक़्त तक उनको नहीं लाते जब तक कि उसका आइडेंटिफिकेशन न हो ले, उसके पहले जेलखाने से कोर्ट में उनको नहीं लाते, लेकिन इसके अन्दर कोई ऐसा प्राविजन नहीं है जिसके अन्दर ऐसे कैदी को जिसके कि बरखिलाफ आइडेंटिफिकेशन हो रहा हो और जिस को बाहर लाना बाजिब नहीं है जान से रोका जा सके ताकि गवाहान उसको न दें लें। फिक्शन ऐसे केस में जिनमें कोर्ट में

अगर वह साबित हो जाय कि किसी गवाह को आइडेंटिफिकेशन से पहले उसको जेल से बाहर लाया गया है, तो कोर्ट इसी बिना पर उस मुकदमे को खारिज कर देती है कि पुलिस ने उन गवाहान को दिखा दिया। मैं अदब से अर्ज करना चाहता हूँ कि ऐसे मुकदमा के बास्ते इसमें कोई गुंजायश नहीं है। इन एवराजों के रोक के लिये कोई गुंजायश नहीं है। इसका भी तिहाज रक्सा जाना चाहिए कि प्रिजनर का अपना एवराज कि मुक को फ्लां जगह न भेजा जाय, यह कीसटर किया जाना चाहिए। मैं समझता हूँ कि आनरबुल मिनिस्टर के इल्म में कितने ही ऐसे केसेज होंगे, आनरबुल मिनिस्टर का तजुर्बा मुक से ज्यादा है। पंजाब की निस्वत में जानता हूँ जहां कई अश्लास इस गरज से कि फ्लां प्रिजनर को नुकसान पहुंचा दिया जाय, या कत्ल कर दिया जाय, उसको मोंका देते हैं कि किसी तरह कौदी को एक जगह से दूसरी जगह ले जाया जाय और रास्ते में उसको शूट कर दिया, या चंद आदिमियों ने उस पर हमला कर दिया और उसको मार दिया, मैं इस तरह के कई एक केसेज आपको बता सकता हूँ जहां ऐसा बाक्या देस आया। मेरा कहना यह है कि ऐसे केसेज में जिस शल्स को आप ले जाते हैं, उसका कम से कम एवराज सुन लीजिये, कम से कम उसको अपना एवराज कह लेने का मोंका दीजिये, अगर वह नहीं जाना चाहता तो जबरदस्ती उसको क्यों भेजा जाता है? सिविल केस में क्या होता है, आप किसी गवाह को बुलाइये, उसकी मजी है कि वह आयें या न आयें, आप ज्यादा से ज्यादा उसके खिलाफ वारन्ट जारी कर देंगे, या और कुछ उसके वरिललाफ कर देंगे, लेकिन किसी को मजबूर नहीं किया जा सकता। लेकिन यहां पर जिस आदमी का जिसम आपके कब्जे में है, उसकी वह लाइएंबिलटी है कि आप उसको उसकी मजी के खिलाफ पकड़ कर अदालत में पहुंचा देंगे। वह जाना नहीं चाहता, वह एंवाएड कर सकता है या वहां पर जाकर नानकोआपर्ट कर और बयान न दे और जिसके लिए उसको ६ महीने की कैद हो जाय, या वह मजबूर है जाने के बास्ते। ऐसा हो सकता है कि

जहां किसी दोस्त ने या दुश्मन ने आमदार पर पॉलीटिकल केसेज जब चलते थे और जब हम किसी को बुलाना चाहते थे, किसी मुकदमे में बुलाना चाहते थे तो कोर्ट में दरल्वास्त दे देते थे और बुला लेते थे, लेकिन अगर कहीं ऐसे केसेज हैं जिनके कि अन्दर प्रिजनर्स नहीं जानना चाहते और न जाने के उनके पास बड़े अच्छे बज्हात हैं, लेकिन आप उसको मजबूर करते हैं कि वह चला जाय, ऐसे केसेज में मैं समझता हूँ कि जब तक कि वह प्रिजनर न बनें, अंदर दायल हो, उसको आपको इसका डिस्कशन देना चाहिए कि अगर वह चाहे तो इंकार कर दे और कह दे कि मैं इन हालात में नहीं जाना चाहता। आप उन हालात में दाखिल होइये या उसको इंकार करने दीजिये, उसके बाद एड कि माई क्या नहीं जाते? लेकिन जब तक केस खत्म नहीं होता, बड़ी माफूस बजह होती है कि वह इंकार कर दे कि मुक को न ले जाया जाय क्योंकि मुक को गवाह देस कर शिनाख्त न कर ले, खससन् डाकुजों के मुकदमों में शिनाख्त से बचना बिल्कुल लाजिमी चीज है क्योंकि ऐसा न होने से बहुत से केसेज रुझन हो जायेंगे और इनजीस्टिस हो जायगी और प्रासीक्यूशन के साथ भी और डिफेंस के साथ भी इनजीस्टिस हो सकती हैं।

इसके अलावा बनाव मुलाहिजा करमायेंगे कि मेरे एक साथक दोस्त ने वहां पर एवराज किया कि इसमें दफा ४ क्यों रखी है? मैं अदब से अर्ज करूंगा कि जिस तरीके से प्रिजनर को ले जाया जाता है और उनको बाहर लाते ले जाते हैं, तो उनके विषय में काफी एडिटीयास बर्तना चाहिए कि कहीं वह एक्सपोज़ न हो जाय। हरएक के लिए एंक्लेट रूत बनाना मुनासिब नहीं होगा। यह बिल्कुल नाजायज होगा। लुप्त अपने इंटरैस्ट में और प्रिजनर के इंटरैस्ट में यह बहुत जरूरी हो जाता है कि उनको एक्सपोज़ न किया जाय।

जहां तक पब्लिक ला एन्ड आर्डर का सवाल है हमें देसना चाहिए कि जिस प्रिजनर को ले जाया जा रहा है वह किस किस का है। अगर कोई डकैती के केस का कैदी है तो बाहर है

[पीडित ठाकुर दास भार्गव]

कि उस को हथकड़ी बंदी डाल कर माफ़स पुलिस के पहर में बाहर ले जाया जाय क्योंकि अक्सर हमारे दलने में आया है कि किसी डकैत केंदी को दो पुलिस के सिपाही हथकड़ी बंदी डालकर ले जाते हैं और माँका पाकर उसके दूसरे साथी उसको छुड़ा लेते हैं, उसकी बंदी भी काट डालते हैं और सिपाही को धक्का देकर भाग निकलते हैं। इसलिए यह कहना कि प्रिजनर्स को एम्बेल्ड राइट दे दिया जाय और कोर्ट को अखित्पार न हो, कुछ ठीक नहीं जंचता। और इससे काम चलने वाला नहीं है। दलना यह है कि रीजन क्या कहता है और ऐसे कंसेज हो सकते हैं जिनमें स्टेट को अगर अखित्पार नहीं रहेगा तो पब्लिक ला एन्ड आर्डर कायम नहीं रह सकेगा। स्टेट को वह अखित्पार रहना चाहिए कि एंबेल्ड कंसेज में डैबरस किस्म के प्रिजनर्स को बाहर न भेजा जाय, बरना होसकता है कि ऐसा करने से नक्स अमन को खतरा पड़े। मिसाल के तौर पर मैं कहूंगा कि अगर गोळों को किसी एंसी जगह से जाया जाता जहां महात्मा गांधी के भक्त होते, तो पता नहीं क्या हथ होता। इसके अलावा यह सरकार के भी खुद इंटरैस्ट में है कि अगर कहीं कोई मूवमेंट चल रहा हो तो हो सकता है कि प्रिजनर खुद बाहर जाना चाहता हो ताकि अपने लोगों और साथियों से मिले और मूवमेंट को शह दे, उस हालत में सरकार को वह अखित्पार रहना चाहिए कि वह प्रिजनर को बाहर न जाने दे। मैं समझता हूँ कि दफा ४ बड़ी जरूरी है। मैं एक चीज इसके अन्दर नहीं समझा और जिसके बारे में मैं एक्सप्लेनशन चाहता हूँ। क्लॉक ६ में पावर टु मेक रूल्स में पार्ट डी में आपने इस तरह लिखा है :

"The manner in which a process directed against any person confined in a prison issued from any court may be served upon him."

जहां तक मैं इस बिल का मतलब समझा हूँ, वह सिर्फ इतना ही है कि अगर किसी के बरखिलाफ चार्ज है तो उसको आप किसी कोर्ट में ले जाय जिसके जुरिसडिक्शन में वह हो, अगर

कोर्ट का हुक्म हो जैसा कि सेक्शन डी में लिखा है कि किसी शख्स के नाम अगर कोर्ट का सम्मन आयें, उसके ऊपर आप तामील करें और एक्स पार्ट प्रोसीडिंग हो जायें अगर वह पकड़ न सके तो ज़िम्मेदारी किस की है, यह इस एक्ट की मंशा नहीं है। इसके अन्दर प्रोसेस कि किस तरह से तामील किया जाय, नहीं दिया है। यह जो सिविल प्रोसीज्योर कोड में और और जगह होना जरूरी है, इस एक्ट के अन्दर मुझे इसकी रीलवेंसी मालूम नहीं है। मैं चाहूंगा कि अगर हो सके तो मुझे इसको समझा दिया जाय तो बेहतर है कि यह किस गरब के वास्तव रक्खा गया है। जहां तक इस एक्ट में मैं दलता हूँ तो पाता हूँ कि जो मामूली आजादी सिविल कंसेज में हर शख्स के लिये होती है वह इससे कम हो जाती है, आप मजबूरन इसके जरिए केंदी को बकड़ते हैं, जहां वह जाना नहीं चाहते वहां जाने के लिए मजबूर करते हैं और जहां वह जाना चाहते हैं वहां एक तरह से उसको पूरा अखित्पार भी नहीं है कि वह जो चाहें सो कर सकें।

जहां तक प्रिजन रूल्स का बंदी हथकड़ी लगाने का सवाल है, पंजाब जेल कमिटी का मैं चेंडरमैन था। हमने उसको बिलकुल लिबरल कर दिया। मैंने खुद पॉलीटिकल प्रिजनर्स को अपने दोस्तों को देखा है कि उन के बंदी डाल कर एक जगह से दूसरी जगह ले जाया जाता था। खुद हिसार बार असीसयेसन के प्रेसीडेंट को बंदी डाल कर ले जाया गया था, अब वह रूल नहीं है, अब वह ब्यूटीफुल प्रीक्टेस नहीं होती। और आज के दिन हम दलते हैं कि जितना सैफ्टी डिमांड करती है उतने ही रीस्ट्रिक्शंस लगाये जाते हैं। मैं यह भी अर्ज करूंगा कि प्रिजनर्स को उनके स्टेट्स के मुताबिक सफर में आराम दिया जाय जब कि वह एक जगह से दूसरी जगह ले जाये जायें। अगर मामूली प्रिजनर हैं तो बर्ड क्लॉस में ले जायें। अब भी जिन लोगों को सिविल कोर्ट गवाही के लिए बुलाते हैं, उनके स्पेसियस सफर खर्च के उनके स्टेट्स के मुताबिक है। इस लिये कि जो प्रिजनर्स ए, बी, सी क्लास के हैं उनके स्टेट्स के मुताबिक

उन को सर्वा ईना चाहिये और उन को अच्छे रीस्ट्रिक्शन्स में नहीं जाना चाहिये। इस लिये मैं इस बिल को सपोर्ट करता हूँ और मैं चाहता हूँ कि जो रीस्ट्रिक्टेड प्राविजन हैं उनकी तरफ तबज्जह दी जाए।

इन अल्फाब के साथ मैं इस बिल को सपोर्ट करता हूँ।

**Pandit G. B. Pant:** I am thankful to the Members of the House for the reception that they have accorded to the Bill. On the whole, they seem to be satisfied with its provisions and think that they are an improvement on the existing corresponding provisions in the Prisoners Act.

Many points have been raised which do not actually arise out of this. I sympathise with some of them and I can say categorically that I do not want any single prisoner to be harassed or any person to be put to any unnecessary inconvenience or discomfort. Even prisons are now to be treated as reformatories and however confirmed a prisoner may be, or however habituated he may be, it should be the effort of the authorities concerned to reform him so that he may grow into a useful member of society and, on coming out of the prison, may be able to live a better life, a good life, benefit himself and also serve the community.

So far as general principle and policy are concerned I think there can be no possible difference between the Members sitting on the other side and those of us who happen to be sitting here. I would be sorry indeed if any prisoner were treated in a manner unbecoming of his position or in the least derogatory to his condition or involving any inconvenience. All those things are repugnant to our system of administration and we wouldn't try to encourage them at all. So when prisoners are taken out under this Bill to give evidence in any court, I entirely agree that they should be treated with courtesy, and only such measure of restriction and restraint should be imposed as is necessary for

the maintenance of law and order and for purposes of security. Beyond that, nothing should be done that would, in any way, humiliate or harass him.

So far as matters which do not come within the purview of this Bill are concerned, I hope I am not expected to dilate on them or to say more. As to the clauses of this Bill, I think many of the observations are due to a misunderstanding of the purpose of the Bill and of the exact language and text of the various clauses. If they were examined in their proper text and context, then there would be no occasion for any criticism. The Bill has only a very limited objective and scope. It is to cut out unnecessary delay, to expedite the trial of cases and to save the time of public officers. These purposes are to be ensured by the amendments that have been made in the original provisions that appear in Part IX of the Prisoners Act.

Some suggestions have been made. If I had felt that there was any need for further clarification, I would have readily accepted them. But I do not think that they will make the position at all better than it is. So far as the definition of the word 'prison' is concerned, it is used in our Constitution. Prison, reformatories, borstal institutions—all are mentioned in the State List. Then the definition that we have given here is more or less on the same terms in which it appears in the original Prisoners Act. There a prison is defined as this:

"'Prison' includes any place which has been declared by the provincial Government by general or special order to be a subsidiary jail".

No definition of 'prison' has been given. The word 'prison' has in a way been given a magnified and enlarged meaning, that is, it is not only a prison in the strict sense of the term, but also certain other institutions such as borstal institutions and reformatories which might be treated as prison for the purposes of

[Pandit G. B. Pant]

this Act. I do not think that any difficulty has been caused because of this inclusive definition and not the precise definition of the word 'prison' itself. We all know that 'prison' is defined in the Prisons Act and we all know that 'prison' is a word of everyday expression. It is not necessary to give it further prominence by defining it in this Bill. The purpose will be very well served. It has been, I think, thoroughly serving the purpose during the last 55 years; so we needn't worry about it further.

Something was said about the custody of the prisoner who is taken to a court to give evidence. About that, a reply has already been given, but my friend, Shri Raghbir Sahai, will kindly take it into consideration that rules are framed under this Bill; instead of making any rigid provision ourselves, we felt it would be proper and appropriate to give this power to the States. Conditions may vary from place to place, and in fact even from district to district. So it would be better to delegate this authority to them, and they can then lay down the conditions and also specify the places where prisoners, who are carried to give evidence can be kept, if they have to be detained for more than a day. That will, I think, fully satisfy him.

As to clause 4, I think Pandit Thakur Das Bhargava has, in fact, given a very strong reason as to why clause 4 should be there. I entirely agree with him that prisoners who are under trial and who have still to undergo identification, should not be carried from the prison outside till the process of identification has been fully exhausted and carried out. So we require clause 4 for prisoners of this type. He will please see that clause 4 is meant to ensure the security of persons of this sort. They need not be taken out and if any occasion arises when any misuse is made of the provisions of this Bill, if he will kindly bring even a single instance to my notice I shall issue a circular to the State concerned. But

I am sure that no State will ever like a prisoner who is charged with a serious offence and has still to be placed before witnesses for identification to be taken out of the prison, to be exposed to the view of the likely witnesses. That would be extremely improper and nobody will do it.

Some references have been made to the word 'prisoner'. I am going to move a few verbal amendments so that the word 'prisoner' may not be there, but we may say that any person who is confined in a prison. That word will be wide enough and will cover all species of persons including civil prisoners. That would, I think, remove the difficulty which has been felt by some of the hon. Members here.

I do not exactly remember if any other objection has been raised. But I hope what I have said will satisfy hon. Members and now we may accept this motion and pass on to the next motion.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the attendance of prisoners in courts and for obtaining their evidence therein be taken into consideration."

The motion was adopted.

Clause 2— :—(Definitions)

Pandit G. B. Pant: Sir, I beg to move that in clause 2 a new sub-clause be inserted in the following terms.

In page 1,

(1) after line 8, insert:

"(a) confinement in a prison"—references to confinement in a prison, by whatever form of words, include references to confinement or detention in a prison under any law providing for preventive detention;"

(2) in line 9,

for "(a)" substitute "(b)";

(3) in line 15,

for "(b)" substitute "(c)".

The word 'detain' appears later on; but we thought that it will be better to give a definition of confinement in prison here in clause 2 itself.

Mr. Deputy-Speaker: It is in the definition clause.

The question is:

In page 1,

(1) after line 8, insert:

"(a) 'confinement in a prison'—references to confinement in a prison, by whatever form of words, include references to confinement or detention in a prison under any law providing for preventive detention;"

(2) In line 9,

for "(a)" substitute "(b)";

(3) In line 15,

for "(b)" substitute "(c)".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3.—(Power of courts to require appearance of prisoners etc.)

Shri Vallatharas: I have submitted an amendment to sub-clause (2). I am not moving it.

Mr. Deputy-Speaker: Very good.

Shri Vallatharas: I am moving my amendment to sub-clause (3). I beg to move:

In page 2, lines 11 to 13,

for "No order made under this section by a civil court which is subordinate to a district judge shall have effect unless it is countersigned by the district judge."

substitute: "No order made by a civil court below the rank and status of a district munsiff's court

shall have effect unless it is countersigned by the district judge in whose local jurisdiction the court is situated."

As I have already submitted, the point is very simple. The privilege may be given to sub-judges and district Munsiffs and also to the sub-magistrate because they are now regularised; on the basis of their qualifications, responsibilities are allotted to them under the system of separation of the judicial from the executive. There will be no risk in entrusting that power to them. That is why I move the amendment.

Pandit G. B. Pant: The present procedure, I think, in a way regularises the service of warrants or summons issued by subordinate courts to be forwarded through the district officers both on the civil and on the criminal side. So in cases of this character where any person who is confined in prison has to be dealt with we are doing no more than sticking to the present procedure in respect of ordinary individuals outside. So, I hope the hon. Member will please withdraw his amendment.

Shri Vallatharas: Sir, I am not pressing.

Mr. Deputy-Speaker: There will be no harm in sending these through the district officers. The hon. Member is not pressing.

The question is:

"That clause 3 stand part of the Bill"

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4. (Power of State Government to exempt certain persons from operation of section 3.)

Amendment made: In page 2, line 32.

for "the person or class of persons is detained in prison"

substitute: "the confinement has been ordered in respect of the person or class of persons".

—[Pandit G. B. Pant]



Mr. Deputy-Speaker: Now, the question is:

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

*The motion was adopted.*

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

Clauses 5 to 8 were added to the Bill.

Clause 9.—(Power to make rules)

Amendment made: In page 4, line 14,

for "prisoners" substitute:

"persons confined in a prison".

—[Pandit G. B. Pant]

Mr. Deputy-Speaker: The question is:

"That clause 9, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 9, as amended, was added to the Bill.

Clause 10 was added to the Bill.

#### First Schedule

Amendment made: In page 4, line 38,

for "a prisoner" substitute:  
"confined".

—[Pandit G. B. Pant]

Mr. Deputy-Speaker: The question is:

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

*The motion was adopted.*

The First Schedule, as amended, was added to the Bill.

5 P.M.

#### Second Schedule

Amendment made: In page 5, line 10,

for "a prisoner"

substitute: "confined".

—[Pandit G. B. Pant]

Mr. Deputy-Speaker: The question is:

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

*The motion was adopted.*

The Second Schedule, as amended, was added to the Bill.

Clause 1.—(Short title etc.)

Amendment made: In page 1, line ? for "1953"

substitute: "1955".

—[Pandit G. B. Pant]

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended stand part of the Bill."

*The motion was adopted.*

Clause 1, as amended, was added to the Bill.

#### Enacting Formula

Amendment made: In page 1, line 1. after "Parliament"

Insert: "in the Sixth Year of the Republic of India".

—[Pandit G. B. Pant]

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

The Enacting Formula, as amended, was added to the Bill.

#### Title

Amendment made: In page 1, for the Long Title,

substitute: "A Bill to provide for the attendance in courts of persons confined in prisons for obtaining their evidence or for answering a criminal charge."

—[Shri Datar]

Mr. Deputy-Speaker: The question is:

"That the Title, as amended, stand part of the Bill."

*The motion was adopted.*

*The Title, as amended, was added to the Bill.*

Pandit G. B. Pant: I beg to move:

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

Shri Raghavachari: I really do not want to take any time of the House now, but I only want to make just one observation. I find all these amendments have come today. I welcome them all and they are very necessary also, but may I respectfully submit that in matters of this kind, these things might have been considered earlier and we might have had an opportunity to see and examine it a little more carefully? Therefore, I just want to enter that protest that these amendments should have been given a little earlier and all of us should have had the benefit of examining it a little more carefully. I certainly welcome this Bill.

Pandit Thakur Das Bhargava: I would also add a word. It would always be better if when the amendments came from the non-official benches this sort of consideration was also accorded to them. Unfortunately owing to the last two days being holidays, I sent in 14 amendments today to the other bill and the hon. Minister was pleased to accept

one of them only and he did not accept or consider the rest simply because they came late. I only wish that similar facilities were given to non-official Members also.

Pandit G. B. Pant: I quite appreciate the point of view to which Shri Raghavachari had given expression. I am thankful to the Members of the House for having accommodated me in this matter. I may, however, point out that this Bill was introduced in 1953, notices of amendments were given in 1954, but all of us had forgotten all about the Bill and also about the amendments. In order to remind the Members about the amendments of which notice had been given previously, a new set of amendments consisting entirely of the same amendments which had been notified previously was submitted to the Speaker's Secretariat. So, I do not know if we are entirely to blame, but I would certainly like to give every possible facility to the Members sitting opposite and would be glad if still greater facilities were given to them.

Mr. Deputy-Speaker: The question is:

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

*The motion was adopted.*

*The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 2nd August, 1955.*