

Vol. I—No. 13  
12th March, 1955 (Saturday)

# LOK SABHA DEBATES

(Part I—Questions and Answers)



(Vol. I contains Nos. 1—20)

LOK SABHA SECRETARIAT  
NEW DELHI

FOUR ANNAS (INLAND)

ONE SHILLING (FOREIGN)

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**LOK SABHA**

*Saturday, 12th March, 1955.*

*The Lok Sabha met at Eleven of the Clock.*

[MR. SPEAKER in the Chair]

**MEMBER SWORN**

Prof. Shibban Lal Saksena (Gorakhpur District-North).

**ORAL ANSWERS TO QUESTIONS  
HANDICRAFTS**

**\*801. Sardar Hukam Singh:** Will the Minister of Commerce and Industry be pleased to lay a statement on the Table of the House showing:

(a) the amount of subsidies and loans granted to various States for the development of handicrafts during 1954; and

(b) the amount granted to the All-India Handicrafts Board for exhibition of handicrafts during the above period?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) A statement is laid on the Table of the House. [See Appendix IV, annexure No. 53].

(b) A sum of Rs. 3,80,972 has so far been sanctioned for handicrafts exhibitions.

**Sardar Hukam Singh:** The statement shows that there are only seven Part A States that have got these grants. Was it that the other States did not ask for any grant or loan or was it at the discretion of the Centre that no amount was given to the States?

**Shri Kanungo:** Possibly other States did not ask for it or the schemes which they sent in were not up to the mark.

**Sardar Hukam Singh:** May I know

whether any scheme was asked for from those States to whom these grants have been given before the grants were made?

**Shri Kanungo:** Yes. Circular letters were sent out to all the States to submit schemes.

**Sardar Hukam Singh:** In the statement it is shown that the PEPSU has been granted Rs. 20,000 for calico printing at Sultanpur. In what form was this assistance given? Was it in cash or in some other form?

**Shri Kanungo:** I have not got the details of the particular scheme, but schemes are sent in by the State Governments and the funds are allotted to these State Governments to be spent according to the schemes.

**Sardar Hukam Singh:** What amount did they spend on the purchase of dolls for the International Dolls Exhibition in Karachi or in Sydney?

**Shri Kanungo:** It was a very small amount, near about Rs. 50.

**भारत-चीन करार**

**\*802. श्री भक्त दर्शन :** क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या तिब्बत के सम्बन्ध में हाल में हुए भारत-चीन करार के उपबन्धों के अनुसार डाक, तार और टैलीकोनों की व्यवस्थाओं तथा विद्राम-गृह चीन सरकार को सौंप दिये गये हैं, और

(ख) यदि हाँ, तो क्या भारत सरकार को उन का पूरा मूल्य मिल गया है ?

**बैंग्लादेश-कार्ड सुपरमंत्री (श्री अमित शंकर):** (क) तथा (ख). सौंपे जाने का काम शीघ्र ही समाप्त होने वाला है। मित्रता के नाते से डाक तार की व्यवस्थाएं मुफ्त सौंपी जा रही हैं। विद्राम-धर और उनके सामान का मूल्य चीन सरकार दे रही है।

**श्री भक्त दर्शन :** क्या मैं जान सकता हूँ कि यह वस्तुएँ जो कि चीन सरकार को मुक्त दी जा रही हैं, इन का वास्तविक मूल्य क्या है और क्या कारण है, जब कि इकारानामे में यह स्पष्ट कर दिया गया था कि उनका उचित मूल्य लंकर ही वह दी जायेंगी, तां अब यह विशेष उदारता दिखलाने की क्या आवश्यकता महसूस हुई है ?

**Shri Anil K. Chanda:** With your permission I will reply in English.

After the floods of 1954 in the month of July, the value of the P. & T. installations is estimated at Rs. 33,816, and so far as the rest houses with their equipment are concerned, their value is Rs. 2,91,909. It is only the postal and telegraph installations which we are proposing to hand over to the Chinese Government without asking them to pay for these. I have indicated in my answer that this is as a gesture of friendship to that State.

**श्री भक्त दर्शन :** क्या मैं जान सकता हूँ कि यह जो वस्तुएँ दी जा रही हैं इन के बदले मैं चीन सरकार ने कोई ऐसा आश्वासन दिया है कि वह तिक्ष्णत और चीन के अन्य भागों में जाने वाले भारतीय यात्रियों या व्यापारियों को विशेष सुविधाएँ देंगी ?

**Mr. Speaker:** Have they given any undertaking or made any agreement that they will give special facilities to Indian merchants in consideration of this handing over?

**Shri Anil K. Chanda:** It is not a question of bargaining. According to the agreement, the Chinese Government has undertaken certain responsibilities and I am sure they will fulfil those responsibilities.

#### TINCTURES

\*804. **Shri Dabhi:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to starred question No. 758 on the 6th December, 1954 and state:

(a) whether any decision has since been taken regarding the enactment of a Central law regulating the export

and import and the inter-State movement of different kinds of tinctures; and

(b) if not, when the decision is likely to be taken?

**The Minister of Commerce (Shri Karmarkar):** (a) Yes, Sir. It has been decided to introduce a Bill in the Central Legislature.

(b) Does not arise.

**Shri Dabhi:** When is the Bill likely to be introduced? May I have some idea?

**Shri Karmarkar:** Any time from now on, I think. The Bill is almost ready and it may be introduced at a very early date so far as I can see.

**Kumari Annie Mascarene:** May I know whether the law of prohibition comes in the way of tinctures being taken from one State to another?

**Shri Karmarkar:** I shall answer that question on notice. I am speaking with regard to this Bill which is likely to be introduced soon.

**Sardar Hukam Singh:** Is it only the Bombay Government that has written to the Centre for the introduction of such a Bill or have other States also sent in their own recommendations?

**Shri Karmarkar:** I could say definitely that the Bombay Government did approach us and I think we received comments also from Andhra and Mysore Governments. I could not say whether any other Government asked us to take such measures.

**Sardar Hukam Singh:** What happened to that bottle of tincture which was handed over here to the Health Minister by one hon. Member of this House? That was manufactured by a Minister of a State.

**Shri Karmarkar:** The Governments of Saurashtra, Andhra and U.P. have also expressed a desire for the proposed controls and with regard to the particular bottle, I shall try and search it out before answering the question, on notice.

#### POWER ALCOHOL

\*805. **Shri Jhulan Sinha:** Will the Minister of Commerce and Industry

be pleased to state:

(a) whether it is a fact that the production of Power Alcohol fell during the 1953-54 sugar-cane crushing season; and

(b) if so, the reasons therefor?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) Yes, Sir.

(b) The fall in production of Power Alcohol during the 1953-54 sugar-cane crushing season was on account of shortage of molasses due to low production of sugar.

**Shri Jhulan Sinha:** How do these figures for 1953-54 compare with the figures for the previous years?

**Shri Kanungo:** The figures are: 1953—8.21 million gallons; 1952—7 million gallons; 1951—5.67 million gallons.

**Shri Jhulan Sinha:** May I enquire whether the fall in the production of power alcohol was due to the heavy wastage of molasses in the country?

**Shri Kanungo:** As far as the particular year is concerned, enough molasses were not available for the production of alcohol.

#### RECOVERY OF ABDUCTED PERSONS

**\*807. Shri Krishnacharya Joshi:** Will the Prime Minister be pleased to state:

(a) the total number of abducted persons recovered during 1954 in Pakistan; and

(b) how many of them were sent back to India?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a) The total number of abducted persons recovered during 1954 in Pakistan is 271.

(b) 168.

**Shri Krishnacharya Joshi:** May I know the total figure as compared with the figures for the previous years?

**Sardar Swaran Singh:** I am afraid I have not got the figures of the previous years handy. If my hon. friend puts down a question, I will answer it.

**Shri Krishnacharya Joshi:** May I know whether the process of recovery

is very slow in Pakistan and if so, what steps have the Government taken in the matter?

**Sardar Swaran Singh:** We have been urging from time to time and pointing out to Pakistan Government to take expeditious steps to ensure that abducted persons are recovered.

**Shri K. C. Sodhia:** How long is this organisation to continue?

**Sardar Swaran Singh:** As the hon. Member knows, the present Act expires sometime in the month of May or June. Thereafter, if it is intended to continue it, Parliament will be seized of the matter and it would be for Parliament to decide as to whether they want to extend the Act or not.

**Shri Basappa:** May I know whether the Government is aware of the resolution passed by the All-India Women's Conference that these recoveries should be stopped, and what action has Government taken on this resolution?

**Sardar Swaran Singh:** I have seen press reports about the resolution which is said to have been passed by the All-India Women's Conference. On enquiry, however, the version that appeared in the press is not found to be an authorised version.

**Pandit D. N. Tiwary:** May I know whether it is a fact that most of the recovered persons were of the age-group of over 40 and not below 40?

**Sardar Swaran Singh:** No. That information is not correct.

**Shri B. S. Murthy:** May I know whether there is any record available with the Government as to how many more people abducted are to be recovered?

**Sardar Swaran Singh:** That is a matter about which statements have been made on the floor of the House from time to time. From the very nature of the circumstances that prevailed at the time and when these unfortunate incidents took place, it is not possible for any Government to assess the total number of persons that could be recovered. We proceed generally on the basis of clues; some-

times the clues themselves are incorrect and as soon as any correct clue is got, recovery is actually effected. So, it is very difficult for anybody to say as to what is the total number of persons who still remain unrecovred.

**MODEL WORKSHOPS AND INDUSTRIAL ESTATES**

\*812. **Shri Gidwani:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that Model Workshops and Industrial Estates are to be set up for the development of Small Scale Industries as decided by Small Scale Industries Board;

(b) if so, what will be the number of workshops and Industrial Estates to be set up in each State;

(c) the nature of the training to be imparted there; and

(d) when the work will be started?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) Yes, Sir.

(b) State Governments have been requested to draw up schemes in this connection and their replies are awaited. The number of units to be set up would be decided after the replies are received.

(c) The main purpose of the Model Workshops is to demonstrate the use of improved tools and implements. The Industrial Estate is meant to provide facilities for the growth of small industries.

(d) During the course of the financial year 1955-56.

**Shri Gidwani:** May I know where these workshops will be located? Will it be in each State; if so, in which of the States?

**Shri Kanungo:** It all depends upon the proposals which are received from the States.

**Shri Gidwani:** What will be the capacity of training in these workshops? Have Government fixed any number?

**Shri Kanungo:** No.

**Shri Bhagwat Jha Azad:** What will be the financial liability? Will the

liability be of the State, or of the Centre, or of both?

**Shri Kanungo:** It will be primarily shared between the States, and the Centre will also set up some as models.

**Shri Gidwani:** What will be the type of administration of the proposed Industrial Estates? Will they remain under the Centre or will the State Governments be in charge of them?

**Shri Kanungo:** It all depends upon the particular pattern of financing that is decided. If it is State-cum-Centre, it will be one pattern; if it is Centre, it will be another pattern; if it is wholly of the States, it will be of another pattern.

**EAST PAKISTAN DISPLACED PERSONS**

\*813. **Shri S. C. Samanta:** Will the Minister of Rehabilitation be pleased to state:

(a) whether Government have instructed the State of West Bengal to collect all possible data with regard to employment of displaced persons from East Pakistan;

(b) whether the West Bengal Government have collected figures from different Chambers of Commerce and Trade Associations and individual concerns; and

(c) if so, the details thereof?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) Yes.

(b) No.

(c) Does not arise.

**Shri S. C. Samanta:** May I know whether Government have any rough estimate of the employment given to the displaced persons?

**Shri J. K. Bhonsle:** Yes, Sir. But I shall be answering another question of a similar nature, and I would rather wait till then.

**Mr. Speaker:** What is the number of that question?

**Shri J. K. Bhonsle:** No. 860; the answer is pretty long.

**Mr. Speaker:** Has he any objection to take it up along with this question and answer it now?

**Shri J. K. Bhonsle:** No.

**Mr. Speaker:** Then he may answer question No. 860 also.

**REHABILITATION OF EAST PAKISTAN DISPLACED PERSONS**

**\*860. Shri Tushar Chatterjea:** Will the Minister of Rehabilitation be pleased to state the further steps taken for the rehabilitation of displaced persons from East Pakistan after the Rehabilitation Ministers' Conference with the Members of Parliament from West Bengal?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (1) Acquisition of sizeable blocks of surplus land for rehabilitation of displaced persons and reclamation of Waste land and provision of irrigation facilities.

The State Governments are pursuing their efforts to reclaim lands to make them fit for cultivation and to provide irrigation facilities wherever necessary. The Planning Commission has been requested to set apart lands for the resettlement of displaced persons out of their various Development projects.

(2) As an interim measure for affording immediate employment to displaced persons, Development Works have been undertaken in 'problem colonies' like Taherpur. These mainly consist of earth work for roads and tanks, etc.

(3) A Committee has been appointed to deal expeditiously with the applications for setting up of industries in refugee colonies and townships for affording employment to displaced persons. The Committee have met and considered several applications.

(4) Schemes for the setting up of cottage industries on co-operative basis in refugee colonies are also under examination.

(5) Two more Committees, one for the development of different colonies and the other for Vocational and Technical Training, have also been set up. These Committees have started functioning.

(6) A new production centre for employment of unattached women trained in Homes has been sanctioned in Miarbar in the district of Hooghly and will soon begin working.

(7) Three of the unlisted squatters' colonies existing before 31.12.50 have been admitted to the accepted list of such colonies which would be regularised or for inhabitants of which alternative accommodation would be provided.

**Shri S. C. Samanta:** As the rehabilitation problem has arisen out of the national calamity and as the influx is still going on, may I know whether the Government have contacted other States in India to give a share in respect of employment, in those States?

**Shri J. K. Bhonsle:** Not for employment; but for rehabilitation purposes, we have contacted other States. In this particular case, the question of settling displaced persons in the Andamans is also under consideration with the Home Ministry. In Uttar Pradesh, we have settled a number of persons from East Pakistan, and are also in contact with the Mysore Government to get more lands in that State.

**Shri S. C. Samanta:** My question is about employment.

**Shri J. K. Bhonsle:** I meant only employment.

**Shri S. C. Samanta:** May I know whether the Chamber of Commerce in West Bengal has been asked to give a half-yearly report about the taking in of the displaced persons out of the number that is at present there?

**Shri J. K. Bhonsle:** The West Bengal Government is taking appropriate measures in this regard.

**Shri K. K. Basu:** May I know the percentage of these displaced persons who have been employed either in the private concerns or in Government organisations in West Bengal and in other parts of India?

**Shri J. K. Bhonsle:** The latest figures are not available, but the figures, as taken from the census of 1951, are roughly, 1,35,823. That is the number of persons who have been employed.

#### HINDUSTAN CABLE FACTORY

\*814. **Shri M. S. Gurupadaswamy:** Will the Minister of Production be pleased to state:

- (a) the total expenditure incurred on the establishment of Hindustan Cable Factory;
- (b) the average monthly production of cables since its establishment;
- (c) what will be the target output of this factory;
- (d) when it will be reached; and
- (e) what is the yearly requirement of the country in this regard?

**The Parliamentary Secretary to the Minister of Production (Shri R. G. Dubey):** (a) Rs. 1,00,56,000 (roundly) till 31.1.1955.

(b) About 15 miles length.

(c) and (d). The target output of 469 miles of subscriber cable per year based on the existing capacity is expected to be reached by the end of 1956-57. This is likely to be increased to 500 miles per year by introducing double shift in some of the shops.

(e) Including the demands of other consumers like the Railways and the Defence forces, the total annual requirement is expected to amount to approximately 800 miles. The actual demand of subscriber cables notified by P. and T. for the year 1955-56 is about 536 miles only, although the forecast of requirements for the year made earlier was larger.

**Shri M. S. Gurupadaswamy:** How many foreign technicians have been employed in this factory, and is the press report saying that many of these technicians have not been given work or that work is not available for them, correct?

**Shri R. G. Dubey:** Subject to correction, I may say that there are about three foreign technicians working in the factory, and about the press report, I feel that it is entirely unfounded.

**Shri Ramachandra Reddi:** May I know whether the required quantities of copper wire used in this particular institute are imported, or whether they are available locally?

**Shri R. G. Dubey:** I think copper is available locally.

**Shri Kasliwal:** May I know if any foreign enquiries have been received with regard to the purchase of the products of this factory and if so, whether Government propose to export them?

**Shri R. G. Dubey:** I do not think so.

**Shrimati Tarkeshwari Sinha:** May I know what quantity of cable is still imported in this country and how the price of imported cable compares with the price of locally manufactured cable?

**Shri R. G. Dubey:** I think, up to the end of February, our production was of the order of 86 miles length. That means almost the whole quantity we are importing for the present. So far as cost is concerned, discussion was held with the D.G.S. & D., and P. & T. and it has been decided that the cost of production plus 6 per cent. is to be the basis, provided the ceiling will be the level of imported cost.

#### BETEL-NUTS AND RUBBER

\*815. **Shri Sarangadhar Das:** Will the Minister of Commerce and Industry be pleased to state:

- (a) whether any proposal has recently been received from the

Indonesian Government for the import of betel-nuts and rubber from that country; and

(b) if so, whether any decision has been taken in this regard?

**The Minister of Commerce (Shri Karmarkar):** (a) No, Sir.

(b) Does not arise.

#### BELTING INDUSTRY

\*817. **Shri Tushar Chatterjea:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that Government have granted permission to Messrs. J. H. Fenner and Company Limited to manufacture different types of beltings;

(b) if so, when this permission was given;

(c) whether it is also a fact that representation was made to Government on behalf of the Indigenous Belting Industries Association to the effect that such permission will adversely affect the indigenous belting industry in the country; and

(d) if so, whether Government have considered the matter?

**The Deputy Minister of Commerce and Industry (Shri Kunungo):** (a) Yes, Sir.

(b) 23rd April, 1954.

(c) Yes, Sir.

(d) Yes, Sir. These representations were duly considered.

**Shri Tushar Chatterjea:** What has come out after consideration?

**Shri Kanungo:** After consideration it was decided to allow the manufacture of certain varieties which were not being manufactured before.

**Shri Tushar Chatterjea:** In view of the fact that only a very small part of the production capacity of this indigenous industry is being used, is it not detrimental to the indigenous industry to allow this company to function?

**Shri Kanungo:** The point is that the particular varieties which have been allowed to be manufactured by the new concern were not being manufactured.

**Shri Tushar Chatterjea:** What are the particular varieties that are being manufactured?

**Shri Kanungo:** Plastic coated conveyor and elevator belting, Solid woven hair belting and Endless woven cotton belting.

**Shri P. C. Bose:** I want to know whether this foreign company will produce camel hair belting and rubber belting?

**Shri Kanungo:** I have mentioned three lines. It includes Endless woven cotton belting, Plastic coated conveyor belting and also one of the sources is going to produce Rubber conveyor and rubber transmission belting, and Rubber ply transmission belting.

**Shri K. K. Basu:** May I know while granting licence to the particular concern to manufacture belting, whether the indigenous industries were consulted about their capacity to manufacture on these lines?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Yes. All facts relevant to this case have been taken into consideration.

#### PRIME MINISTER'S VISIT TO TEHRAN

\*819. **Shri G. P. Sinha:** Will the Prime Minister be pleased to state:

(a) whether he has been invited to visit Tehran; and

(b) if so, the purpose of the visit?

**The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan):** (a) and b). Some time ago, the Iranian Ambassador in India extended an invitation on behalf of his Government for Prime Minister to visit Iran. He was informed that Prime Minister's pre-occupations would not permit his visit-

[**Shri Sadath Ali Khan**]

ing Iran in the near future but that he hoped he would have the opportunity of doing so at a later date.

The visit when it takes place will be one of courtesy and is likely to promote understanding and friendship between the two countries.

**Shri G. P. Sinha:** Is it correct to assume that Iran is slowly drifting towards Turco-Pakistan military alliance and if so, what step the Government of India is taking.....

**Mr. Speaker:** Order, order. That question does not arise out of this. Here the question relates to the visit of the Prime Minister.

#### MOBILE RECORDING UNITS

\*820. **Shri Ibrahim:** Will the Minister of Information and Broadcasting be pleased to state:

(a) whether there is any proposal to establish mobile recording units in the various linguistic regions in the country;

(b) if so, when they will be established; and

(c) whether these recordings will be relayed through the Broadcasting Stations of A.I.R.?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) A proposal to procure 25 mobile recording units has been sanctioned.

(b) Arrangements are in hand to procure them and they will begin to function after they are delivered.

(c) Yes, Sir.

**Shri Ibrahim:** What will be the estimated cost of these units?

**Dr. Keskar:** Each van complete with equipment might cost about Rs. 1.79 lakhs.

#### FERTILIZER PRODUCTION COMMITTEE

\*821. **Shri Heda:** Will the Minister of Production be pleased to state:

(a) whether the Mukherjee Committee which was asked to find out

the possibility of installing fertilizer factories at suitable sites has since submitted its report; and

(b) if so, the decision thereon?

**The Parliamentary Secretary to Minister of Production (Shri R. G. Dubey):** (a) The final report of the Fertilizer Production Committee is expected to be received by the Government about the middle of April, 1955; meanwhile the Committee have submitted an interim report recommending the establishment of a factory for the production of ammonium nitrate fertilizer in the Bhakra Nangal area.

(b) The Government have accepted the recommendation in the interim report of the Committee.

**Shri Heda:** Is it a fact that pending the report, some sites have been investigated with a view to find out whether they are good sites or not for these factories?

**Shri R. G. Dubey:** Of course, the Committee has investigated the possibility at various places such as Rajasthan and other places in the South.

**Shri Heda:** What are those sites?

**Shri R. G. Dubey:** I think any detailed information at this stage would not be in the public interest.

**The Minister of Production (Shri K. C. Reddy):** I may add that the Committee has gone round several States like Rajasthan, Hyderabad State from where the hon. Member comes, Mysore, Travancore-Cochin and Saurashtra. They are also going to U. P., and other places. Their report is awaited.

**Shri Heda:** I wanted the actual names of sites, because even in Hyderabad more than one site has been investigated?

**Shri K. C. Reddy:** May be.

WOOL

\*822. **Th. Jugal Kishore Sinha:** Will

the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that a large number of complaints has been received from foreign imports about the quality of wool; and

(b) if so, what action Government have taken or propose to take to see that a uniform quality of wool is exported so that the trade may not suffer?

**The Minister of Commerce (Shri Karmarkar):** (a) and (b). Yes, Sir. Some complaints have been received. To ensure that all wool shipped from India is of uniform quality and properly graded, the Government of India have with effect from the 7th February, 1955, prohibited the export of ungraded raw wool under Section 19 of the Sea Customs Act, 1878.

ठाकुर चूगल किशोर सिंह : किन किन स्टॅट्स से कम्प्लैट्स आई हैं और किस किस तरह की शिकायतें आई हैं ?

श्री करमरकर : बाहर वाले जो मंगाते हैं, उनसे कम्प्लैट्स आई हैं।

ठाकुर चूगल किशोर सिंह : किन किन स्टॅट्स से आई हैं ?

श्री करमरकर : यह इनफारमेशन मेरे पास अभी मौजूद नहीं है।

#### CEMENT

\*823. **Shrimati Renu Chakravarty:** Will the Minister of Commerce and Industry be pleased to state:

(a) the names of the new Cement Units that are proposed to be constructed or expanded in various parts of the country;

(b) the names of the companies and their managing agents (in case they have got managing agencies) that have undertaken this construction or expansion; and

(c) the scheme for the utilization of their products?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) to (c). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 54].

**Shrimati Renu Chakravarty:** For this expansion programme how much subsidy, loan or share capital has been contributed either by the State or Central Government?

**Shri Kanungo:** Nothing.

**Shrimati Renu Chakravarty:** May I know if it is not a fact that quite a substantial amount of the capital of Orissa Cements Ltd. has been bought in the form of shares by the Orissa Government?

**Shri Kanungo:** Orissa Government would know it better.

**Shrimati Renu Chakravarty:** Then, is it not a fact that the Deputy Minister has given a wrong answer?

**Mr. Speaker:** Order, order. No argument.

**Shri Heda:** Some of the promoters of these new concerns, particularly item No. 7 are old and financially sound concerns. In spite of this, why is there such a delay in starting the plant?

**Shri Kanungo:** Well, they must be working on it. After granting the licence, in a period of two years we know the progress.

**Shrimati Renu Chakravarty:** May I know what is the total amount of demand for cement in the country and how far this increase will meet the demand?

**Shri Kanungo:** The total demand after a period of years is estimated to be 9.4 million or say, about 10 million tons and we hope that this expansion will provide the necessary quantity.

#### PORTUGUESE POSSESSION IN INDIA

\*826. **Shri Bhagwat Jha Asad:** Will the Prime Minister be pleased to state:

(a) whether the Portuguese Government have apprised the Govern-

ment of India of their new legislation aimed to crush the freedom movement in Portuguese possessions in India;

(b) whether it is a fact that under such legislation Indian nationals offering *Satyagraha* will be banished out of the country; and

(c) if so, the action taken by Government in the matter?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) and (b). Early this year, the Portuguese Government informed the Government of India of the enactment of a new legislation in Portugal designed to check the national movement in Goa and empowering them to deport Indian, including Goan *Satyagrahis* to serve sentences in Penal establishments in Portugal and other Portuguese territories.

(c) The Government of India have lodged a strong protest with the Portuguese Government and reiterated their warning that any attempt to deport Indian and Goan *Satyagrahis* would have serious and far reaching repercussions in India.

**Shri Bhagwat Jha Azad:** May I know whether it has been brought to the notice of the Government of India that such proposed legislation is based to include also forfeiture of the property of temples and other religious trusts in Goa?

**Shri Anil K. Chanda:** There is another question on this matter later on.

**Shri Bhagwat Jha Azad:** May I know whether after the protest this proposed legislation has been dropped or it has been gone through by the Portuguese Government?

**Shri Anil K. Chanda:** No, the legislation has not been dropped. But as far as we know, during the last one year there has not been any deportation from Goa, and the last case was that of Dr. Gaitonde.

**Shri Joachim Alva:** Our Consul-General was asked to leave Goa and

in return we asked the Portuguese Consul-General to leave Bombay. May I know how, when and why our new Consul-General has been sent to Goa?

**Shri Anil K. Chanda:** Because we have our Consulate-General there and it has got to be properly manned.

#### GOVERNMENT HOUSING FACTORY

**\*831. Kumari Annie Mascarenha:** Will the Minister of Production be pleased to state how much of the surplus stores has been disposed of by the Government Housing Factory so far?

**The Parliamentary Secretary to the Minister of Production (Shri R. G. Dubey):** Surplus stores of the book vaule of Rs. 35 lakhs have so far been disposed of by the Government Housing Factory.

**Kumari Annie Mascarenha:** May I know whether the disposal is at a profit or loss to the Government?

**Shri R. G. Dubey:** It is not possible to work out the loss at this stage.

#### EVACUEE HOUSES AT SIMLA

**\*834. Dr. Satyawadi:** Will the Minister of Rehabilitation be pleased to refer to the reply given to unstarred question No. 910 on the 29th September, 1954 and state whether the question of allotment of houses against the tenders sent by the displaced persons at Simla has been finally decided?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** Out of the 76 evicuee houses at Simla for which tenders were accepted provisional ownership in respect of 37 houses has been transferred to the tenderers with effect from the 1st March, 1955. The cases of the remaining tenderers are under consideration.

**डॉ सत्यवादी :** जिन मकानों के टन्डर एंसे लोगों के नाम मंजूर किये गये हैं जो स्थूद ही उन मकानों के एलाटी भी हैं तो, क्या मैं जान सकता हूँ कि, टन्डर मंजूर होने के बावजूद जो

किराया उन से लिया जा रहा है क्या वह उस टंडर के हिसाब में रखा जायेगा ?

श्री जै. एच० भांसलै : पहली मार्फ से किराया नहीं लिया जायेगा, लेकिन तब तक जरूर लिया जायेगा ।

**HOUSES FOR CENTRAL GOVERNMENT EMPLOYEES**

**\*835. Shri I. Eacharan:** Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether the construction of houses for the Central Government employees is confined to the Capital only or is extended to other States also; and

(b) if so, the names of the States in which the constructions are taking place?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a) and (b). Houses for Central Government employees are constructed at other places also, besides the Capital city, wherever necessary. Such constructions take place in almost all the States.

**Shri I. Eacharan:** May I know what is the amount set apart for the Centre and what is the amount allotted for the States?

**Sardar Swaran Singh:** There is no such thing as allotment in favour of the States. If the hon. Member means as to how much amount is being spent in States as compared to the capital city, that break-up is not readily available as in respect of the Central Government employees in a number of Ministries, including Railways, Defence, Finance, P. & T., construction is going on for all these Ministries.

**Shri Shivananjappa:** It is said that the Government of Mysore have submitted a scheme for housing the low paid staff. May I know how much of Central assistance was asked and how much has been sanctioned?

**Sardar Swaran Singh:** That question does not arise out of this. But

so far as Central aid for financing, housing tenements for State employees is concerned, there is no such scheme. Unless advantage is taken in a general way of the Low Income Group Housing Scheme, it is not the policy of the Central Government to finance schemes which are sponsored by State Governments for construction for their own employees.

**Shri B. S. Murthy:** May I know what steps are being taken to provide houses for Central Government officers in Kurnool where there are no houses but only tents?

**Sardar Swaran Singh:** I think some sort of temporary arrangement was made even for the Central Government employees either by putting up temporary structures or by requisitioning houses. On a more permanent basis a decision will be possible only after a firm decision is taken about the location of the capital.

**INDIANS IN CEYLON**

**\*836. Dr. Ram Subhag Singh:** Will the Prime Minister be pleased to state:

(a) whether Government are aware that a number of applications for citizenship from persons of Indian origin have been rejected by the Ceylon Government on the ground that the Justices of Peace before whom the applicants had sworn affidavits had not themselves taken the oaths of allegiance;

(b) whether this act is in conformity with the understanding reached between the Prime Ministers of India and Ceylon in October, 1954; and

(c) if not, the action taken in the matter?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) The Government of India are informed that applications for Ceylon citizenship are still being rejected on purely technical grounds.

(b) and (c). The Government of India have taken up this and other matters connected with the implementation of the Agreement of October, 1954, with the Government of Ceylon.

**Dr. Ram Subhag Singh:** May I know whether the information, about which the Deputy Minister just now said that the Government of India have been informed, was received after the communication to which also he just now referred, or was it received beforehand?

**Shri Anil K. Chanda:** The communication was necessary because we received information that the Agreement is not being properly worked there.

**Sardar Hukam Singh:** Sir, there is another question also on the same subject, Question No. 845. I suggest it might be taken along with this.

**Mr. Speaker:** Is it convenient to the Deputy Minister?

**Shri Anil K. Chanda:** Yes, Sir.

**Mr. Speaker:** Then he may give the reply to that also.

#### INDIANS IN CEYLON

\*845. **Sardar Hukam Singh:** Will the Prime Minister be pleased to state:

(a) whether the registration of persons of Indian Origin for Ceylon citizenship has been proceeding satisfactorily since the meeting of the Prime Ministers of India and Ceylon in October, 1954; and

(b) the number of applications decided so far and the number that have been accepted?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) The Government of India do not view with any satisfaction the progress in registration of applicants for Ceylon citizenship.

(b) 38,795 and 9,671, respectively, upto the 30th November, 1954.

**Dr. Ram Subhag Singh:** Since the joint statement which was issued by the two Prime Ministers in October, 1954, may I know the number of Stateless persons who got themselves registered at the Indian High Commissioner's Office, and how many of them have so far come over to India, and how many of the rest succeeded in obtaining long-term residence permits from the Government of Ceylon?

**Shri Anil K. Chanda:** It is a very long question, but I can inform the House that we have sanctioned additional staff for expeditious disposal of applications for Indian citizenship, with our High Commissioner in Ceylon. But I have not the exact figures. I have, however, the figures of the applications which have been examined by the Ceylon Government for citizenship of that country. In the month of November—that is the last figure, for the month of November—the number of applications allowed during that month was one, and the total of the applications to date is 9,671. The number of refusals during this period, that is the month of November, is 2,977, and the total up-to-date is 29,124. And to date the number of persons whose applications have been rejected amount to 97,344.

**Shrimati Tarkeshwari Sinha:** May I know if the Government is aware that the Ceylon Government has complained that there is no co-operation from the High Commissioner for India in Ceylon, and what action have Government taken to refute this charge?

**Shri Anil K. Chanda:** I have seen a reference about this in a newspaper report, but we have not yet received any communication from the Ceylon Prime Minister.

**Dr. Ram Subhag Singh:** May I know whether any portion of the joint statement which was issued by the two Prime Ministers is being given effect to?

**Shri Anil K. Chanda:** So far as we are concerned, we are doing our

best to implement the agreement of October. The Indian High Commissioner has started entertaining applications for registration as Indian citizens from persons whose applications for Ceylon citizenship have been rejected. I am afraid the Ceylon Government have not been implementing their responsibilities as far as this agreement goes.

**Sardar Hukam Singh:** Has it come to the notice of the hon. Minister—he might have seen this morning's report in the papers also—that technical considerations such as incorrect spelling of names have been responsible for rejection of a large number of applications?

**Shri Anil K. Chanda:** Yes, Sir. I have said so in my reply to Dr. Ram Subhag Singh's question.

**Sardar Hukam Singh:** Is the hon. Minister aware that Sir Edwin, the High Commissioner for Ceylon in India, had observed on the 8th of January at Bombay that a large number of applications are bound to be rejected and the Ceylon Government would offer inducements to Indians to apply for Indian citizenship? May I know what was the inducement that he meant and whether any practical inducement has been given by the Ceylon Government?

**Shri Anil K. Chanda:** We have seen the statement made by the Ceylon High Commissioner in Bombay some time ago. The Ceylon Government have not yet informed us about the details of any instructions which they might have issued with regard to the withdrawal of the previous restrictive orders for rejecting applications on flimsy grounds as wrong spelling of names, etc. Also we have not yet got any information about what sort of inducements they are offering to the people to ask for Indian citizenship.

**Sardar Hukam Singh:** Am I correct that when the two Prime Ministers met and issued their statement,

an impression was created in the country—I do not know whether a similar impression was created in the mind of the Government as well—that about 50 per cent of the persons applying would get registration, and now not more than 30 per cent. are getting?

**Shri Anil K. Chanda:** Up till now, as I said, over 97,000 people have been rejected for citizenship of Ceylon. What the total number will be, it is not possible for us to estimate at this stage.

**Sardar Hukam Singh:** What is the percentage.....

**Mr. Speaker:** We will go to the next question.

#### INDIAN TARIFF ON BRITISH TEXTILES

\*838. **Shri Bansal:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the attention of Government has been invited to questions and answers in the House of Commons on the 22nd February, 1955 during the course of which Mr. Peter Thorneycroft, President of the Board of Trade, is reported to have said in reply to a question by Mr. Gaitskell, that he did not think the Indian tariff on British textile exports to India was fair and that India would have difficulty in defending it; and

(b) if so, the steps being taken by Government to counteract this charge?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) Press reports to this effect have come to the notice of Government.

(b) Government do not think that any action is necessary on their part in respect of the proceedings that have taken place in the Parliament of a foreign Government.

**Shri Bansal:** Has the attention of Government been invited to a debate in the House of Commons on the 9th of this month on a motion of the

Labour Party, to which an amendment was moved by the Government, stating their declared intention to take safeguarding action on Indian cotton textile imports that may prove essential? May I know if these safeguarding actions have been conveyed to the Government?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** No, Sir.

**Shri Bansal:** May I know whether the High Commissioner for the U.K. in India called on the Minister only two or three days back, and if so, what were the subjects discussed in that meeting?

**Shri T. T. Krishnamachari:** It was a friendly call. The High Commissioner frequently calls on Members of Government.

**Shri Bansal:** May I know whether the attention of the hon. Minister for Commerce and Industry has been invited to a banner headline report in the *Statesman* of the 11th March where it was specifically stated that the High Commissioner met the Minister in relation to this question of imports of cotton textiles from India in England, and also whether the right hon. Mr. Low, when he was in this country, also took the opportunity of discussing this matter with the Minister?

**Shri T. T. Krishnamachari:** So far as the banner headline is concerned, I have seen it.

**Shri Kasliwal:** Is it not a fact that this agitation regarding import of Indian cloth in Lancashire is rather misconceived and misdirected in view of the fact that most of the cloth goes there, is processed there and then re-exported from Lancashire?

**Shri T. T. Krishnamachari:** It is an opinion which the hon. Member can hold. It does not mean that I share that opinion.

**Mr. Speaker:** Next question.

**Shri Bansal:** This is a very important question, Sir. I did not hear what the hon. Minister said in reply to my question as to the visit of Mr. Low and the discussions with him. May I know whether this point was raised in his very lengthy discussions with the Minister?

**Shri T. T. Krishnamachari:** I may humbly suggest, I suppose, the question should be with regard to a specific issue. I thought the question related to the banner headlines and not to Mr. Low's visit. Mr. Low discussed this amongst other problems.

**Shrimati Tarkeshwari Sinha:** May I know whether Government has received any communication from the U.K. Government that they will also impose restrictions on the Indian export of cloth to U.K. if the rate of tariff is kept so high?

**Shri T. T. Krishnamachari:** It would be correct to say that the Government have received no such communication.

#### PRODUCTION OF Dhoties

**\*840. Pandit D. N. Tiwary:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that in 1954 there has been a large scale contravention of the orders restricting the production of dhoties by textile mills; and

(b) if so, the steps taken by Government in the matter?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) and (b). Restriction on the production of dhoties by mills is now enforced by the levy of an additional excise duty on production above a certain specified quota.

**Pandit D. N. Tiwary:** May I know whether there is any penalty clause or not in the law passed?

**Shri Kanungo:** Yes; penalty in the form of a higher duty.

**Pandit D. N. Tiwary:** My question was whether breaches of the control order were more this year than in the last year or whether there were general breaches.

**Shri Kanungo:** As I have said, there cannot be any question of breach because a graduated scale of duty is provided and if anybody produces above his allotted quota, he pays the additional duty.

**Pandit D. N. Tiwary:** May I know whether the hon. Minister is aware that last year, in answer to a similar question, the hon. Minister for Commerce and Industry said that the penalty clauses were imposed on certain mills who exceeded that quota, but there was no prosecution. He was again questioned whether any prosecution was likely to be launched or not. He answered in the negative. May I know whether there are breaches of this control order? It is not correct to say that there is no breach of the law.

**Shri Kanungo:** Obviously, the Member is referring to the law as it stood some time back.

**Shri Heda:** What are the number of mills and the quantity involved, where they have manufactured more than their quota?

**Shri Kanungo:** The total number of mills involved is 64. The cess collected is—there is a bit of arithmetic—Rs. 2,36,000.

#### HAJ PILGRIMAGE

**\*842. Shri Krishnacharya Joshi:** Will the Prime Minister be pleased to state:

(a) the nature of the medical and other facilities given to persons who go on Haj Pilgrimage from India; and

(b) the expenditure incurred on this account during 1954?

**The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan):** (a) Intending pilgrims to the Hejaz are vacci-

nated against small-pox and inoculated against cholera at Government and Municipal hospitals and dispensaries and international health certificates are issued to them free of any charge.

In the Hejaz, the Government of India maintain a permanent dispensary at Mecca and temporary dispensary is opened in Jeddah during the Haj season. Free medical aid is provided by these dispensaries to the Haj pilgrims there. An Indian medical team accompanies the pilgrims and renders medical aid to them in Mina and Arafat. An Ambulance van has been provided to the Indian Legation at Jeddah for the use of the dispensaries during the Haj season. Medical facilities in the Hejaz are made available to non-Indian pilgrims also but the majority of the pilgrims who benefit by these facilities are Indians.

The Government of India permit the pilgrims to take with them to Hejaz food grains, cloth and certain essential items of equipment. The pilgrims are also permitted to carry a substantial amount of Indian currency to the Hejaz.

Pilgrims to the Hejaz are not required to obtain international passports. Pilgrim passes are issued to them free of cost by the district authorities or by the Port Haj Committee, Bombay.

Pilgrims to the Hejaz have been exempted from the necessity of obtaining Income-Tax Clearance or Exemption Certificates before departure provided they are travelling as deck class passengers on pilgrim ships and are not in possession of international passports.

(b) The expenditure on arrangements for the inoculation and vaccination made at Bombay during the year 1953-54 was Rs. 19,000.

The total expenditure on the dispensaries, including the salaries and allowances of the medical staff, was Rs. 70,455 during 1953-54.

**Shri Krishnacharya Joshi:** May I know whether similar facilities are

Given to those persons who go to holy places in other countries and also to persons who go to Banaras, Ajmer and Rameshwaram in our country?

**Shri Sadath Ali Khan:** The pilgrims going to the Haj are in a different category, because, the numbers involved are very large, and most of them come from rural areas and need a lot of attention and help. People going to other holy places are normally in small numbers, and no doubt they are given normal consular facilities, but I am afraid no special facility can be provided for them.

**Shri Mohiuddin:** May I know whether it is proposed to send a medical mission this year during the Haj period?

**Shri Sadath Ali Khan:** As I have stated, the medical arrangements are made everywhere.

**Shri Ibrahim:** May I know whether Unani and Ayurvedic medicines are also given?

**Shri Sadath Ali Khan:** I am afraid no.

INDUSTRIAL TECHNICAL TEAMS FROM U.S.A.

\*844. **Shrimati Tarkeshwari Sinha:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that two Industrial Technical Teams visited India during the first week of January, 1955 from U.S.A.;

(b) if so, the purpose of their visit; and

(c) whether the teams have given any suggestions regarding the programme of the Indo-American Technical Co-operation?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) Yes, Sir.

(b) The teams will give necessary on-the-spot technical advice to units in certain light engineering industries and in the tools industry.

(c) Not yet.

**Shrimati Tarkeshwari Sinha:** May I know the specific nature of advice to the various industries that has been given or will be given by this technical team?

**Shri Kanungo:** The types of advice which they propose to give are:

- (1) production control in both mass and batch production factories,
- (2) quality control, both statistical and analytical,
- (3) organising and tuning up inspection sections, both stage and finished, to ensure uniformity in the quality of the products,
- (4) providing with information on various types of metal finishes so as to improve the sales appeal,
- (5) minimising production costs wherever possible by eliminating waste both by cutting down scrap raw material and better utilisation of the potential available capacity of productive machines,

(6) any other matter.

**Shrimati Tarkeshwari Sinha:** What is the total amount of fund allocated by U.S. for procurement of their technical services and equipment etc. for these advisers?

**Shri Kanungo:** It is a part of the total agreement. For that amount I require notice.

**Shrimati Tarkeshwari Sinha:** May I know whether the Tatas have asked for the services of some of these experts for starting the manufacture of razor blades in this country?

**Shri Kanungo:** Not of these teams.

**Shri G. P. Sinha:** May I know whether an invitation was extended to these people from India or they came on their own? If an invitation was extended, may I know how many

other technical experts from other nations have been invited?

**Shri Kanungo:** These were specifically asked for by the Government of India in the total plan of technical co-operation work with the U.S.A.

**Shri K. K. Basu:** What are the light industries—the Minister said various light industries—on which they are expected to deliberate and give advice?

**Shri Kanungo:** It will be mostly electric fans, hurricane lanterns and bicycles. These are the primary things. Then, metal pressing and other small industries will come up later on.

#### SCRAP IRON

\*846. **Shri M. S. Gurupadaswamy:** Will the Minister of Commerce and Industry be pleased to state:

(a) the total quantity and value of scrap iron exported during the period, 1st April, 1954 to the 31st December, 1954;

(b) the quantity of the material used in India during the same period; and

(c) whether the export licences are given freely or there is any restriction on the type of iron to be exported?

**The Minister of Commerce (Shri Karmarkar):** (a) 100,743 tons valued at Rs. 1,48,09,728.

(b) 371,225 tons.

(c) Only such scrap as is not required in the country is allowed to be exported. Before shipment of any consignment of scrap, inspection is carried out to ensure that the scrap shipped do not contain any prohibited category of scrap.

**Shri M. S. Gurupadaswamy:** Does it mean that this scrap iron is not useful in our country but it can be used by other countries?

**Shri Karmarkar:** Yes. The hon. Member is right.

**Shri M. S. Gurupadaswamy:** May I know the countries to which this scrap iron is exported?

**Shri Karmarkar:** Offhand, I could say one of the countries is Japan, but for a proper answer I should like to have notice.

**Shri M. S. Gurupadaswamy:** What are the uses to which this scrap iron is put to by the countries importing it?

**Shri Karmarkar:** With their improved technical knowledge and equipment which we do not have, they use this scrap iron as raw material for producing iron and steel. We cannot utilise it in the same way in respect of the whole of the scrap iron.

**Shri B. S. Murthy:** May I know whether any investigation has been made to use this scrap iron before exporting it to other countries, and if so, with what results?

**Shri Karmarkar:** As I said before, only such scrap is permitted to be exported which cannot be utilised in this country, and the inspection is with a view to seeing to it that no scrap goes out which can be utilised in this country.

#### EMPLOYMENT OF DISPLACED PERSONS

\*849. **Shri Tushar Chatterjee:** Will the Minister of Rehabilitation be pleased to state:

(a) whether any scheme for providing short term employment to the unemployed displaced persons has been formulated by the West Bengal Government after the Rehabilitation Ministers' Conference with Members of Parliament from West Bengal; and

(b) if so, the details thereof?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) Yes.

(b) Construction of a circular road and, working of a paddy husking scheme in Taherpur Colony.

**Shri Tushar Chatterjee:** What is the number that is likely to be benefited by it?

**Shri J. K. Bhowmik:** One thousand persons on the road construction work, and thirty families engaged for paddy husking.

#### BLEACHING POWDER

\*852. **Shri Sarangadhar Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) the steps that Government have taken or propose to take for increasing the indigenous manufacture of bleaching powder to make the country self-sufficient; and

(b) by what time, self-sufficiency in respect of this commodity is expected to be attained?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) (i) A duty of 15 per cent *ad valorem* on imported bleaching powder has been imposed with a view to give protection to this industry by tariff.

(ii) Indigenous manufacturers have been requested to improve the quality of their products.

(iii) Two new schemes for the manufacture of stable varieties of bleaching powder have been licensed under the Industries (Development and Regulation) Act, 1951.

(b) The total capacity (installed and projected) of bleaching powder by the end of 1956/57 is likely to increase to 16,970 tons *per annum* and it is expected that a large part of the demand will then be met.

**Shri Sarangadhar Das:** What part of the demand is supplied by foreign countries at the present time and what part manufactured here?

**Shri Kanungo:** The imported variety is at a premium because it has got better keeping quality and has better stability. The present annual requirement of bleaching powder is estimated at 5 to 6 thousand tons. The import in 8 months of 1954-55 was 4,088 tons.

**Shri Sarangadhar Das:** In view of the fact that there is heavy protection for the indigenous industry, what arrangements have been made by the Government to see to it that the quality is improved as quickly as possible.

**Shri Kanungo:** That is exactly why we are establishing the two new units which are going to produce by better technique a better finished product.

**Shrimati Tarkeshwari Sinha:** Can the Government give us an idea of the quantity of bleaching powder Government propose to import during the year 1955-56?

**Shri Kanungo:** Notice.

#### दस्तकारी

\*८५४. श्री भागवत भा आजाद : क्या बाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या दस्तकारी की चीजों की विक्री में सुधार करने के उपायों पर विचार करने के लिये जनवरी के द्वितीय सप्ताह में पुरी (उड़ीसा) में अंतर्राष्ट्रीय दस्तकारी बोर्ड द्वारा कोई सम्मेलन बुलाया गया था, और

(ख) यदि हां, तो इन वस्तुओं की विक्री के बारे में इस सम्मेलन में क्या निश्चय किया गया ?

**बाणिज्य तथा उद्योग उपर्युक्ती (श्री कानूनगां) :** (क) जी, हां।

(ख) पुरी में हुए विक्री सम्मेलन में पास हुए प्रस्ताव की एक प्रतीतीय सभा की मेज पर प्रस्तुत की जाती है। [इसके परिवर्णन ४, अनुवन्न संलग्न ५५]।

**श्री भागवत भा आजाद :** क्या भी यह जान सकता हूँ कि इस सम्मेलन द्वारा की गयी किन किन सिफारिशों पर सरकार विचार कर रही हैं और किन किन को कार्यान्वयन कर चुकी हैं ?

**श्री कानूनगां :** अब तक कोई फैसला नहीं हुआ है। अभी उस पर सोच-विचार चल रहा है।

**श्री भगवद्दत्त इन्द्र आचार्य :** विक्रय की मुद्रिताओं के विस्तार के लिए क्या सरकार किसी विशेष रकम की स्वीकृति देने की बात सोच रही है ?

**श्री कानूनगो :** यह जो सारी सिफारिशें हैं इन पर गाँर किया जा रहा है ।

**Shrimati Renu Chakravarty:** May I know whether this All-India Handicrafts Board is looking into this question of the revolving capital which is necessary for the handicrafts manufacturer in the interim period when the marketing takes place?

**Shri Kanungo:** They are taking all these aspects into consideration, but any action is subject to the acceptance of the advice by the State Governments.

**WRITTEN ANSWERS TO QUESTIONS  
CREDIT FACILITIES TO COTTAGE INDUSTRIES**

**\*802. Shri S. N. Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) the extent to which the various State Governments have so far liberalised terms so as to improve credit facilities available to small scale and cottage industries;

(b) whether the Reserve Bank of India has also followed suit;

(c) if so, the extent and nature of liberalisation;

(d) whether the Central Government will also participate in the scheme of liberalisation; and

(e) if so, the nature of their participation?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) and (c). It is presumed, the hon. Member refers to loans granted under the State Aid to Industries Act. Government of India have asked State Governments to liberalise the terms on which loans are granted under the State Aid to Industries Act. A statement indicating the recommendations of the

Central Government and the extent upto which liberalisation was effected is laid on the Table of the House. [See Appendix IV, annexure No. 56]. Replies from other States are still due.

(b) The Reserve Bank of India (Amendment and Miscellaneous Provisions) Act, 1953, provides for the addition of a new Section 17(2)(bb), which enables the Bank to provide through Cooperative Banks or State Finance Corporations, credit, for the production and marketing activities of cottage and small scale industries on certain specified conditions.

(d) and (e). Government of India have promised to meet a proportion of any loss that may be incurred by State Governments by the liberalisation, referred to in part (a) of the question.

**EMPORIUM AT BANGKOK**

**\*806. Shri Keshavaiengar:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether any representation was made to Government regarding the unsatisfactory conditions in the Indian Emporium at Bangkok;

(b) if so, the action taken thereon; and

(c) what is the average quantum of daily sales in this Emporium?

**The Minister of Commerce (Shri Karmarkar):** (a) and (b). No, Sir. But Government are aware that the accommodation available in the showroom is unsatisfactory and we are looking for a suitable building.

(c) No sales are permissible from the Showroom.

**BOUNDARY DISPUTE**

**\*808. Shri D. C. Sharma:** Will the Prime Minister be pleased to state the decisions reached so far on the boundary disputes between India and Pakistan on the Eastern border?

**The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan):** An agreement has already been reached between the two

Governments in respect of disputes relating to—

- (1) the boundary between the district of Murshidabad (West Bengal) and the district of Rajshahi, including the thanas of Nawabganj and Shibganj of pre-partition Malda district (East Bengal); and
- (2) the portion of the common boundary between the two countries which lies between the point on the river Ganges where the channel of the river Mathabhanga takes off according to the Radcliffe Award and the northern-most point where the channel meets the boundary between the thanas of Daulatpur and Karimganj according to that Award.

No agreement has yet been reached on other disputes on the Eastern border.

#### Goa

\*809. **Shri Raghunath Singh:** Will the Prime Minister be pleased to state:

- (a) whether it is a fact that Portuguese Government in Goa is resorting to the policy of forced realisation of fines;
- (b) if so, whether it is a fact that temple funds are being confiscated and people are being forced to contribute funds; and
- (c) whether it is also a fact that Calapore Village community was made to contribute voluntarily Rs. 10,000 to the State Emergency Fund?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) to (c). According to reports, the Portuguese authorities in Goa are experiencing a shortage of funds and have therefore, approached village communities, merchants, landlords and possibly religious organisations for voluntary contributions to the 'State Emergency Funds' which are being raised to meet the heavy expenditure on the army stationed in Goa, Daman and Diu. The Calapore village community is reported

to have contributed Rs. 10,000 to these funds.

#### RADIO STATIONS

\*810. **Shri Radha Raman:** Will the Minister of Information and Broadcasting be pleased to state:

- (a) the number of Radio Stations opened during 1954;
- (b) the amount spent on them;
- (c) whether there is a proposal to start Radio Stations at Indore and Jaipur;
- (d) if so, the steps being taken in this regard; and
- (e) the approximate date by which the stations will go on the air?

**The Minister of Information and Broadcasting (Dr. Keshkar):** (a) No new station was opened in 1954. Three 50 K.W. Transmitters, at Bombay, Jullundar and Ahmedabad were, however, installed and went on the air in 1954; and Rajkot station was opened in January, 1955.

(b) Does not arise.

(c) to (e). Yes, Sir. The installation work both at Indore and Jaipur is in progress and these new Stations are expected to go on the air before the end of April, 1955.

#### RESEARCH IN TEXTILE INDUSTRY

\*811. **Shri Morarka:** Will the Minister of Commerce and Industry be pleased to state.

(a) whether the attention of Government has been drawn to the importance of research in management as well as the mechanical and engineering side of the textile industry to secure the most efficient management; and

(b) whether the existing research institute will be asked to go into the above matters in the best interests of the textile industry?

**The Deputy Minister of Commerce and Industry (Shri Kamungo):** (a) Yes, Sir.

(b) The existing Institutes are already cognisant of these matters.

### अफ्रीकी-एशियाई सम्मेलन

\*826. श्री एम० एस० हिंदूदी : क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि अफ्रीकी-एशियाई सम्मेलन पर होने वाले व्यव में हाथ बटाने के लिये कॉन्फॉन कॉन्फॉन से दूश तैयार हो गये हैं और भारत को इस सम्मेलन के लिये कितनी राशि देनी पड़ी गई ?

बैंडीशन-कार्ब मंत्री के समालोचन (श्री सावृत अभी सां) : अफ्रीकी-एशियाई सम्मेलन पर होने वाले व्यव में हाथ बटाने के लिए पांच दूश तैयार हैं और वे निम्नलिखित हैं :

१. बर्मा
२. श्री लंका
३. भारत
४. इन्डोनेशिया
५. पाकिस्तान

भारत को इस सम्मेलन के लिए कितनी राशि देनी है, यह अभी तक पता नहीं ।

### TEA

\*818. Shri V. P. Nayar: Will the Minister of Commerce and Industry be pleased to state the total quantity of tea actually exported from India in the year 1954 and the total export earnings for the year on tea, as compared with the previous year?

The Minister of Commerce (Shri Karmarkar): A statement is laid on the Table of the House. [See Appendix IV, annexure No. 57].

### COTTON TEXTILES

\*824. Shri Punnoose: Will the Minister of Commerce and Industry be pleased to state:

- (a) the type of Indian Cotton Textiles imported by the United Kingdom;
- (b) how their import of 1954 compares with that of the previous year; and
- (c) what percentage of the same is

meant for home consumption and how much for re-export?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) Coarse type.—(i) grey sheeting (ii) Grey Drill, (iii) Long cloth, (iv) Grey furnishing fabrics.

Medium type.—(i) Grey Sheet, long cloth, (ii) Grey Drill, (iii) Furnishing fabrics, (iv) Printed chintz.

Fine type.—(i) Grey Poplin, (ii) Grey long cloth.

(b) 125.19 million yards in 1954 as compared to 20.35 million yards in 1953.

(c) Precise figures are not available.

### HANDICRAFTS

\*825. Th. Lakshman Singh Charak: Will the Minister of Commerce and Industry be pleased to state:

(a) the articles of Indian handicrafts exported to U.S.A. and Canada during 1953-54; and

(b) the revenue derived by the Central Cottage Industries Emporium during the years 1953-54 and 1954-55 from exports of handicrafts to those countries?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) and (b). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 58].

### DISPLACED PERSONS FROM EAST PAKISTAN

\*827. Shri Dasaratha Deb: Will the Minister of Rehabilitation be pleased to state:

(a) whether it is a fact that 190 Displaced persons coming from the tea gardens of East Pakistan are now staying at Asramvari, Khwai (Tripura) from 1953;

(b) whether it is a fact that they have not been given any rehabilitation loan in spite of repeated petitions; and

(c) if so, the steps taken to rehabilitate them?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) No.

(b) and (c). Do not arise.

#### BORDER RAID

\*828. **Shri B. D. Shastri:** Will the Prime Minister be pleased to state:

(a) whether it is a fact that on the 19th January, 1955 Pakistan Armed Police opened fire on Indian Police on the border in the Jangipore sub-division;

(b) if so, whether there was any casualty on this account; and

(c) the action taken in the matter?

**The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan):** (a) Yes, Sir.

(b) There were no casualties.

(c) Protests have been lodged with the Government of East Bengal as well as with the Government of Pakistan against the trespass by Pakistani Police into Indian territory and firing on Indian nationals and police by them. Necessary security measures have also been taken by the Government of West Bengal.

#### INDIANS FROM CEYLON

\*829. **Shri Madhao Reddi:** Will the Prime Minister be pleased to state:

(a) the total number of Indians who have arrived so far from Ceylon;

(b) what arrangements have been made to rehabilitate them in the country; and

(c) the number of families that have been given facilities for this purpose?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) 16,752 Indians have arrived from Ceylon from the 1st June, 1954 to the 31st January, 1955.

(b) and (c). Those who have arrived so far are settling down to a normal life, without any assistance from the Government. The situation is being

watched closely and the question of their rehabilitation will be taken up if need arises for it.

#### RAJENDRA NAGAR COLONY

\*830. **{ Shri Nand Lal Sharma: Babu Ram Narayan Singh:**

Will the Minister of Rehabilitation be pleased to state:

(a) whether Government have decided to dismantle the two-roomed quarters in old Rajendra Nagar;

(b) if so, what alternative accommodation or compensation will be provided to the allottees or occupants of such quarters;

(c) what is the final assessed value of the three-roomed double-storeyed houses in New Rajendra Nagar;

(d) the time that will be required for the final assessment of the value of these houses; and

(e) the basis on which the value will be assessed?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) and (b). No decision has yet been taken.

(c) The final value has not been assessed so far.

(d) About a month.

(e) Actual cost of construction.

#### MICA

\*832. **Shri J. R. Mehta:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether any enquiries were made recently from our Trade representatives abroad as to the reasons for the recent fall in the exports and prices of Indian Mica in the foreign markets; and

(b) if so, whether Government will lay a gist of the reports received on the Table of the House?

**The Minister of Commerce (Shri Karmarkar):** (a) Yes, Sir.

(b) A summary of the reports received is laid on the Table of the House. [See Appendix IV, annexure No. 59].

#### BORDER INCIDENT

**\*837. Shri M. Islamuddin:** Will the Prime Minister be pleased to refer to the reply given to starred question No. 1143 on the 14th December, 1954 and state:

(a) whether as stated therein, a joint enquiry was held on the 22nd and 23rd December, 1954 regarding the shooting of an Indian national by Pakistani Police near Purnea (Bihar) border in November 1953; and

(b) if so, the findings of the said enquiry?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) and (b). Yes. The representatives of the two Governments, who conducted the enquiry, have submitted reports to their respective Governments, who are considering them.

#### COAL

**\*841. Shri S. N. Das:** Will the Minister of Production be pleased to state:

(a) whether the present position of production and future development of coal mining has been reviewed and examined by Government; and

(b) the extent to which a fall has occurred in the production of coal since 1952 upto 1954?

**The Minister of Production (Shri K. C. Reddy):** (a) The present position of coal production has been reviewed by the Government. The policy regarding future development of coal mining is now under review.

(b) There was an increase in coal production in 1954, as compared to 1952. The production figures for the last three years are:—

1952	... 36.2 million tons.
1953	... 35.8 million tons.
1954	... 36.7 million tons.

The production in 1954 was the highest so far reached.

#### RURAL INDUSTRIALISATION IN PUNJAB

**\*843. Shri D. C. Sharma:** Will the Minister of Commerce and Industry be pleased to lay a statement on the Table showing:

(a) the number of schemes for rural industrialisation submitted by the Punjab State during the years 1953-54 and 1954-55;

(b) the number among them which were sanctioned by the Central Government; and

(c) the total amount sanctioned for such schemes during the above period?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) to (c). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 60].

#### HEAVY ELECTRIC EQUIPMENT ENQUIRY COMMITTEE

**\*847. Shri V. P. Nayar:** Will the Minister of Production be pleased to refer to page 1678 of the 'Journal of Industry and Trade' for December, 1954 and state:

(a) whether the Committee to enquire into the manufacture of heavy electrical equipment, set up by Government has been asked to submit detailed recommendations for the use of the unused capacity in Government establishments; and

(b) if so, what percentage of the capacity of Government establishments is unused at present?

**The Minister of Production (Shri K. C. Reddy):** (a) The Committee was required to enquire into the unused capacity in Government establishments with a view to investigating the possibility of utilising any such capacity for manufacturing heavy electrical equipment.

(b) The Committee has reported *inter alia* that there is no such spare

capacity which could be availed of for the purpose of the Heavy Electrical Equipment Project.

### विज्ञापन

\*854. श्री रमेश्वर मंत्री यह बताने की कृपा करेंगे कि भारत में प्रादीशिक भाषाओं (वनाक्ष्यल) में प्रकाशित होने वाले एसे कितने दूरीनक समाचार पत्र हैं, जिन की चार हजार से अधिक प्रतिवर्ष प्रीति दिन विकती हैं परन्तु जिन्हें केन्द्रीय सरकार से विज्ञापन प्राप्त नहीं होते हैं ?

स्वचना और प्रसारण मंत्री (श्रा० कैसकर) : चार हजार से अधिक प्रामाणिक ग्राहक संस्थाएँ वाले प्रादीशिक भाषाओं के पत्रों की पूरी संख्या इस समय उपलब्ध नहीं है। यह स्वचना एकत्र की जायेगी और उचित समय पर सभा-पेटल पर रखी जायेगी।

### EXCISE DUTY ON MILL-MADE CLOTH

\*850. थ. Lakshman Singh Charak: Will the Minister of Commerce and Industry be pleased to state the total revenue earned during the year 1954 from the duty levied on mill-made cloth under the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953?

The Deputy Minister of Commerce and Industry (Shri Kanungo): Rs. 6,92,18,000.

### DISPLACED FAMILIES IN TRIPURA

\*851. Shri Dasaratha Deb: Will the Minister of Rehabilitation be pleased to state:

(a) whether it is a fact that Government have settled a number of displaced families on lands owned by Muslims at Manickblander and Mathermia in the Kamalpur Division of Tripura; and

(b) whether Government propose to de-requisition these plots and rehabilitate the displaced persons on Government land elsewhere?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) Yes.

(b) Yes.

### VISIT OF EGYPTIAN PRIME MINISTER

\*853. Shri B. D. Shastri: Will the Prime Minister be pleased to state:

(a) whether it is a fact that the Egyptian Prime Minister has accepted an invitation to visit India;

(b) if so, whether any date has been fixed for his visit; and

(c) the main purpose of the visit?

The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan): (a) Yes.

(b) Not yet, but the visit is likely to take place in April.

(c) The main purpose of the visit will be to promote and strengthen the good and friendly relations which so happily exist between India and Egypt.

### LOW-INCOME GROUP HOUSING SCHEME

\*855. Dr. Satyawadi: Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether it is a fact that the Low-Income Group Housing Scheme recently announced is not meant for rural areas; and

(b) if not, whether clear instructions have been issued to the State Governments in this regard?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) and (b). There is no such restriction in the Scheme, but a recommendation has been made to State Governments that the Scheme, in the first instance, should preferably be worked in areas where housing shortage is acute and, extended later on, to other places in the light of experience gained and of the finances available.

### क्षेत्र

\*856. श्रा० राम सुभग राज्य : क्या बाणिज्यक तथा उद्योग मंत्री यह बताने की कृपा करेंगे

कि :

(क) क्या यह सच है कि जापान सरकार ने भारत सरकार से अधिक रुह्य जापान भेजने के लिये प्रार्थना की हैं ;

(ल) यदि हाँ, तो पिछले वर्ष की अपेक्षा जापान इस वर्ष किवनी अधिक मात्रा में रुह्य खरीदना चाहता है ; और

(ग) जापान किस क्रिस्तम की रुह्य खरीदना चाहता है ?

वारिणीज्ञ तथा उच्चांग उपर्युक्ती (वीक्षकनगां) : (क) जी नहीं ।

(ल) तथा (ग). वे प्रश्न उठते ही नहीं ।

#### RADIO BIOGRAPHY OF MAHATMA GANDHI

\*858. Shri M. S. Gurupadaswamy: Will the Minister of Information and Broadcasting be pleased to state:

(a) whether it is a fact that the British Broadcasting Corporation has undertaken to produce a full-scale radio biography of Mahatma Gandhi;

(b) if so, the facilities that Government propose to provide to the B.B.C. therefor; and

(c) whether any of their officers have arrived in India for collecting programme material?

The Minister of Information and Broadcasting (Dr. Keshav): (a) Yes, Sir.

(b) The B.B.C. asked for facilities of All India Radio studios. This has been agreed to.

(c) Two officers have come to India specially for collecting programme material.

#### HEAVY ELECTRICAL EQUIPMENT ENQUIRY COMMITTEE

\*859. { Shri V. P. Nayar:  
          { Shri S. C. Samanta:

Will the Minister of Production be pleased to refer to para 3 on page 1678

of the "Journal of Industry and Trade" for December 1954 and state whether the Committee for the manufacture of heavy electrical equipment will consult the workers engaged in the industry?

The Minister of Production (Shri K. C. Reddy): During the course of its investigations the Committee consulted the producers of the electrical equipment, but consultation with the workers employed in the industry was neither included in the terms of reference of the Committee nor was it considered necessary by the Committee to consult them.

#### GOAN SATYAGRAHIS

■ { Shri D. C. Sharma:  
      { Shri S. N. Das:  
\*861. { Shri Nageshwar Prasad Sinha:  
          { Dr. Ram Subhag Singh:

Will the Prime Minister be pleased to state:

(a) the number of Indian Nationals arrested by the Portuguese Government so far since the 15th August, 1954 for participating in Satyagraha movement or on suspicion; and

(b) whether the Indian prisoners are treated differently in the Portuguese Jails?

The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan): (a) and (b). About 80 Indian nationals have been arrested on suspicion or for offering Satyagraha. Out of these 57 were released on the 14th and 15th January, 1955. According to information available with Government, both Indian and Goan prisoners are subjected to harsh treatment by Portuguese jail authorities.

#### HOUSING COLONIES FOR HANDLOOM WEAVERS

\*862. Shri Sarangadhar Das: Will the Minister of Commerce and Industry be pleased to state by what time the scheme for the grant of subsidies to housing colonies for handloom weavers co-operatives is proposed to be operated?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** Government of India have already sanctioned a subsidy of Rs. 50,625 to the Yemmiganur Weavers' Co-operatives Production and Sales Society for their housing Colony for Weavers. Other schemes for construction of similar colonies are under consideration.

**HINDUSTAN SHIPYARD LIMITED**

**\*863. Shri Raghunath Singh:** Will the Minister of Production be pleased to state:

(a) whether it is a fact that the prices quoted by the Hindustan Shipyard do not compare favourably with the world parity prices; and

(b) whether it is also a fact that ship-owners have urged Government to take into consideration world parity price while fixing the price payable by Indian Shipping Companies for the Vishak-built ships instead of the U.K. parity price alone as at present?

**The Minister of Production (Shri K. C. Reddy):** (a) No. The price quoted by the Hindustan Shipyard, Limited, to the owners for a particular ship is the same approximately as it would cost the owner if he were to buy a similar ship in the U.K., which country is the largest builder of ships in the world for export to other countries.

(b) Yes.

गोआ

**२२४. श्री रघुनाथ दिसह :** क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि नये वर्ष के दिन गोआ के ११ ग्रामों में २२ नागरिक तिरंगा झंडा फहराने के अपराध में पकड़ गये, और

(ख) यदि हां, तो क्या झंडा फहराते हुए भी कोई व्यक्ति पकड़ा गया था ?

प्रधान मंत्री तथा बैंडीशन-कार्ड मंत्री (श्री जयाहरलाल नेहरू), (क) तथा (ख). जो हमें शुधानाएं मिली हैं उनके अनुसार नए वर्ष के

पहले दिन पर दमन के कड़े गांवों में मकानों पर और पेड़ों पर हमारे राष्ट्रीय फँड़े फहराए गए थे। यह मालूम नहीं है कि इस सिलसिले में कोई गिरफ्तारियां हुईं।

**LIFE OF A DOCUMENTARY FILM**

**226. Sardar Hukam Singh:** Will the Minister of Information and Broadcasting be pleased to state:

(a) what is the estimated life of a print of a documentary film or newsreel;

(b) the number of shows in which the Films Division's newsreels and documentaries are exhibited;

(c) how many copies of each newsreel and documentary are taken out in 35 m.m. and how many in 16 m.m.; and

(d) the measures, if any, taken to check the quality of the print as it passes from one cinema to another for show?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) and (b). The life of a print is determined by the number of shows for which it can be used. Each 35mm print of a documentary or a newsreel can be shown for 300 to 350 shows and each 16mm print for about 150 shows.

(c) 173 prints in 35mm and 123 in 16mm are taken out for distribution to cinemas, Indian Missions abroad, Branch Library and State Governments. 19 prints in 35mm and 298 in 16mm are made, in the case of Integrated Publicity Programme films, for exhibition through mobile vans.

(d) Each cinema is expected to check the print and report the defects, if any, to the Films Division's Distribution Offices. Besides, distribution charts are so prepared that the print is received back in the Branch Offices periodically during the course of circulation for checking.

विज्ञापन

**२२७. श्री रघुनाथ दिसह :** क्या सूचना जारी प्रसारण मंत्री यह बताने की कृपा करेंगे कि १९५२-

५४ में सरकारी विज्ञापन की छाइ के रूप में अंगूजी असवारों की तथा प्रादीशिक भाषाओं (पर्नाक्षितर) के असवारों को कितना कितना रूपया दिया गया ?

सचना और प्रसारण मंत्री (डा० कौसकर) - सचना एवं प्रसारण मंत्रालय के विज्ञापन कार्यालय ने १९५३-५४ में रेलवे को छोड़ कर भारत सरकार के केवल प्रदर्शन विज्ञापन जारी किये। अंगूजी के पत्रों और पत्रिकाओं को दिये जाने वाले विज्ञापनों का मूल्य ४,०९,२४९ रु० तथा भारतीय भाषाओं के पत्रों और पत्रिकाओं को दिये गये विज्ञापनों का मूल्य २,१२,८८४ रु० हुआ ।

#### JAGGERY

228. Th. Lakshman Singh Charak: Will the Minister of Commerce and Industry be pleased to state:

(a) the quantity and value of cane jaggery and cane jaggery powder exported during the last three years, separately; and

(b) the principal countries to which these commodities were exported?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) and (b). Exports of cane jaggery and cane jaggery powder are not recorded separately in official statistics. A statement showing country-wise exports of "Palmyra and Cane Jaggery" during 1953-54 and 1954-55 (April-December) is attached. [See Appendix IV, annexure No. 61]. Before March 1953 separate statistics for "Palmyra and Cane Jaggery" were not being maintained.

#### PONDICHERRY

229. Shri M. S. Gurupadaswamy: Will the Prime Minister be pleased to state:

(a) whether it is a fact that the people of Pondicherry have not received favourably the formation of the Municipal Commission on the basis of the old Councils; and

(b) if so, what action is being taken by Government in the matter?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): (a) Some persons have disapproved of the continuance in office of the old Councillors. It cannot be said that the people of Pondicherry have disapproved of this temporary arrangement.

(b) Steps are being taken to hold general elections to the Council by June, 1955.

#### TEA

230. Shri Dasaratha Deb: Will the Minister of Commerce and Industry be pleased to state the price of tea per pound in Tripura during 1950-51 and 1954-55?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): A statement showing the average prices of tea per lb. in Tripura at Calcutta auctions during 1954-55 is attached. [See Appendix IV, annexure No. 62]. Prices during 1950-51 are not available.

#### HIGH-INCOME GROUP HOUSING SCHEME

231. Shri D. C. Sharma: Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether Government propose to introduce a Housing Scheme for the people whose monthly incomes ranges from Rs. 500 to Rs. 1,500; and

(b) if so, its main features?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) and (b). Yes, Sir, the details of the Scheme, including the question as to whether there should be an income-limit for eligibility etc., have not yet been finalised.

#### VISITS OF THE HEADS OF THE COUNTRIES

232. Chaudhri Muhammed Shafiee: Will the Prime Minister be pleased to state:

(a) the number and names of the Heads of the foreign countries who visited India from April 1952 to 31st January, 1955;

(b) the duration of their stay and the expenditure incurred by the Government of India in each case; and

(c) the names of the other individuals who were treated as State guests during the above period and the expenditure incurred in each case?

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** (a) and (b). A statement is attached. [See Appendix IV, annexure No. 63].

(c) A very large number of persons from abroad have visited India during this period. There have been Prime Ministers, other Ministers in Foreign Governments, officials of foreign governments, officials of the United Nations or of the allied organs, trade delegations, goodwill delegations, cultural delegations and the like. From time to time information about these delegations has been placed on the Table of the House. It would involve considerable labour to collect full particulars about all the State guests who have come to Delhi during these three years.

#### BAN ON FILMS

233 { Chaudhri Muhammed Shafiee:  
Sardar Hukam Singh:  
Shri Raghunath Singh:

Will the Minister of Information and Broadcasting be pleased to lay on the Table of the House a statement showing:

(a) the number and names of the foreign films whose exhibition in India was banned by Government during the year 1954;

(b) the number of Indian films and their names which were refused certificates for exhibition; and

(c) the number of Indian and foreign films which were ordered to effect certain cuts and then granted certificates?

**The Minister of Information and Broadcasting (Dr. Keshar):** (a) and (b). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 64].

(c) Indian	... 225.
Foreign	... 248.

#### GOAN SATYAGRAPHIS

234 { Shri Raghunath Singh:  
Shri Bhagwat Jha Arad:

Will the Prime Minister be pleased to state:

(a) whether it is a fact that about two hundred satyagrahis were arrested when the second phase of Goan liberation movement was launched by holding no-tax demonstration all over Goa on the 26th January, 1955; and

(b) if so, whether it is also a fact that satyagrahis were flogged by Portuguese and Negro soldiers?

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** (a) and (b). Since the 26th January, 1955, over 140 persons are reported to have been arrested on suspicion or for offering Satyagraha. Government are aware, despite Portuguese denial, that the Satyagrahis have been harshly treated while in police custody with a view to suppress by force the nationalist movement in the Portuguese Possession.

#### SUPPLY OF PASSENGER FLATS

235. **Shri Tushar Chatterjee:** Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether any contract for the supply of Passenger Flats were placed last year with Messrs. Peoples' Engineering and Motor Works, Limited, Howrah through the Director-General of Supplies and Disposals; and

(b) if so, the term of the contract and the total amount involved therein?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a)  
Yes, Sir.

(b) The contract was placed according to the standard conditions applicable to all Directorate General of Supplies and Disposals contracts, except that provision was made therein for—

- (a) Progress payment in seven stages;
- (b) variation in price of steel; and
- (c) re-imbursement of Sales Tax, if legally leviable.

The total value of the purchase was Rs. 20.49 lakhs for three flats.

#### HANDLOOM FUND

**236. Shri Tushar Chatterjee:** Will the Minister of Commerce and Industry be pleased to state the amount spent in 1954 by the various States out of the grants from the Handloom Fund and the way in which it was spent?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** A statement is attached in respect of the schemes and the amounts spent out of the grants made from the inception of the Cess Fund. [See Appendix IV, annexure No. 65].

#### SARDAR NAGAR COLONY OF AHMEDABAD

**237. Shri Gidwani:** Will the Minister of Rehabilitation be pleased to state:

(a) the number of houses, tenements and shops constructed in Sardar Nagar Colony of Ahmedabad up to the 31st January, 1955;

(b) how many of these in each category were lying vacant on 31st January, 1955; and

(c) the reasons for their lying vacant?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a)

#### Tenements:

A type	1200
B "	700
C ..	2700
Shops	232

(b) A type	400
B "	150
C ..	175
Shops	190

(c) (1) Some of the displaced families living in dharamshalas and on vacant lands for whom these tenements were constructed have not so far moved to these tenements.

(2) All the residents have to go to Ahmedabad for business. The tenements in that part of the township which is farthest from the city have fallen vacant, as transport charges from this part are heavy.

(3) Action was taken against some families for non-payment of rent and they have left the township.

(4) The shops have remained vacant as displaced persons have represented that the rent of Rs. 8 per month is high.

#### GOAN LIBERATION MOVEMENT

**238. Shri S. N. Das:** Will the Prime Minister be pleased to state:

(a) whether the Government of India have now revised their attitude with regard to the participation of Indian nationals in the Goan liberation movement;

(b) the total number of Goans who have so far come to India finding it difficult to live there; and

(c) the number of persons who have been asked to quit Portuguese territory by the Portuguese authorities?

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** (a) No.

(b) According to information available, over 1,000 Goans have migrated to India.

(c) About 3,000 Indian nationals have been summarily expelled by the Portuguese authorities without being given sufficient time or opportunity to wind up their business or move their property.

## ULHASNAGAR COLONY

**239. Shri Gidwani:** Will the Minister of Rehabilitation be pleased to state:

(a) the total number of residents of Ulhasnagar township in Bombay State;

(b) whether Government are aware that most of the Schools for the children of the residents of the township have been located in old dilapidated barracks with insufficient light; and

(c) whether Government have taken any steps to provide school buildings for Primary, Secondary and Higher education in that colony as has been done in other refugee townships of India?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) 90,176

(b) No

(c) Yes.

## HANDLOOM INDUSTRY

**240. Shri S. C. Samanta:** Will the Minister of Commerce and Industry be pleased to state:

(a) the amount sanctioned to various States on the recommendations of the All-India Handloom Board for research and marketings during 1954-55; and

(b) the amount already spent by the States?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) and (b). A statement is attached in respect of the amounts sanctioned and spent from the inception of the Cess Fund. [See Appendix IV, annexure No. 66].

## RESTORATION OF EVACUEE PROPERTY

**241. Shri M. L. Agrawal:** Will the Minister of Rehabilitation be pleased to state:

(a) the number of Muslims belonging to Uttar Pradesh who returned from Pakistan under the Prime Ministers' Agreement of April, 1950 and have applied for restoration of their properties so far;

(b) the number of such applications that have been accepted and the number of those rejected; and

(c) the number of applicants to whom certificates under section 16 of the Administration of Evacuee Property Act have not been granted so far?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) to (c). Information is being collected.

## MOTOR CARS ETC.

**242. Shrimati Ila Palchoudhury:** Will the Minister of Commerce and Industry be pleased to state:

(a) the number of factories in India which at present manufacture motor cars, motor cycles and bicycles and the names of the States where these are located?

(b) whether India exports Indian-made motor cars, motor cycles and bicycles; and

(c) if so, to which countries and in what number?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) A statement is attached. [See Appendix IV, annexure No. 67].

(b) and (c). A statement showing the number of bicycles exported from India in 1954 and the countries of destination is attached. [See Appendix IV, annexure No. 67]. Government have no precise information on exports of motor vehicles and motor cycles, as these are not separately recorded. Exports of motor vehicles and motor cycles are in any case negligible.

गोआ

२४२. श्री भागवत भा आजाद : क्या प्रधानमंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सम्पूर्ण गोआ में डॉ गायटॉन दिवस मनाया गया था ?

(ख) क्या इस दिन सौकड़ों गोआ निवासियों ने सत्याग्रह किया था ;

(ग) यदि हाँ, तो पूर्तगाली अधिकारियों द्वारा कितने सत्याग्रही गिरफ्तार किये गये थे ;

(घ) क्या यह सच है कि इन सत्याग्रहीयों को निर्दिष्टता से पीटा गया था । और उन्हें बिना अन्न पानी के जलों में बहुत दिनों तक रखा गया था ; और

(इ) इस विषय में क्या कार्यवाही की गई है ?

प्रधान मंत्री तथा बैंडीशाक-कार्ड मंत्री (श्री जगहरलाल नेहरू): (क) से (इ). गोआ में १७ फरवरी, १९५५, को गायटॉड दिवस मनाया गया था और उस दिन गोआ के कई स्थानों में चालीस से अधिक व्यक्तियों को संदेह पर या सत्याग्रह करने के अपराध में गिरफ्तार किया गया था । यद्यपि पूर्तगाल सरकार ने इन्कार किया है, भारत सरकार को मालूम है कि पूर्तगाली बीस्तियों में गद्दीय आन्दोलन को बलपूर्वक दबाने के लिये पुरीस के पास नजरबंद सत्याग्रहीयों के साथ निर्दिष्ट व्यवहार किया गया है । इस सम्बन्ध में भारत सरकार ने पूर्तगाल सरकार को कई विरोध पत्र भेजे हैं लेकिन उनका कोई संतोषजनक उत्तर प्राप्त नहीं हुआ है ।

#### JUTE ENQUIRY COMMISSION'S REPORT

244. Shri Tushar Chatterjea: Will the Minister of Commerce and Industry be pleased to state:

(a) whether the suggestion con-

tained in Government's resolution of the 4th December, 1954 on the Report of the Jute Enquiry Commission, that displaced labour should be absorbed in mills working longer hours has been accepted by the Indian Jute Mills Association; and

(b) if so, the number of displaced labour thus absorbed so far?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari):

(a) and (b). According to the Indian Jute Mills Association no jute mill has been closed down. In the circumstances, there is no question of displacement of labour from the closure of mills.

#### JUTE ENQUIRY COMMISSION'S REPORT

245. Shri Tushar Chatterjea: Will the Minister of Commerce and Industry be pleased to state:

(a) whether the suggestion contained in Government's Resolution of the 4th December 1954 on the report of the Jute Enquiry Commission that there should be more positive endeavour for diversifying the pattern of production of jute goods has been accepted by the Indian Jute Mills Association; and

(b) if so, to what extent?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari):

(a) and (b). Yes, Sir. The Association has assured Government that it will apply itself diligently to the task of developing market research and diversifying the pattern of production as far as possible.

12th March, 1955

# LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

**VOLUME I, 1955**

(21st February to 12th March, 1955)



**NINTH SESSION, 1955**

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LOK SABHA SECRETARIAT  
NEW DELHI

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LOK SABHA DEBATES Dated 09/12/2014

(Part II—Proceedings other than Questions and Answers)

1819

LOK SABHA

Saturday, 12th March, 1955

The Lok Sabha met at Eleven of  
the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

12 NOON.

PAPERS LAID ON THE TABLE

STATEMENT OF CASES IN WHICH LOWEST  
TENDERS WERE NOT ACCEPTED BY I.S.D.,  
LONDON, DURING HALF YEAR ENDED  
31ST DECEMBER, 1954

**The Minister of Works, Housing and Supply** (Sardar Swaran Singh): I beg to lay on the Table a copy of the statement of cases in which the lowest tenders have not been accepted by the India Store Department, London, during the half year ended the 31st December, 1954. [See Appendix IV, annexure No. 68.]

STATEMENTS SHOWING ACTION TAKEN  
BY GOVERNMENT ON VARIOUS ASSUR-  
ANCES, ETC. GIVEN BY MINISTERS

**The Minister of Parliamentary Affairs** (Shri Satya Narayan Sinha): I beg to lay on the Table the following statements showing the action taken by the Government on various assurances, promises and undertakings given by Ministers during the

1820

various Sessions shown against each:

(1) Supplementary Statement No.  
III—Eighth Session, 1954 of Lok  
Sabha. [See Appendix V, annexure  
No. 8.]

(2) Supplementary Statement No.  
VII—Seventh Session, 1954 of Lok  
Sabha. [See Appendix V, annexure  
No. 7.]

(3) Supplementary Statement No.  
XIII—Sixth Session, 1954 of Lok  
Sabha. [See Appendix V, annexure  
No. 6.]

(4) Supplementary Statement No.  
XVIII—Fifth Session, 1953 of Lok  
Sabha. [See Appendix V, annexure  
No. 5.]

(5) Supplementary Statement No.  
XXIII—Fourth Session, 1953 of Lok  
Sabha. [See Appendix V, annexure  
No. 4.]

(6) Supplementary Statement No.  
XXVIII—Third Session, 1953 of  
Lok Sabha. [See Appendix V, annexure  
No. 3.]

(7) Supplementary Statement No.  
XXVII—Second Session, 1952 of Lok  
Sabha. [See Appendix V, annexure  
No. 2.]

(8) Supplementary Statement No.  
XXVIII—First Session, 1952 of Lok  
Sabha. [See Appendix V, annexure  
No. 1.]

RAILWAY STORES (UNLAWFUL  
POSSESSION) BILL

**Mr. Speaker:** The House will now proceed with the further consideration of the following motion moved by Shri Alagesan on the 5th March, 1955, namely:

"That the Bill to provide for the extension of the law relating to the punishment of the offence of unlawful possession of railway stores, as now in force, to the whole of India and to re-enact its provisions, as passed by Rajya Sabha, be taken into consideration."

As the House is aware, 2 hours have been allotted by the Business Advisory Committee for this Bill. Out of this 43 minutes have already been availed of and 1 hour and 17 minutes now remain. This would mean that the Bill will be disposed of by about 1-15 p.m. when the Medicinal and Toilet Preparations (Excise Duties) Bill, 1954, will be taken up.

The amendment of Pandit Thakur Das Bhargava is also there for discussion.

**Pandit Thakur Das Bhargava (Gurgaon):** Yesterday, I indicated briefly some of the grounds why according to me the Bill should be referred to a Select Committee, and should not be allowed to be passed in its present form. With your permission, I will briefly elaborate some of the grounds.

In the first place, as I submitted yesterday, the original Ordinance was passed in 1944. In those days, Ordinances could be passed by the Governor General in Council, without any reference to the Legislature. And this Ordinance was passed by the Governor General in Council, and it was passed in consequence of an emergency. Now it is common knowledge that so far as emergency goes, "emergency knows no law." Even in our own Constitution, we have enacted that in case of emergency, even the fundamental rights sections will

be ignored. So, when there was emergency, and when it was considered that perhaps one drop of petroleum was more valuable than the blood of an Englishman in those times, the railway stores were also considered in the same light, and they were given priority in this manner that even the ordinary laws of the land were ignored and this emergency legislation was passed. But it does not follow that the same principles which were adopted in 1944 should apply now. In fact, all these Ordinances were hated in the country, and by Congressmen particularly. Further, it was said that these Ordinances were in the nature of lawless laws, and taken as so many impositions by an alien Government. I do not want that in my country such an ordinance should remain on the statute-book a minute longer than it was absolutely necessary then. Now, so many years have passed, and I am very sorry to say that the Railway Ministry did not come up before this House to see that this Ordinance was repealed. Now that it has fortunately come before the House, I would respectfully urge the House to kindly look at this Ordinance with the same kind of bias with which we look at all other Ordinances, and particularly when this contravenes the general law of the land, and all the accepted principles of jurisprudence and the principles of the Indian Evidence Act.

Therefore, I would submit that this Ordinance should be looked at on its own merits. This argument is not open to the hon. Minister in charge now, namely that this Ordinance has been in existence for the last several years. I would have been happy if the hon. Minister had given us some figures to us showing how many cases were *chalaanned* under this Ordinance, in how many cases people were acquitted, and how it has worked so far. In my humble opinion, if this Ordinance were allowed to have its force, then there will be a very large number of acquittals. I believe from the very nature of the Ordinance,

that no conscientious court will see that persons are brought into its meshes who will not be brought into the meshes of the ordinary law.

Apart from that, as I submitted yesterday, this is a lawless law, in so far as it makes a new offence which is not known to the general law of the land. We all know that there is a section in the Indian Evidence Act, which runs thus:

"When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner."

According to this provision of section 110 of the Indian Evidence Act, possession is the main thing; it is nine points of law. This section does not relate only to immovable property, but it relates to both kinds of property, and if a person is in possession, the rightful presumption is that he is the owner of that property. Unless and until you displace that presumption, you have no right to go to a court of law and say that the property does not belong to the person in possession. Just to strengthen my argument, with your permission I would read some short portions from page 1239 of N. D. Basu's *The Law of Evidence*. This is what we find there under section 110 of the Indian Evidence Act:

"The fact of possession, in the eye of law, suggests always ownership, and whether it is put in Latin as *potior est conditio possidentis*, or in colloquial Anglo-Saxon that 'possession is nine points of the law', it goes without saying that proof of the possession of property is *prima facie* evidence of title to it, both with regard to movable and immovable property. Indeed it may be said that the presumption has attained its full growth. Pollock says: 'It has been said that

there is no doctrine of possession in our law. The reason of this appearance, an appearance capable of deceiving even learned persons, is that possession has all but swallowed up ownership; and the rights of a possessor, or one entitled to possess, have all but monopolised the very name of property." —Webbe's *Pollock on Torts*, 417. The same learned judge, in comparing the status of owners in olden time and now, says that the "owner in possession was protected against disturbance, but the rights of owner out of possession were obscure and weak. To this day, it continues so with regard to chattels. For many purposes, the true owner of goods is the person and only the person, entitled to immediate possession." —*Ibid*, 416. This presumption of ownership from possession is founded on the theory that such possession is rightful. Among other grounds which have been assigned for this presumption are these: that it is in accord with the general principles of law to suppose, until the contrary is shown, that possession is lawful rather than unlawful; that since the rightful owners of property are not likely to consent that their property remain in the continued possession of others who assert title thereto, it is natural conclusion that possession of this character is authorised by some grant or licence; and finally, as stated by Judge Story, "presumptions of this character are adopted from the general infirmity of human nature, the difficulty of preserving the muniments of title and the public policy of supporting long and uninterrupted possession."

[Mr. DEPUTY-SPEAKER in the Chair.]

**Mr. Deputy-Speaker:** The hon. Minister does not dispute this position of law. He only says that this Bill is intended to safeguard an exceptional difficulty. This is an exception to the rule.

**Pandit Thakur Das Bhargava:** Let me examine what the exception is. Yesterday you yourself were pleased to point out to me that in regard to the Posts and Telegraphs Department, we had passed a similar legislation, and I submitted yesterday that I accepted the principle of this legislation, that I supported this legislation, so much so that after my speech, the hon. Minister said that he did not want to make a speech himself. Even today, I might just make this offer to the hon. Minister in charge that if he wants to build his case on that argument, it is perfectly open to him to do so, and the entire House will support him. But as you yourself pointed out yesterday, sleepers are disposed of, and many other railway store articles are disposed of. The Railways purchase articles from the market, for instance, from brick-kilns etc. The railways purchase food also; and they purchase many other things from the same source from which the public buys.

After disposal, these articles purchased by the railways go into the open market. Then the question of identity comes. You know that in many rulings it has been held that ordinary things like food, cloth etc. cannot be identified. Unless and until the identity is established that it is railway property, how will they be able to secure conviction? I have heard an adage which is so current now "सर्वं मूलि गोपाल की" but I have yet to learn that 'all property belongs to the railway without any proof.' They say 'if there are reasonable grounds for believing'. What is the reasonable ground for believing that such a property belongs to, say, A? It is possession. If I am in possession, I am entitled to say, under section 110, that I am the owner of that property, not the railway. But what will the railway do? What is the reasonable presumption? As I submitted yesterday, if the railways have got their own factories where they have got their own brands and they do not dispose of that property, I can understand the railway property will

be stamped with that brand. If in respect of that property, they want to make a law, they have certainly my support. But that is different from a law of this nature, that every kind of railway property wherever found, will be deemed to be railway property and the person possessing it will be regarded as being in unlawful possession of that unless and until he proves or accounts for the possession. This is going against the generally accepted principles of criminal law. As I submitted, sections 379 and 411 are the two sections which deal with unlawful possession of property taken in a dishonest manner. Now, supposing a person is in unlawful possession, the question of dishonesty does not come. The question of the very existence of a crime, the question of *mens rea*, does not come in at all. What is unlawful possession? If the railways say it is their property, if the courts have reasonable ground for believing that it is their property, then it becomes unlawful. This is not the way in which possession can be come unlawful.

If you kindly look at the section, as I read out yesterday, even the railway has not to prove that the property belongs to the railway. I humbly submit that the present rule is that if I am in possession of a property, I cannot be deprived of that property. The person complaining will have to go to court and ask the court to put me to account for possession of the property, and ask the police to have a sort of inquisition into my property. If I am in possession of a property, the law assumes that I am the owner. The railway cannot claim that the property belongs to it unless it proves it. Now, what is the railway going to do? A person will go and search a person's house. He will find some property and then ask him 'How do you account for this?' This is the way in which it would work in the ordinary course. In the case of a private person, he has to prove that it is stolen property, he has to prove that the property was his before he can hold another to account. Now, the railway

has not even to prove that. It will be assumed in their case. How can it be assumed? How can it be assumed in the case of the railway that in regard to certain property found in possession of others, it is theirs? This law will be worked in such a way that people will be harassed. After all, even in regard to stolen property.

**Mr. Deputy-Speaker:** Even in a warrant case, *prima facie* evidence has to be placed before a charge is framed.

**An Hon. Member:** Here there is no evidence.

**Mr. Deputy-Speaker:** Here it is 'reasonable ground for believing such article to be...', that is, on the date when the property is apprehended or taken. Is it not necessary under this clause to establish that till that date it belonged to the railway?

**Pandit Thakur Das Bhargava:** No, they have not to prove it. Ordinarily, in every case the person has to prove that it was his property which has been stolen or which has gone into the unlawful possession of another.

**Mr. Deputy-Speaker:** That is what they have to prove also.

**Pandit Thakur Das Bhargava:** So far as the railway is concerned, the question of ownership does not arise. Here it is said: 'reasonable grounds for believing such article to be or to have been'. What is the reasonable ground, ordinarily? Take the case of a fan, a bulb, a sleeper or something else. What is the reasonable ground? The old property is there. It has been purchased by way of disposal. How will you distinguish a property which is twenty years old from a property which is ten years old? How will you say that the bulb which I have purchased from a contractor or a particular company is different from the one which they have also purchased? How will you say that the brick which I purchased from some kiln is different from the ones which they have purchased? Only by putting the words 'N.W.R.' on the brick. Then they can say that according to the definition,

this property was intended for them. Even if the property is intended for the railway, if it does not come into its possession, I suppose I purchase it from the contractor—the same thing which the railway had intended to purchase. Even then the railway can say 'the property is ours'. This is the present law. Now, you know that in cases under section 411, usually presumption is based under section 114, and the presumption is that if a person is found in possession of stolen property and the possession is recent, then there is a case even though the courts are not bound to draw a presumption. But in their case, what happens? If I am found in possession of a property—it may have been 50 years old, my grandfather was using it, my father was using it—if I am in possession of that property, according to this law, they can hold me and ask me to account for it. If I cannot account for it, then I will be sent to jail for five years.

**The Deputy Minister of Railways and Transport (Shri Alagesan):** The Ordinance was promulgated in 1944. There is no meaning in saying that property held 50 years back will be brought under this law. The hon. Member is unnecessarily exaggerating things.

**Mr. Deputy-Speaker:** 50 years from now.

**Pandit Thakur Das Bhargava:** With due respect to the hon. Minister, I would ask him to kindly read the operative part and then say whether I am wrong:

"Whoever is found, or is proved to have been, in possession of any article of railway stores shall, if the court sees reasonable grounds for believing such article to be or to have been the property of any railway administration, unless he proves that the article came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years, or with fine, or with both".

[Pandit Thakur Das Bhargava]

Where is the question of 1944? Suppose it is proved that in 1940 or even before that, I was in possession of railway property. If it is proved, then of course, so far as I am concerned, I will be sent to jail, according to the wording of this section. I know that when my friend rises to reply to this criticism, the criticism has gone home and he has felt that as a matter of fact unless some words are there to say that it does not relate to cases before that date, even possession long before 1944 will come under this. I would respectfully beg of him to kindly consider the ordinary meaning, the ordinary sense of this. It appears grotesque that if a person comes into possession of an article even before 1944, he could be hauled up before a court of law for that. But these are the very words.

**Shri Alagesan:** There is no retrospective effect given to the Act.

**Pandit Thakur Das Bhargava:** There is no question of retrospective effect at all. We have to go by the words here.

**Mr. Deputy-Speaker:** There is no question of retrospective effect. After the passing of the Bill, if anybody is in possession of railway property, even though he might have got possession before the Act was passed, it will be covered by this and the Act will apply. It is not a question of retrospective effect. But I am asking the hon. Member whether it is not obligatory on the Railway Administration or the prosecutor to show that down to the day of prosecution it continued to be the property of the railway. The court says 'reasonable grounds for believing such article to be or to have been the property of the railway'. Therefore, they must exhaust all possibilities of its being in rightful possession or of its having been transferred or sold.

**Pandit Thakur Das Bhargava:** The words 'to be or to have been'. Therefore, both cases must be considered.

**Mr. Deputy-Speaker:** Let me take the first one. So far as 'to be' is concerned, is it not obligatory on the Railway Administration to say that the property at one time belonged to the railway? Secondly, that it continues to be the property of the Railway Administration? That is, that the property may have been stolen and that it did not sell this property. Then the burden is shifted.

**Pandit Thakur Das Bhargava:** I humbly submit it is not obligatory on the Railway Administration to say that they continue to be the owners or that they continue to be in possession, because the words are—both things are culpable—if a person is found to be or found to have been in possession.

**Mr. Deputy-Speaker:** That is another thing. Here it is 'believing such article to be the property of the railway administration'.

**Pandit Thakur Das Bhargava:** 'Or to have been at any time railway property'.

**Mr. Deputy-Speaker:** 'To be' means the present, down to the present day—not only was, but continues to be.

**Pandit Thakur Das Bhargava:** Does it mean that if it is not proved that the railways are in possession even up to the present day, no offence is committed?

**Mr. Deputy-Speaker:** Railways are not in possession. When the railways lose possession, then the section is invoked.

**Pandit Thakur Das Bhargava:** If the person is in possession for several years, then he is not guilty...

**Mr. Deputy-Speaker:** The first thing is that the Railway Administration has to prove that it was its property at some time. The second is that the Railway Administration did not dispose of it and it continues to be its property.

**Pandit Thakur Das Bhargava:** At what time will they prove? At the

time when the property was found in my possession, they will have to show that they were in possession of it. At what time? How can they possibly show? Suppose the property was in my possession for the last 10 years, will they be asked to show that before ten years they were in possession of it. If it were done, it would have been correct. What defence today is there? This property was in my possession, in my father's possession or in my grandfather's possession and this was in my possession, say, for the last 12 years. They have only to show that at one time it was their property or it was in their possession and that will be quite sufficient.

**Mr. Deputy-Speaker:** It will not be taken to be a reasonable ground.

**Pandit Thakur Das Bhargava:** Even if the possession of a property is not a reasonable ground, what then is a reasonable ground? Even their registers will show that property of this particular kind was in their possession. Otherwise, it is impossible for them to identify the property, and in all these cases, identity is the most important thing. I will read out to you some illustrations from section 114.

**Mr. Deputy-Speaker:** How is it going to improve the position in the Select Committee?

**Pandit Thakur Das Bhargava:** Only such things as are conclusively proved to belong to the Railway Administration can come here. For example, the copper wires of particular weight and description belonging to the Post Office are things which nobody else can manufacture and which are not disposed of and which always continue to be the property of the Government. If there is any other person in possession of the property, it is assumed that he has come to be in possession in some way which is not the right way. We are departing from the ordinary rule of Law, but we are departing from it for some good reason or on some good grounds as we did in the case of the Post Office. But in the

case of the railways, this is an absolutely unjust law and it is impossible to work it. For instance, foodgrains are railway property. How are you to distinguish one foodgrain from another? What is the reasonable ground for a foodgrain? I purchase from the same market in which they purchase and yet they will be in a position to see that the persons are challaned. I have got many articles in my possession and I cannot account for their possession. They have been with me for the last five or seven years. The burden of proof, as we ordinarily know, is always on the prosecution. In particular cases, on account of a recent possession, on account of its stolen nature, there may be a presumption otherwise. In this case, they have to prove that the property is not stolen and they have even to prove that the property belonged to them.

**Shri Alagesan:** We have to keep an eye on the clock also, Sir.

**Mr. Deputy-Speaker:** I have got my right eye on it.

**Pandit Thakur Das Bhargava:** Is he agreeable to take this Bill to the Select Committee?

**Mr. Deputy-Speaker:** He wants many other persons also to speak.

**Shri M. D. Joshi (Ratnagiri South):** May I ask for an explanation?

**Mr. Deputy-Speaker:** From the Minister or from Pandit Thakur Das Bhargava?

**Shri M. D. Joshi:** From Pandit Thakur Dasji. In the definition of "railway stores" it is stated that it includes any article used or intended to be used in the construction, operation or maintenance of a railway. Pandit Thakur Das Bhargava mentioned the instance of foodgrains.

**Pandit Thakur Das Bhargava:** I am afraid that it includes even such things as foodgrains. It does not mean that other properties are not railway stores. I will seek clarification from my friend if he contends that the word "includes" does not cover these things. I understand that

[F'andit Thakur Das Bhargava]

the word "includes" means "does not exclude", and therefore this will apply to each one of the several thousand stores used by the Railways. We are going to change the entire law of the land in favour of the Railways and the Departments of Government are going to fight amongst themselves; Shri Guha will fight with Shri Alagesan, Sardar Swaran Singh will fight with Shri Alagesan. They have got several common properties; the P. W. D. have got building materials and I do not know how they can be distinguished. Every Ministry is sacred to us and we want all of them to be protected, but we do not want to have a special law, because it goes against the general grain of the law of the land. Do you want to change the entire law and put the burden of proof on the accused? Should the accused show that he is innocent? This is an unknown thing and in respect of so many crores worth of property, which is not identifiable. You are going against the Law of Evidence. I would submit for your consideration the illustration (a) of section 114. There will be no presumption whatever if, for instance, a bullock is stolen or a watch is stolen. In regard to bullocks after two years there will be no presumption. For a watch even after one month no presumption may arise. Now they want to have the presumption for all time. If they once prove that there was a reasonable ground for the railways having been in possession of it, it will be all right. This kind of a drastic law has never been heard of in this House and I am rather surprised that the Railway Ministry should think of extending this law to the whole of India. Even if you do extend it, I would very much like that this point is gone into at great length by the Select Committee. I am agreeable that they should have a law of that nature so that railway thefts might disappear, that is, it should be made applicable for a particular purpose just as in the case of copper wires. But if you have a law of this nature in which you want to send every per-

son to jail and you want to change the entire law of the land, I cannot possibly agree. I do not want to take more time of the House. I wished to read to you from section 114 in which illustrations are given, but since the hon. Minister does not wish me to continue my speech, I will not take any more of the time of the House. I beg of the House kindly not to agree to the passing of a Bill of this nature which will make us the laughing stock of the whole world, which will go against the very root of the general law of the land and which will result in the conviction of every accused, however innocent he might be. They first of all sell things and after we have bought them, they come down on us and say "All right, why did you buy these things?" Only yesterday the Deputy-Speaker put a question "Do you sell things?" and the reply given was "We are selling things". After selling things, where is the question of identification?

I content myself with what I have said and beg of the House to be pleased enough either to send the Bill to the Select Committee or to reject the Bill.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill be referred to a Select Committee consisting of Shri Ganesh Sadashiv Altekar, Shri K. Ananda Nambiar, Sardar Hukam Singh, Shri N. C. Chatterjee, Shri B. Ramachandra Reddi, Shri Tek Chand, Shri U. M. Trivedi, Shri Nemi Chandra Kasliwal, Shri S. V. Ramaswamy, Shri K. S. Raghavachari, Shri P. R. Kanavade Patil, Shri R. Venkataraman, Shri Fulsinhji B. Dabhi, Shri C. R. Narasimhan, Shri Kamal Kumar Basu, Shri Mulchand Dube, Dr. Lanka Sundaram, Shri Hari Vinayak Pataskar, Shri O. V. Alagesan and the Mover, with instructions to report by the 31st March, 1955."

**Shri Raghavachari (Penukonda):** I wish to point out that my name also is probably included in the list of Members on the Select Committee. I

request your permission, as such persons are not generally, at this stage permitted to participate in the discussion.

**Mr. Deputy-Speaker:** I am not adopting the practice here. If the Government makes a motion, the Government is sure of a majority. When a non-official Member makes a motion he is not sure of a majority. Why should I gag the hon. Member? It may or may not be accepted by the Government.

**Shri Raghavachari:** I do not wish to elaborate the points stressed by my friend. The only argument which the Minister in charge adduced was that this Act has been in force by means of some ordinance or operation of laws in India and he was simply extending it to these other States. We have now an opportunity of discussing the matter and making it an occasion to bring to the notice of Government that even the existing law itself is fundamentally opposed to the accepted general principles. You will please appreciate that the language used in this particular clause was being questioned by my hon. friend and it is really dangerous. You were no doubt putting your finger on the right thing when you referred to the clause "whether there are reasonable grounds for believing such articles to be the property of the Railway Administration."

Even the word "property" there, creates some difficulty. The point of time at which the offence is committed or when the prosecution starts, has not to be considered. If you carefully read the provision, you will understand. The clause says:

".....if the court sees reasonable grounds for believing such article to be or to have been the property of any railway administration".

So, it might have been the property of the railway company at any time. Supposing, it is a piece of iron rail. It should have been the property of the railway administration years ago. The question that the Act came into

force only in 1944 will not be of any avail at all. It might mean the beginning of the railways itself. The point of time when the offence is committed is not material at all.

Then, as my friend was pointing out, a railway company sells its own goods and on every item, as he said, there is no identification mark, nor do they maintain the details such as length, etc., for every item. The pieces may be divided into so many parts and the purchaser who gets them from the railway may go on selling them in the market, and in our country nobody insists on a voucher in which all these details are mentioned. How should a man be able to prove that he has lawfully come into possession of that property? The definition is most wonderful. Railway stores "include any article used or intended to be used in the construction," etc. Every little piece of wood can be converted into the shape of a sleeper which can then be said to be intended to be used in the construction. Any other similar article can be intended to be used in the construction. A manufacturer might intend that a thing he makes can be used, and it is not yet necessarily the property of the company. The manufacturer manufactures it and he intends it to be used in the construction of the railway and the company might purchase it. If I come into possession of that material, I will be exposed to the risk.

The title of the Bill mentions "Unlawful Possession." So, it is not that the unlawful possession must be proved. On the other hand, the man accused must prove the lawful possession. There is no unlawful possession. Whichever thing is found to be in the possession of a man and that is a thing that might be intended to be used, then it becomes unlawful possession. But here, it is really putting the thing topsy-turvy. What can the Select Committee do? Of course, it can examine the possibility of improving the language and bring about the very purpose which the Government wants. They should safeguard it and prevent innocent persons from being punished, by making the language clear.

[Shri Raghavachari]

The Act is already in force. You have an ordinance. The matter is going to be reported upon by the Select Committee which is going to consider it early. It will not take much time. I wonder why the Government should say we shall pursue the thing as it is, and then expose even an honest man to the risk. After all, theft is an offence against possession and not the property. The Bill says that there should be reasonable grounds for believing that it is the property or "to have been the property," and all that. That property may be in one's possession and the theft may still be there. I submit that there is good ground in what my hon. friend has submitted. The language is vague and is opposed to the accepted notions of jurisprudence and evidence. I think it is necessary that the Bill should be more carefully examined, especially the language in which it is now clothed.

**Mr. Deputy-Speaker:** Is it the hon. Member's contention that if somebody steals railway property, he himself can invoke the aid of this section to file a complaint against another person who takes the thing from him?

**Shri Raghavachari:** Who is to be the complainant is not mentioned here. If it is proved that one is in possession or is proved to have been in possession of the property, certainly he can be prosecuted. It is a criminal offence.

**Shri Sinhasan Singh (Gorakhpur Distt.-South):** I wholeheartedly extend my support to this Bill. I was surprised to hear the learned arguments that this Bill offends against criminal jurisprudence and the law. I do not understand them. We have every law according to the needs of the country. We know these days corruption and theft are so rampant in the railways. We do not know how to safeguard the property. In the railway coaches, we find even the cloth is torn away. At Gorakhpur, the North-Eastern Railway Headquarters, there are regular smugglers smuggling articles from the workshops. They sell away the pro-

perty and if the property is recovered by the police, even the railway officers say, "We cannot identify the property". The result is that no conviction comes into operation. The theft is going on without any fear. The law was there. In spite of this law, there has been very little check on theft of the railway property. Mr. Badhwar, the then General Manager of the N. E. Railway at Gorakhpur was telling once that the bulbs stolen from that railway were selling at Madras. So these things were going on. Why should any honest person feel sorry over the Bill? If he is an honest person, he will purchase locally. There is a clause to safeguard him. He can show the receipt. When the railway sells its property, it issues receipts for the sale of property. Any person who gets the receipts can have the possession of the property. If he misses it, he can summon for the record of the property showing the number, etc., and the record will show when and to whom the property was sold, or whether it was gifted, etc. So, this is a law which requires to be welcomed by the House. We must have a strict law and the country needs such a law. Wherever we go, we are always hearing comments to the effect that this Government is unable to check corruption and theft. But when the Government is coming with a measure to check those offences, we oppose it. There are two contradictory voices in the same House. I think it does not behove us all. In this connection, I have given notice of an amendment. There is clause 3 which says:

"Whoever is found, or is proved to have been," etc. This is a clause which may lead to some difficulties, because a prosecutor may come and prove that certain property was in his possession though the property may not have been actually in his possession at the time when the offence was committed. He can be punished unless he proves his lawful possession, of the property. I think that the 'to have been in possession' clause should be deleted. I might not have been in possession

when I am prosecuted for "to have been in possession of the property". I must prove the lawful possession of it, when I might not have been in possession. How can I prove the lawful possession of the property which was never in my possession. So, this clause is really repugnant, and it is harming the honest persons who may have, somehow or other, incurred the displeasure of the police or the prosecutor. With that safeguard, I am supporting the Bill. It should have all our support, I think. It is not a Bill which the House should send for reference to the Select Committee and then take time over it. This Bill has already been passed by the Rajya Sabha.

**Shri Raghavachari:** What if?

**Shri Sinhasan Singh:** It has been passed by the Rajya Sabha. It has received the assent of one of the Houses of Parliament. We refer the Bill only to improve the language of the Bill. You can improve the language even here by moving suitable amendments, rather than giving the Bill a further lease of time and then to be brought before the House again. By that time, this session may pass away and the Bill may not be passed, and the offences may go on unchecked.

**Shri R. K. Chaudhuri** (Gauhati): The Railway Department has, in Chittaranjan, begun to construct locomotives and we congratulate the hon. Minister on letting us know that as many as 20 engines are going to be manufactured this year. That is one kind of engine and this legislation is another kind of engine, that is, an engine of oppression.

**Shri Alagesan:** Ten engines per month in Chittaranjan. Not 20 a year, as you said. Anyhow, it is favourable here for your argument!

**Sardar Hukam Singh** (Kapurthala-Bhatinda): The construction here would be expedited!

**Shri R. K. Chaudhuri:** If the hon. Minister wants to surpass others by having this sort of legislation, he might take credit to himself, but it will not be so much liked by the peo-

ple in general. I would like to convince the hon. Minister, if possible, of the futility of such legislation. My hon. friend who just spoke before me was saying that a large number of bulbs were stolen from the railway compartments and they were found in Madras. Of course, I did not know so far that Madras was a repository of stolen property.

**Mr. Deputy-Speaker:** Railways run into Assam also.

**Shri R. K. Chaudhuri:** A large number of bulbs were stolen from Assam. The railway compartments in Assam, particularly the W.C.'s were never lighted till the year 1952. So, I submit that so far as this Ordinance is concerned, it had no effect whatsoever.

**Pandit Thakur Das Bhargava:** It was unsuccessful.

**Shri R. K. Chaudhuri:** Therefore, there is no use having this kind of legislation. Take for instance the case of railway sleepers. Large quantities of railway sleepers which have become useless are sold in auction. Auctions are held by the railways and these sleepers are purchased by the ordinary cultivators in the neighbourhood. How can they prove at any time that the particular sleepers which were found in their possession were purchased by them, and not stolen? It will be very difficult for any honest man to prove how he came into possession and when he came into possession of the articles.

I would, therefore, respectfully request the hon. Minister to continue to enjoy his popularity by the methods which he has already been adopting to bring better kind of amenities in the railways, rather than resort to this sort of legislation.

If this legislation is passed at present it will be dangerous for passengers also. Now, catering will be done departmentally and therefore any food stuff will also belong to the Government. Supposing a man is found taking a piece of *rasagulla* and the railway staff say that that particular

[Shri R. K. Chaudhuri] sweet belongs to the department, how is that man who is half swallowing the sweet to prove that he bought it from a *halwai*?

So, taking everything into consideration I think this Bill had better be dropped.

**Shri Barman** (North Bengal—Reserved—Sch. Castes): Sir, with your permission I would like to say a few words on the Motion for sending this Bill to a Select Committee.

This is an extra-ordinary kind of legislation. Of course, we have had some such legislation for other departments also; for example, in respect of the telegraph wires, but no one can deny that these things are of extra-ordinary type and certainly some extra-ordinary type of legislation is required in such cases. But, at the same time, I would support the Motion for referring the Bill to a Select Committee because in the Select Committee, all the arguments that are being raised in this House can be gone into in a more formal and intensive manner.

One point that occurs to my mind is that the definition of railway stores in clause 2 is rather wide and it should be made a little restrictive. What occurs to me now is this: that instead of saying: "any article intended to be used" if you put some such qualifying word such as "any article specially used or intended to be used for construction, maintenance, etc." then that would further limit the scope of the articles for which this special legislation will be applied. In the ordinary course, if any railway store is stolen, certainly there is the Indian Penal Code and the Criminal Procedure Code. But, in order to protect the property of a special type, this special kind of legislation may be gone into.

Therefore, I think that nothing will be no harm and no time will be lost if this Bill be sent to the Select Committee and the Select Committee considers it in a more dispassionate and cool way to see whether any amendments are necessary with the purpose

of maintaining the true intention of this Bill as well as to safeguard the public interests as far as possible.

**Shri Mulchand Dube** (Farrukhabad Distt.—North): Sir, in my opinion the Bill not as bad as it is made out to be.

The definition of Railway stores in this Bill reads: "In this Act, 'railway stores' includes any article....." If we substitute the word 'means' for the word 'includes', I think many of the objections would be removed. Then it is said: "...used or intended to be used.." The word 'intended' does not mean anybody else's intention. It is the intention of the railway to use that article. Therefore, the objection of my hon. friend who spoke a short time before does not hold good. The intention must be of the railways and not of anybody else. Therefore, that article, before it can be intended to be used for the construction, maintenance or operation of the railway must be in the possession of the railways.

In regard to the second point, the question arises in this way. Supposing a man is found in possession of railway stores; it has to be first proved by the prosecution that it was a railway store before any action could be taken. Once it is proved it was a railway store and further the court comes to a reasonable conclusion that it is not only railway stores, but has been in the possession of the railways, it is only then that action will be taken.

**Mr. Deputy-Speaker:** Was in possession how long ago? Assuming that 10 years ago it belonged to the railways and it was removed from the railway stores 10 years ago, could you throw the burden of proof on the possessor?

**Shri Alagesan:** Sir, in the case of ordinary theft, the burden of proof will rest on the prosecution. I want to know whether there is any such restriction that if the theft had occurred 10 years before then the man cannot be prosecuted.

**Sardar Hukam Singh:** Then the difference is there. The burden of proof is on the prosecution not that

it is to be assumed that the accused has come in unlawful possession of the property and that he should prove that it is not.

**Shri Alagesan:** I say, granting that, is there any difference.

**Mr. Deputy-Speaker:** It makes a difference.

**Shri Mulchand Dube:** The question of 10 years would be certainly an extreme case. The burden of proof should not be thrown on the accused. If it is a case of one or two years—recent possession—as my friend Pandit Thakur Das Bhargava referred to section 410 and also the Evidence Act, the burden of proof is not on the accused. The burden is left open. Therefore, to that extent it certainly goes against the general law as it exists. Even then, my submission is that in the case of railway stores the possession may not be of a particular person. The railway stores may be in the custody of one of the inspectors or someone else of the lower rank staff, but the possession would be of the Railway Administration. Therefore, what I say is, although such cases would be very few, if a person has come in lawful possession of the property, he should have some kind of record to prove that the property came into his hands by lawful means. Once it is proved that the article was railway store and if the man succeeds in proving that he came in possession of it lawfully, then there is no difficulty.

Therefore, the Bill does require some modification and if it is referred to the Select Committee, I think there should be no harm.

**Shri S. C. Samanta (Tamluk):** I think the object of the Minister will not be fulfilled with the Bill that is before us. The Minister intends to punish those persons who are in illegal or unlawful possession of railway property. But even if the possession is proved to be unlawful and the man is punished, the object will not be fulfilled simply because the persons who are really guilty of stealing all these things will not be punished.

What do we find on the railways? For example, when a train is going and it stops for a while. The engine driver drops coal. Some person takes it and uses it. It is proved that that man was using the coal of which he came in unlawful possession. But if the man who is making the thing to happen, this pilfering, is not punished, how can pilfering and stealing be stopped by this legislation?

So I think another clause should be added for this purpose, and I support that this Bill should be referred to a Select Committee.

**Pandit Thakur Das Bhargava:** How will the identity of the coal be established?

**Sardar Hukam Singh:** I want to pull my weight in favour of the motion for reference of the Bill to Select Committee.

My friend Mr. Dube said just now that if we substitute the word "includes" by the word "means", perhaps the difficulty might be over. But my fear is that that might not improve matters. The definition that is given here is certainly so wide that many innocent persons might be caught and then have the burden upon themselves to prove that they came by these articles quite innocently or honestly.

Leave aside those stores that are actually stolen from the railways; take the case of the manufacturer. If that position is clear I might be enlightened. Take the case of a manufacturer. Suppose he has been given an order to manufacture fans for the railways; he is putting even those words "Northern Railway" or "Eastern Railway", and he prepares them. Somebody, his own servant or some outsider, steals some of the fans or even one fan. Was it not "intended" to be used for the railways. Can we say that because it has not been delivered to the railways, therefore it was not intended to be used by the railways. As the words stand at present, certainly they would include even those things which have not even gone to the railways so far.

**An Hon. Member:** Suppose the manufacturer gives it.

**Sardar Hukam Singh:** Suppose the manufacturer gives it to a friend.

He sells it, and the man is caught. Is it intended that even in such cases the burden should be cast upon the accused to prove that he came by it innocently or honestly? And if he has stolen it from the contractor, can he ever prove that he came by it innocently?

**Pandit Thakur Das Bhargava:** The manufacturer may sell it to him.

**Sardar Hukam Singh:** That is what I say. The manufacturer may sell or give it to him.

**Shri Sinhasan Singh:** Why should such an honest man buy that fan when he can get another without the name?

**Sardar Hukam Singh:** My point is this. If it is not delivered to the Railway, so long as it is not delivered to the Railway, where is the harm and what offence does that man commit? It is no fault of his. If he goes in the bazar and buys one, does that mean that that is railway property?

**Shri B. N. Misra** (Bilaspur-Durg-Raipur): It does not fit in with "to be or to have been", because it is neither to be or to have been the property of the railways.

**Shri Mulchand Dube:** And 'intended' by whom?

**Sardar Hukam Singh:** Intended by everybody, who makes it or uses it. When is it intended by the railways? After it comes in possession of the articles it should be intended by the railways.

The question is whether the definition would include such a case also as I have mentioned. If it does include, I should say its catch is so wide that we have to consider all the implications. At the spur of the moment when we have fixed only two hours for the discussion of the Bill

we cannot go here thoroughly into all those implications and repercussions that these words may have. Therefore I appeal to the hon. Minister that he should agree to this motion for reference of the Bill to Select Committee where it can be considered calmly and all these phrases and their implications can be realised. It would not do any injury or harm to the time-table even. We can pass it in this session if it is so required. The Ordinance has been in operation and it is still there. No harm would be done. I appeal to him that he should at least concede this motion for reference of the Bill to Select Committee, and we will have better legislation then.

**Mr. Deputy-Speaker:** I shall now call the Deputy Minister.

**Shri B. N. Misra:** Shall we not get a chance?

**Mr. Deputy-Speaker:** I was only looking at the clock.

**Shri B. N. Misra:** Yesterday also I passed a slip to the Chair and I was given to understand that I would be given a chance. In the beginning, as it always happens, the first person is given a long latitude of time and for the rest the time is cut short. We may be given three minutes. I may be given three minutes.

**Mr. Deputy-Speaker:** All right.

**Shri B. N. Misra:** Thank you.

I will deal only with clause 3 and I may point out that the most objectionable words are "to be or to have been". Nowhere in legislation, nowhere in the Evidence Act, and nowhere in the local law have we seen such an expression as "to have the property of etc." As Pandit Thakur Das Bhargava said, suppose the man is in possession of a property from the time of his forefathers. Because the name of the Railway is there, the man is asked by the Railway to prove that he has got lawful possession over it. This is a very anomalous position in law. As a matter of fact it is said

in law and in legal codes that an accused is supposed to be innocent unless and until it is proved otherwise. What the Railway Minister says here is that the man should prove that the article came into his possession lawfully. In the law courts the burden of proof is always on the prosecution; here the Railway Minister wants to shift the burden completely on to the other person and he wants him to prove that he came into possession of it lawfully. I have scratched my head all the night over to find out any provision of law anywhere, in any country, but in vain. And this is what the Railway Ministry wants.

As regards these words "to have been", I have been very patiently hearing when you pointed out, as Pandit Thakur Das Bhargava was speaking, and you wanted clarification for "to be." I quite agree, "to be" is one part of it. But if we take these words "to have been" from this, then the Railway Ministry or the prosecution has to prove that it is the existing property of the Railway. If it is a question of sleepers or other things which bear the mark of the railways, they can say that "since fifty years back we have got another thing of the same gradation and specification, and this is that, and both the things match together". And it is for the accused to prove that it is not so.

I say, firstly, that this Bill as such should be rejected; it should not be put forward and should not be pressed on the floor of the House here, because we will then become the laughing stock of the whole world. Or, if that cannot be done, if the Railway Ministry is so very keen about pressing or going through the Bill, I say that it should be sent to a Select Committee.

**Shri M. D. Joshi:** I have followed closely the arguments of Pandit Thakur Das Bhargava. He has been very vehement in his condemnation of the Bill. Clause 3 has been bodily taken from the Ordinance. These Ordinances, we find, were promulgated in haste. They were not so much critical about the wording. When we

are legislating a measure here and thinking out the proper wording, I think there should be no case for any unsatisfactory phraseology or something that would not satisfy the legal technicalities or legal interpretations of Members who are versed in law. I do not join in any vehement condemnation of this Bill. But, I would urge for the consideration of the hon. Minister to see whether it would not be more advisable to send it to the Select Committee for being thrashed out. After all, not much time is going to elapse between now and the report of the Select Committee. Therefore it would be more advisable to send the Bill to the Select Committee.

**Shri Alagesan:** My hon. friend Pandit Thakur Das Bhargava has worked himself up into a sort of virtuous indignation. When he is in that state, it is a little difficult to convince him. Especially when he thinks that this bad executive is doing something to tamper with the individual's rights, naturally, he gets into an indignant mood.

I can only assure him that we are not moved by any such sinful intention or purpose.

**Pandit Thakur Das Bhargava:** We need no assurance from you. I know you are so sweet; you cannot go against us; the Railway Ministry cannot go against us. But, you do not know what the police and what the courts are. You are not fully cognisant of that.

**Shri Alagesan:** I was saying that I should only like to assure him and the hon. House that we are not moved by any such sinful intentions or purposes. As I pointed out, and as was pointed out by some of the speakers, this law was passed in the year 1944 under the India-Burma Emergency Provisions Act. Though this was called an Ordinance, it had all the validity of an Act passed by the Indian legislature. The fact is that it already obtains in all the Part A States. The immediate object of the Bill is to extend it to Part B States also. So, hon. Members would realise that this is not a new thing.

[Shri Alagesan]

which is sought to be thrust upon them suddenly without any notice.

Shri Nambiar is not here. He was referring to things manufactured in the H. A. L., in the Telephone factory, etc. It will be clear to any one that these stores are well secured. In fact I understood the other day that when some Members of Parliament went to visit the H. A. L., a woman Member of Parliament was not permitted to visit it—the Hindustan Aircraft Factory at Bengaluru, because there were some rules—I am not quite sure. That was what I was told. That gives an idea as to how well secured these stores are. I do not mean that no thefts occur in those places.

**Shrimati Renu Chakravarty** (Basirhat): Do you mean to put women and thieves on a par?

Shri Alagesan: Not at all. I only meant that it is difficult for even Members of Parliament to gain entry. I only wanted the House to draw a distinction between stores well secured and railway stores which are more or less scattered all over the country.

**Shri Barrow** (Nominated-Anglo-Indians): Not between men Members and women Members.

Shri Alagesan: There are 34,000 miles of railway lines, trains and wagons go all over the country and these things are just unprotected. We have had cases of alarming thefts; as the hon. Member Shri Sinhasan Singh was kind enough to point out this evil is so rampant that we should do something to check it. It is with this purpose that this Bill has been brought before this House.

I could not understand why Pandit Thakur Das Bhargava, who says he is so kind to me, should be partial to the Communications Ministry and be angry with me when I bring forward this Bill. He himself has admitted that he supported the principle of the Bill, when the Telegraph Wires Unlawful Possession Bill was before the House. Except for the description, I find there is absolutely no difference

between that Bill and the present Bill before the House. The original Bill was more or less framed in the same language as the present Bill is.

**Shri Barman:** That related to telegraph wires, special type. Here, everything is included.

**Shri Alagesan:** I shall read the language so that it may be clear. I am reading from the original Act which was subsequently amended, section 5.

"Whoever is found, or is proved to have been, in possession of any quantity of telegraph wires which the court has reason to believe to be or to have been (same language) the property of the Posts and Telegraphs department of the Central Government, shall, unless he proves that the telegraph wires came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years, or with fine, or with both."

Identical language has been used in the original Act to which somehow Pandit Thakur Das Bhargava did not object.

**Pandit Thakur Das Bhargava:** I objected to the original Act and made a speech here against it. When it was amended and the particular property was identifiable, as the property of the department, I supported the principle.

**Shri Alagesan:** The difference is this. When the Act was in this form, certainly, the burden of proving that a certain article of stores was the stores belonging to the P&T Department was squarely laid on the shoulders of the prosecution. Then, it was thought that the telegraph wires could be more precisely defined and an amendment was made which defined telegraph wires, and which gave respective gauges. When that was done, this wording was removed: "which the court has reason to believe to be or to have been the property of the Posts and Telegraphs department of the Central Govern-

ment." These words were omitted because the proof would have only to be confined to this, namely, the wires were of these gauges. If that is established, immediately, if the party is not able to show that he was in possession of wires of that gauge lawfully, he will have to suffer the penalty under the law. That was the position under the Telegraph Wires Act. The difficulty is this. Not that we are more hard-hearted than the P&T Department. The difficulty with the railway stores is that they are not capable of such a simple definition. Also, our stores are of a more varied nature and are scattered, as I said, all over the country, completely unprotected. That is the difference. But, even under the present Bill, the railways will have to establish that it was their property. Once that is established, then the other man has to prove that he came into possession of that property lawfully. That is the only obligation. That is the only departure from the normal law that is attempted here.

**Shri B. N. Misra:** Just now you said the Railway Administration has to prove that the property belongs to them and then the burden shifts. There, you have not to prove that it belongs to you.

**Shri Alagesan:** There is not much of a difference in principle between the Bill passed by the House and the present measure before the House now.

Pandit Thakur Das Bhargava said that it was conceived in an emergency. Now he does not find any emergency and so he asks why perpetuate this Ordinance. Of course, the word "Ordinance" stinks. It is not an agreeable expression and so, basing his argument on old sentiments, he wants to condemn this too. But I respectfully wish to show him that the emergency has not ceased in this sense that thefts have not ceased. They are perhaps growing. So, we have to meet this menace and this is the only device by which we thought we could meet this menace.

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But, as I said in the beginning, this is not a new measure. It has been in operation for several years. On the question whether this has been put to wrong use, we have a history to show how we have worked this Act. That can be seen and examined to find out whether this Act has been put to all the imaginary abuses that hon. Members conjured up.

**Shri Barman:** Could the hon. Minister give us some idea about the actual uses to which this has been put?

**Shri Alagesan:** I am coming to that point.

I should like to say that the extent of the thefts is very alarming. I can give a few figures. On the Central Railway it has been calculated that in the year 1952-53 the theft has been to the extent of Rs. 3½ lakhs roughly.

**Mr. Deputy-Speaker:** What are the items of theft generally?

**Shri Alagesan:** I shall come to that point.

In the next year, 1953-54, it rose to Rs. 4½ lakhs. Then, taking another instance, of the Southern Railway, in 1952-53 it was Rs. 4·29 lakhs and in 1953-54 it rose to Rs. 6·19 lakhs.

**Shri Sinhasan Singh:** Against how much of watch and ward expenses?

**Sardar Hukam Singh:** In spite of the Ordinance.

**Shri Alagesan:** That is true. Exactly. So, it is not such a sinful instrument in our hands. So, you cannot have it bothways.

Then, I have got some figures with reference to the second half of 1954 on the Eastern Railway. The total loss comes to Rs. 4.47 lakhs for the halfyear.

You wanted to have an idea about the quantity stolen. I shall give

[Shri Alagesan]

some figures:

Belting	1,72,709 ft.
Kent couplers	...424
Wiring for coaches	1,04,869 ft.
Cells	.229

This list can be continued. I can give the items that are being stolen.

**Mr. Deputy-Speaker:** Is this on a single railway?

**Shri Alagesan:** On a single railway for six months.

So, this is the magnitude of the evil which we have to tackle, and I should like the House to extend its full co-operation in this respect instead of finding fault with us for bringing forward this measure.

Even, as to the way in which this Act has been worked, as I said, this came into effect in the year 1944. Now, I shall give you the number of prosecutions launched and the number of convictions. In the year 1944 the number of prosecutions was 132 and number of persons convicted 59 only. In the next year, there were 437 prosecutions and 206 convictions. Then there was a decline. I mean, the States forgot that this measure was in their armoury and they forgot to use it, or they very rarely used it. Then, in 1946 there were 178 prosecutions and 30 convictions—such a small percentage. Then, coming to the year 1949, the number of prosecutions was 102 and number of persons convicted 26. Only a quarter of the cases could prove successful in the court. And so, all the imaginary fears that the hon. Members conjured up before the House are baseless.

**Pandit Thakur Das Bhargava:** Therefore, the Ordinance has been useless.

**Shri Alagesan:** Shri Nambiar was harping upon the words "five years." Now, I shall try to give figures from last year onwards. We again reminded the State Governments that this was there and that this could be used and they started making prosecutions. From 10.5.54 upto date 68 prosecutions have been launched.

After we alerted them last year it is going to be nearly a year now and in only 68 all prosecutions have been launched.

**Mr. Deputy-Speaker:** In the whole of India?

**Shri Alagesan:** In the whole of India.

The number of cases convicted comes to 37. Now, let us have an idea of the convictions. In one railway the quantum of punishment awarded ranged from one day's simple imprisonment to six months rigorous imprisonment and fine up to Rs. 500. Then, on another railway, it ranged from simple imprisonment till the rising of the Court to two years rigorous imprisonment. That was the maximum awarded. Then, in another railway one accused was convicted and released under the Probationary Offenders Act, and another was convicted for two months rigorous imprisonment.

**Shri Sinhasan Singh:** What were the articles stolen?

**Shri Alagesan:** I read that list before, but I do not relate the conviction to any article stolen because I do not have that information with me. I only wanted to point out that merely putting in the words "five years" did not take away the discretion of the Court in this matter, and they awarded punishments as I just now pointed out, which are less than five years.

I should like to tell the House that we are not making any big innovation in this, and I shall proceed to give a few examples. I do not want to go into the Evidence Act which I have got before me for fear of taking the time of the House. Wherever the object is to prevent public stores or essential supplies being stolen, the law imposes a burden on the accused to prove that he has come by possession of the article lawfully. The principle in all these cases is that because of the difficulty in proving the offence, the burden can quite legiti-

mately be placed on the accused to show the circumstances by which he came into possession of the articles in question as the circumstances relating thereto would be within his special knowledge. Pandit Thakur Das Bhargava read section 109 of the Evidence Act, but section 106 of the Evidence Act itself....

**Pandit Thakur Das Bhargava:** How can section 106 apply? It would mean that every accused has special knowledge and therefore the burden should always be on the accused.

**Shri Alagesan:** Please wait until I finish.

Section 106 itself recognises the principle when it says that when any fact is especially within the knowledge of any person, the burden of proving the fact is upon him. Now, I was quoting the Telegraph Wires (Unlawful Possession) Bill and pointing out how the principle embodied in the present Bill is exactly similar to the one embodied there. By way of further illustration, section 15 of the Essential Supplies (Temporary Powers) Act—I think it has again come before the House now—may be cited. It says:

"Where any person is prosecuted for contravening any order which prohibits him from being in possession of a thing without lawful authority or permit, the burden of proving that he has such authority, permit or licence, shall be on him."

Similarly, section 24 of the Foreign Exchange Regulation Act, 1947, provides:

"Where any person is prosecuted for contravening any provision of the Act which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him."

There is a similar provision in the Madras Coffee Stealing Prevention Act made as early as the year 1878. These few examples would go to show that

we are not making any violent departure in principle, as far as the present measure is concerned.

I should also like to place another consideration before the House, and that is the evolution of the socialistic pattern of society, and the context of the expanding public sector. I should like to say that our approach to public property is not so morally informed as it is with respect to private property. We are shocked if there is any violation of private property, but we are not so shocked, our moral conscience is not so shocked, when it is the question of public property. This House, and this Parliament, will be able to decide both the extent and content of the public sector which is a growing one. Viewed from this point of view, it is very necessary for us to create a moral conscience or rather a moral consciousness in the country that public property is at least as sacred as, if not more sacred than, private property. I will go a step further and say that public property is doubly sacred, because it is not only your neighbour's property, but it is the property of the neighbour raised to the power of 'n'. So, public property should be held more sacred than even private property. Perhaps, we may have to translate it in the legal sphere also. We may have to amend the Indian Penal Code also. Theft of private property will entail a certain quantum of punishment; if it is theft of public property, perhaps we may have to say that it will entail more punishment or that the quantum of punishment will be more. Viewing it from this point of view, I should like the House to give its full co-operation to this measure and see that the object in view is achieved.

Having said all these things, I should grant that there have been very honest misgivings about this measure in the minds of hon. Members. As I have already pointed out, this Act is in operation, so far as the Part A States are concerned; just now, it does not extend to the Part B States. Several legal difficulties were pointed out both in the definition of 'railway stores' as

[Shri Alagesan] also in the wording of clause 3, which is the operative provision of the Bill. So, I naturally react to what has been said on the floor of the House, and I should like to say that I accept the motion for reference to Select Committee, which has been moved by my hon. friend Pandit Thakur Das Bhargava.

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

"That the Bill be referred to a Select Committee consisting of Shri Ganesh Sadashiv Altekar, Shri K. Ananda Nambiar, Sardar Hukam Singh, Shri N. C. Chatterjee, Shri B. Ramachandra Reddi, Shri Tek Chand, Shri U. M. Trivedi, Shri Nemi Chandra Kasliwal, Shri S. V. Ramaswamy, Shri K. S. Raghavachari, Shri P. R. Kanavade Patil, Shri R. Venkataraman, Shri Fulsinghji B. Dabhi, Shri C. R. Narasimhan, Shri Kamal Kumar Basu, Shri Mulchand Dube, Dr. Lanka Sundaram, Shri Hari Vinayak Pataskar, Shri O. V. Alagesan and the Mover, with instructions to report by the 31st March, 1955."

*The motion was adopted.*

**MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) BILL**

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):**  
I beg to move:

"That the Bill to provide for the levy and collection of duties of excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drug or narcotic, be taken into consideration."

This Bill is intended to help the pharmaceutical industry, which is rather an important industry in the country with an investment of about Rs. 25 crores, and which has been experiencing some difficulties in the manufacture, and more particularly in the sale of their articles in different States.

According to the Government of India Act, 1935, excise duties on me-

dicinal and toilet preparations containing alcohol or any narcotic drugs were the charge of the Provincial Governments. And the Provincial Governments have been imposing varying duties according to their varying circumstances or requirements. I would like to point out here the nature of the difference in the duties levied in different States. In such an important article as chloroform, for the spirit contained in it, the rate of duty ranged from Rs. 5 to Rs. 40 in different States, while the duty on absolute alcohol and rectified spirit varied from Rs. 17-8-0 in certain States to Rs. 70-5-0 in certain other States, per gallon. So, you can understand that it was very difficult for the industry to maintain any uniform price scale for their products, and the prices naturally had to vary from one State to another. India, which is one country, having one industrial and economic policy, cannot allow this state of affairs for long, without prejudice to the industry, and to the economy of the industry.

When the Constitution was being framed, this matter was brought to the notice of the framers of the Constitution, and they put this item in the Union List; that is Entry No. 84 in List I of the Seventh Schedule. At the same time, under article 277, the rate of duty prevailing before the framing of the Constitution was protected until Parliament might choose to alter the rates of duties or bring in legislation for some uniform rates of duties. Further, by article 268, the Constitution has provided that any duty collected on these articles would go to the State. The Centre can only impose the duties, the collection will be done by the States, and the revenue also will go to the States; the revenue will not form part of the Consolidated Fund of the Government of India. So, while piloting this Bill, I can say that the Finance Ministry or the Central Government has no revenue motive in bringing forward this Bill.

It is simply to help the industry that we are piloting this Bill. In 1949, the Central Government convened an All India Excise Conference. That

Conference set up an Expert Committee to go into the whole matter. The Expert Committee submitted its report in 1952, but in 1951 it sent in an interim report which helped us to bring about a sort of uniformity because the different State Governments were good enough to implement the recommendations made in the interim report. But that is only out of their good grace, and we cannot leave the whole thing to the voluntary co-operation or good grace of the different States. In the meantime, further complications arose due to the introduction of prohibition in different States.

As the title will indicate, this Bill deals with certain drugs in which alcohol has been used, and some of the drugs may be considered potable. In the States where the policy of prohibition is vigorously pursued, it has been noticed that the import of some of these drugs which may be used as potable or as substitute for alcohol has increased enormously during recent years. It is thus presumed and suspected that the sudden increase in the import of these drugs from other States into the 'Prohibition' States must have been for some illicit purpose. So we are bringing forward this Bill. Firstly, it is to help the industry. At the same time, we have kept our eye on the policy of prohibition pursued by different State Governments.

**Shri N. M. Lingam** (Coimbatore): Does it contemplate putting restrictions on import from one State into another?

**Shri A. C. Guha:** No, that is not exactly the purpose of this Bill. I shall come to that later.

The Expert Committee made a number of recommendations, most of them relating to the sphere of the State Governments, and the Central Government have been trying to process those recommendations through the helpful co-operation of the State Governments. Certain action has been taken on those recommendations by the State Governments: some other

recommendations are still under consideration and discussion between the Central and State Governments. In the recommendations, there are only three items which, so to say really, concern the Central Government. One is about uniformity of the rate of duty. The second is about declaring which of those drugs can be considered potable and which of them cannot be considered to be potable. The third item is about inter-State movement of these drugs. There would come the question which my hon. friend raised. That, as I said, is concerned with the Prohibition policy. This, again, is not solely within the jurisdiction of the Central Government. Mainly, it would be the responsibility and concern of the State Governments to regulate inter-State movement of these drugs. But it would require the co-operation and approval of the State Governments before we can launch upon any legislation to that effect. Moreover, that would be the charge of another Ministry, not of the Finance Ministry. I think the Commerce and Industry Ministry is considering that matter and it may be possible for it to bring forward a Bill sometime—I cannot give any indication as to when it will be possible.

**Sardar Hukam Singh** (Kapurthala—Bhatinda): That indication has been given this morning during question hour.

**Shri A. C. Guha:** Thank you. Anyhow the 'Prohibition' States are very much interested in that matter. So I think any decision to that effect also will not be delayed very much.

This is a non-controversial Bill. Its main or sole purpose is to help the industry. I think there is one point on which some Members have tabled amendments, that is, regarding ayurvedic medicines. I think the position as provided in the Bill is rather an improvement on the present position. So I do not think there should be any apprehension that this Bill will in any way adversely affect ayurvedic

[Shri A. C. Guha]

medicines or the practice in *ayurvedic* medicines.

With these words, I commend this Bill for consideration and acceptance of the House.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill to provide for the levy and collection of duties of excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drug or narcotic, be taken into consideration."

There is notice of a motion given for reference of this Bill to a Select Committee.

**Shri N. M. Lingam:** May I know what is the time allotted for this Bill?

**Mr. Deputy-Speaker:** All reasonable time.

**Shri Bansal (Jhajjar-Rewari):** I beg to move:

"That the Bill be referred to a Select Committee consisting of Col. B. H. Zaidi, Shri M. L. Dwivedi, Shrimati Uma Nehru, Shri C. D. Pande, Shri R. V. Dhulekar, Shri Bhagwat Jha 'Azad', Sardar Hukam Singh, Shri Arun Chandra Guha and the Mover, with instructions to report by the 31st March, 1955."

**Mr. Deputy-Speaker:** Does this Bill apply only to Northern India?

**Shri Bansal:** With your permission I can add as many further names as are required.

**Sardar Hukam Singh:** These are only illustrative.

**Mr. Deputy-Speaker:** Whenever there is a Motion for reference to a Select Committee, it is intended that hon. Members from different parts may be on the Committee so that their experiences may be available and the peculiar circumstances regarding any States may be known.

**Shri Punnoose (Alleppey):** At least with regard to alcohol, Members from the south should be given their due.

**Mr. Deputy-Speaker:** There is prohibition in the South.

**Shri Bansal:** This omission was absolutely unintentional. I would be glad to add any further names. It has come out of my lack of parliamentary experience.

**Mr. Deputy-Speaker:** It should not be misunderstood like that. I never meant any such thing. I only wanted the hon. Member to add a few more names representative of whichever State that has been omitted.

**Shri Bansal:** Very well.

While I am glad that the hon. Minister has brought forward this Bill, even though very late, I must confess that I am left absolutely disappointed with the various provisions of the measure. This Bill has a very old history in the sense that the subject-matter of it has been under discussion for over 20 years. As the Minister himself pointed out, a conference of excise officers was held as early as 1937, which adopted a very large number of resolutions. One of the resolutions had a definite bearing on the subject-matter of this Bill. In the light of that resolution, in 1950 the Government of India appointed an Expert Committee to go into this whole question of excises on medicines which contain some element of spirit and other kinds of potable drinks. That Expert Committee went into the whole question very carefully and came to certain conclusions. One of the conclusions was that this anarchy in the sphere of excise duties must be put a halt to. I am glad that the Minister has accepted that recommendation and has by means of this Bill tried to impose uniform rates of excise duties on certain types of medicines which fall under the description of medicines and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drug or narcotics. I welcome the Bill, but inasmuch as no steps have so far been taken in order to give effect to the various other recommendations of that Expert Committee, I urge upon the Minister to send this Bill to a Select

Committee so that they may go into all the other recommendations of the Expert Committee and see in what manner they can be given effect to. The Minister said—and I was a bit surprised—that the inter-State trade cannot be regulated by the Centre.

**Shri A. C. Guha:** I have not said that. Though I admit that it will be the responsibility of the Centre, it cannot be done without consultation with, and to a certain extent, without the consent of the different States.

**Shri Bansal:** Inasmuch as this question has been before the Government and before the country ever since 1937 and then in 1950 when the Expert Committee was appointed, I do not know how long Government will take for holding consultations with the various State Governments. I know it is not a very simple matter and I also know the question bears on the prohibition policy of the various States, which is entirely a State subject. But I also know that all these types of medicines in this country, when imported from foreign countries, are subject to certain import duties, and after the import duties have been paid at the various ports, there is no restriction whatsoever on their movements from State to State. Once these medicines have been imported from foreign countries, they can be freely distributed from one State to other States without let or hindrance. In case, it sounds as if I was exaggerating the picture, I would refer you to another very high-powered Committee, namely, the Pharmaceutical Enquiry Committee, which on page 94 of its Report, states:

"Preparations containing alcohol imported into the country and for which customs duties have been paid at the port of entry have no restrictions on their movement to any part of the country. This places similar products made in the country at a disadvantage as compared to the imported article."

I should have thought that this is an absolutely indefensible position for any Government to take that while imported articles from foreign countries can be moved from State to State without

any let or hindrance, the movement of indigenously manufactured commodities of the same type is subjected to harassing restrictions at various points. What are these restrictions? If a medicine is manufactured, say in Baroda, which is in Bombay State—we all know that Bombay State is the highest prohibitionist State—and if an importer from Madras, which is also a prohibitionist State but perhaps not as much prohibitionist-minded as Bombay, wants to import medicine manufactured by the factory in Baroda, he has at first to apply to his State for permission to import medicine from Baroda. He has to give a long list of all the medicines that he wishes to import from Baroda and give all the minute details thereof. I do not know after how many months he gets the permission. At the same time the manufacturer in Baroda has to take an export pass for supplying those medicines to the dealer or importer in Madras from the Bombay Government. After all these formalities are done, he can export his medicines from his State to another State in the country and similarly the dealer in the importing State can only import the medicines after he complies with all these formalities. I should have thought that the Government, after having received this report of their own experts and then the report of the Pharmaceutical Enquiry Committee, would have given some consideration to this very obvious defect in our inter-State trade system dealing with commodities like medicines. After all, medicines are very essential commodities and if there are such harassing restrictions on the inter-State movement of medicines, I do not know what we are coming to. I should have thought that our Government would have been the first to take steps at least in this direction. Although I do not minimise the importance of uniformity of excise duties, I should have thought that this was a much more important thing than mere uniformity of excise duties.

What is the other difficulty? Supposing a dealer in Madhya Pradesh waste

[Shri Bansal]

to import medicines from Calcutta, he must get the import pass and the manufacturer at Calcutta must get the export pass and then the thing is sent to Madhya Pradesh. Suppose there is a small dealer in Rajasthan, the constituency of my hon. friend, who wants to import these medicines from the wholesale dealer in Madhya Pradesh, then he must also have an import pass. This long chain of import and export passes is causing so much difficulty and discrimination against the Indian manufacturer that it is surprising to me that Government have not yet woken up to deal with this very serious problem that is facing this industry.

I now come to the question of prohibition. I know that some of the medicines can perhaps be misused. As the Minister was very vociferous in pointing out, the import of certain types of drugs in prohibition area States has increased. It might have increased or not. I do not have those statistics but I take him at his word. I do not say that this kind of import must be encouraged. In fact, I am a person who believes in prohibition, but I am sure the Minister must have seen the recommendations of his own Expert Committee which stated that there should be a list prepared by the Central Government in consultation with all the States which are interested in prohibition, of restricted medicines which are liable to be misused or which contain alcoholic percentage which, according to certain States, should not be allowed to be freely consumed. This is what they say in their report:

"A list should be compiled by the Centre from the lists available in all the States of the medicines liable to be misused, and should be called "List of restricted medicines and preparations containing spirits" and should be maintained up-to-date."

They also say:

"Addition to, or deletion from this list should be made by the Central Government after reference to the Drugs Control, India,

in consultation with the States and the trade."

It further says:

"Since all spirituous medicinal preparations are proposed to be manufactured in bond and under excise supervision and since there will be a list of restricted medicines, there should be no control over sale, possession, distribution and inter-State movement of unrestricted types of medicine once duty is paid".

I do not know what difficulty the Government had in implementing this very straightforward and fool-proof recommendation straightaway. The Minister tells the House that this matter comes within the ambit of some other Ministry. I do not know what prevented the Government from bringing one consolidated Bill and placing it before the House so that all the recommendations of this Committee could have been given effect to almost at once. Therefore, I think that if from no other point of view from the point of view of seeing that the recommendations of this Expert Committee are implemented at once, the Select Committee should be given an opportunity to go into this Bill thoroughly and with an absolutely open mind.

I now come to clause 3(2) of the Bill as moved by the Minister. I have received a representation from the Indian Chemical Manufacturers' Association which is the most representative body of the chemical manufacturers in our country. They have been associated with the Pharmaceutical Enquiry Committee, and if I remember aright, I think they had one representative on that Committee. They were also associated, I think, in some capacity or other, with the Expert Committee. They have very serious misgivings in regard to this particular clause, and I wonder if the Finance Minister himself has received that representation. They point out that the drafting of this clause seems to be on the analogy of the tobacco excise. Tobacco excise is levied on quite a different principle. Firstly, tobacco is

grown and then at least collected in bonded warehouses in huge bulk, while these medicines are manufactured and more so supplied in very small quantities. They say:

"Most of these are patent medicines, spirits, tinctures and other B. P. preparations which contain alcohol," are prepared by a large number of units.

"The sales of pharmaceutical manufactures are in most cases through chemists and druggists all over the country and every concern sells goods directly to at least 2,000 more constituents. The average order in the pharmaceutical line is of the value of Rs. 50 to Rs. 100 and consists of eight to ten items in each order. It is to be noted that there is thus a great deal of difference in administration of excise over a single bulk commodity like tobacco and over thousands of items often consigned in a very small quantity like drugs".

What does this clause 3(2) mean? It says:

"(2) The duties aforesaid shall be leviable—

(a) where the dutiable goods are manufactured in bond, in the State in which such goods are released from a bonded-warehouse for home consumption,..."

It means this. The Bengal Chemicals are manufacturing certain medicines. They manufacture certain types of medicines in bonds. If a person is thinking of importing those medicines in Dehi, he must import them here in bond and then pay duty here. Now, is it the idea that these thousands and thousands of dealers are going to maintain bonded warehouses in their distributing centres, or, is it suggested that at least all these manufacturers must have one bonded warehouse in each State? Supposing these large manufacturers have a bonded warehouse at least in each

State, then what happens? In what manner are the smaller dealers going to get these from the bonded warehouse dealers? Then, I want also to ask whether this is a move in the right direction, as far as the small scale manufacturers are concerned. We seem to believe that chemical preparations are being manufactured only by very large concerns like the Bengal Chemicals, Bengal Immunity, Alembic, and so on and so forth.

**Shri A. C. Guha:** We know there are a large number of smaller units also.

**Shri Bansal:** Then, is it suggested that those units will also have bonded warehouses in all States?

**Shri A. C. Guha:** No.

**Shri Bansal:** Will you please explain? You have presented this Bill in a very cavalier fashion without explaining any of the provisions. I would request the hon. Minister to explain what it means. If he does not mean what I understand him to mean and what the Chemical Manufacturers' Organisation which has large as well as smaller units in their membership have understood, if the meaning is different and if this vexatious procedure of importing through bonded warehouses is not contemplated, then kindly enlighten the House as to what is the procedure, so that we may judge whether we can accept this provision or not. With these remarks, I would again request the hon. Minister to accept my motion for referring the Bill to the Select Committee.

**Dr. Rama Rao (Kakinada):** May we know the reaction of the hon. Minister to Shri Bansal's proposal?

**Mr. Deputy-Speaker:** I am not going to adopt a new procedure. First, I shall place the amendment before the House.

Amendment Moved:

"That the Bill be referred to a Select Committee consisting of

[Mr. Deputy Speaker]

Col. B. H. Zaidi, Shri M. L. Dwivedi, Shrimati Uma Nehru, Shri C. D. Pande, Shri R. V. Dhulekar, Shri Bhagwat Jha 'Azad', Sardar Hukam Singh, Shri Arun Chandra Guha and the Mover, with instructions to report by the 31st March, 1955."

In the meanwhile, the hon. Mover may consult some friends also and put down their names. Both the original motion and the amendment are before the House. What is the reaction of the hon. Minister, so far as this amendment is concerned? If the hon. Minister is going to accept the motion regarding the Select Committee, then I will cut down the speeches.

**Shri A. C. Guha:** As the Mover has made out his points, I think this will be just going far beyond the scope of this Bill. I do not know how far the Select Committee would be entitled to widen the scope of this Bill. As I have already stated, there are only three recommendations which can come within the purview of the Central Government. Two of them are implemented in this Bill and the other is still under consideration of the Government. As I have been told by Sardar Hukam Singh that this morning during the Question Hour, the Commerce and Industry Minister has given some indication as to when the Bill may come up. I do not think the Select Committee will be in a position to accept any provision to implement the other recommendations of the Expert Committee.

**Shri Dabhi (Kaira North):** I am glad that the hon. Minister has stated that one of the objects of the Bill is to prevent the toilet and medicinal preparations from being used for intoxication purposes. Though I welcome this Bill from that point of view, I do not quite understand how this Bill will prevent people from using these medicinal preparations as intoxicants, because the main purpose of this Bill is to levy uniform rates of excise duty

and adopt uniform procedure for the collection of the duty. I think that certain provisions are there in this Bill which would certainly help these preparations being misused as intoxicants. In my opinion, clause 6 is one of such provisions. This clause says:

"...no person shall engage in the production or manufacture of any dutiable goods or of any specified component parts or ingredients of such goods or of specified containers of such goods or of labels of such containers except under the authority and in accordance with the terms and conditions of a licence granted under this Act."

2 P.M.

(2) Every licence under sub-section (1) shall be granted for such area, if any, for such period, subject to such restrictions and conditions and in such form and containing such particulars as may be prescribed."

Therefore, I think that if these rules are made very strict then it would help at least to some extent to prevent these preparations being misused. These toilet and medicinal preparations have got a history of their own as far as prohibition policy is concerned. In Bombay, complete prohibition has been in vogue from 1949. In 1949 the Bombay Legislative Assembly passed the Prohibition Act and under the provisions of this Act, the use of even toilet and medicinal preparations, if they contained alcohol to a certain extent, was prohibited. Then, one of the citizens of Bombay filed a suit in the Bombay High Court and their Lordships of Bombay High Court held that these medicinal and toilet preparations were not to be prohibited unless of course it was proved that these preparations were actually misused. Therefore, that particular section of the Act which dealt with these medicinal and toilet preparations and other tinctures was held to be null and void in the Balsara versus Bombay State

case. After that there was an appeal to the Supreme Court and in that appeal also the decision of the Bombay High Court was upheld. As a result of this decision these so-called toilet and medicinal preparations which contained alcohol began to be used on a very extensive scale. You might have read, Sir, that in Bombay prohibition has practically been a very great success. But, these toilet and medicinal preparations and tinctures have been a great obstacle in making that prohibition policy a complete success. That is the reason why the Bombay Government has requested the Union Government to legislate not only in this regard—with respect to these toilet and medicinal preparations—but with regard to the other tinctures also which are used on a very large scale for intoxication purposes. Therefore, Sir, if this Bill would help the prohibition policy of this Government, then at least I would be satisfied to that extent.

My friend Shri Bansal says that he does not know whether these medicinal and toilet preparations have been misused. I may tell him that they are misused to a very large extent and but for the so-called medicinal and toilet preparations, at least the prohibition policy in Bombay State would have been a complete success.

**Sardar Hukam Singh :** It has been a success only due to these preparations.

**Shri Dabhi:** While saying so, I also feel that if this Bill is made applicable of course it cannot be made applicable to imported toilet and medicinal preparations because it imposes an excise duty and no restriction has been put—only to indigenous toilet and medicinal preparations, then the whole effect would be nullified and it may, perhaps be an injustice to the manufacturers here. Anyhow I hope the Government is bound sooner or later to implement this policy of prohibition and they would bring forward other legislations implementing the prohibition policy.

Now, I would make one or two suggestions with regard to this Bill. On a former occasion I stated in this House with regard to the option given to the courts of either imposing a sentence or a fine. I am of the opinion that these medicinal and toilet preparations and other tinctures have been used to such an extent, that as I have just now stated, they are defeating the prohibition policy of the Government. Therefore, in my opinion, no mercy should be shown to those people who are defeating the very object of the prohibition policy which is one of the State policies under article 47 of the Constitution. Therefore, if not for any other purpose at least with regard to the point I have made, my request to the hon. Minister would be to accept the Motion to refer the Bill to a Select Committee.

You will see, Sir, that under clauses 7 and 13 the punishment is provided for contravening the provisions of this Bill. In clause 7 it is stated that if any person contravenes any of the provisions of this Act, "he shall for every such offence be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both". The same thing is given in clause 13. There also it is stated: "every such offence shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both." My suggestion to the hon. Minister and to this House is that, if we believe in the policy of prohibition and if by making very severe punishment for the breach of the provisions of this Bill we can help implementing that policy, then we must show no mercy on all those who contravene the provisions of this Bill. I would, therefore, suggest that instead of 'punishable' we must have 'punished' and instead of the word 'or' it must be 'and'. My idea is that such persons should not only be punishable with imprisonment or fine or with both, but they should be punished with both imprisonment and fine. I may again remind the

[Shri Dabhi]

House that on this there was a ruling of the Bombay High Court a few years ago with regard to a similar interpretation of a Bill. In the Prohibition Act also there was one section where practically the wording was similar. Therefore, their Lordships of the Bombay High Court held that, as the word used was 'punishable' and not 'punished' the court had the option, though in the act the word used was 'and' and not 'or' as is used here. Their Lordships of the Bombay High Court held that as the word used was 'punishable' the court had the option of either punishing with imprisonment or with fine. Therefore, I want that the word must be 'punished' instead of 'punishable' and instead of 'or' it must be 'and' in both the clauses. I want that these punishments should be made more severe so that they may to a certain extent help the prohibition policy of the State.

These are my main suggestions and with these words I conclude.

**Shri S. C. Samanta** (Tamluk): Sir, I welcome this Bill. The hon. Minister at the end of his introductory speech has given an assurance that ayurvedic medicines will not be affected. I have tabled an amendment so that the apprehension that is being felt by the ayurvedic profession will be alleviated. Because, in the Schedule I find it mentioned that as regards medicinal and toilet preparations not otherwise specified containing alcohol, ayurvedic preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages will not be taxed, but ayurvedic preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages will be taxed.

I have an objection there. Is there any alcoholic beverage in ayurvedic medicines? When ayurvedic medicines are prepared, we know that *asavas* and *arishtas* are prepared from herbs, and they have some spirit self-generated in them, not alcohol. If we distinguish these medicines according to

*arishtas* and *asavas*, they can be put in two categories. The first category are very bitter. Though they have some self-generated spirit in them, they are so bitter that they cannot be taken in. And in respect of those which are sweet, they have only a little quantity of it.

In support of my contention I would request the hon. Minister to enquire in those States where there is strong prohibition whether there is any case in which a man has been convicted for taking such preparations as beverage. I think there is none.

**Shri Dabhi:** It is very difficult, because the burden of proof lies with the prosecution. The prosecution must prove that the person has taken a particular medicine. It is very difficult.

**Shri S. C. Samanta:** So it is crystal clear that *asavas* and *arishtas* are only medicinal preparations and not habit-forming alcoholic beverages which can be mis-used. No distillation is made by *vaidas*. When herbs are easily available they make the drugs and stock them. First they make decoctions, and the decoctions cannot be preserved in a raw state. For the purpose of preserving, the *vaidas* adopt a unique technique of preservation which is native to the soil. That is done without adding a single drop of alcohol or spirit to the decoction. Such a process is called making an *arishtam* or *asavam*. These things are present there. So I would request the hon. Minister to accept any of my amendments so that the fear that is in my mind and in the mind of *vaidas* will go away.

**Shri Dhulekar** (Jhansi Distt.—South): This Bill which has been presented to us has been very badly drafted. The law must be definite. Law and its administration should be very clear. And in this Bill what is it that is said? When they want to define a horse they say "horse is an animal as defined in the Schedule". When the Schedule comes they say "horse is a horse".

They say here medicine and toilet preparations which are capable of

being consumed as ordinary alcoholic beverages. Who is to decide that? The excise officer who goes to any shop, he will decide it. If a five rupee note is put in his pocket, then the seller is permitted to sell. And he will say that the excise officer visited the shop on such and such date, examined it and wrote in the book that this is not a beverage which can be consumed as ordinary alcoholic beverage. Now, the same excise officer will go to an ayurvedic doctor or chemist.

[SARDAR HUKAM SINGH in the Chair]

That man will produce *asavas* and *arishtas*. The excise officer will be the final person to say whether it is an alcoholic beverage which can be ordinarily used or not.

I would say the law is very defective. The Finance Minister who has produced this Bill should at least have said "if the alcoholic content is such, if it is more than five, ten or twelve per cent, then it can be taken as beverage."

**Pandit Thakur Das Bhargava** (Gurgaon): He should personally experiment!

**Shri Dhulekar:** Even when the other Bills were there, the Drugs Bill and the Food Adulteration Bill, there was a provision that the officer will make three samples, give one to the shopkeeper under seal, giving it in his handwriting that he has taken a sample, send it to Government, and the Government Analyst will be the person who will say whether the food was adulterated or not. In this Bill there is no such provision. It is only said that dutiable article is an ayurvedic preparation containing self-generated alcohol—if it is not capable of being consumed as an ordinary alcoholic beverage then the duty will be nil—but if it contains self-generated alcohol which is capable of being consumed as ordinary alcoholic beverage, then it will be dutiable.

I have never seen such bad drafting. I do not know where I stand. Whether they are allopathic chemists or they are ayurvedic chemists I make no

distinction between them. I stand here for a law which should be just and also definite. Every person should know. There is nothing here.

Clause 19 is about rule-making power. I was hunting through the sub-clauses to see whether there was any power anywhere under the rule-making powers, to make rules in this regard. The hon. Minister will kindly see from (i) to (xxi). There is not a single sub-clause where there is any rule-making power vested in the Central Government or the State Government to say that there will be a list made of preparations which may be considered as beverages and which, if they contain more than a certain percentage of alcohol, will be treated as alcoholic beverages for human use. There is no provision here like that. Then what are you going to do?

**Shri Barman** (North Bengal—Reserved—Sch. Castes): The officer will consume and then decide!

**Shri Dhulekar:** You are going to this bonded-warehouse and that bonded-warehouse. There is no rule.

There is the provision that licence will be given. What will be the nature of the licence?

**Shri Dabhi:** Clause 19(1) says "make rules to carry out the purposes of this Act".

**Shri Dhulekar:** What is the purpose?

**Mr. Chairman:** No cross-discussions. The hon. Member might address the Chair.

**Shri Dhulekar:** My learned friend was saying that there is some purpose of this measure. I say there is no purpose of this Bill. As long as any preparation is there and it is defined that if it contains alcohol above a certain percentage then it will be considered as a thing which can be consumed by a human being as an intoxicating drug, I can understand. Unless that is defined, there is no purpose here. The only purpose is that we should fill the coffers of the excise officers and nothing else.

[Shri Dhulekar]

That is not the purpose. Therefore, I would certainly say that the Finance Minister should agree to send this Bill to the Select Committee. The laws should be more definite. Experts should be consulted whether the ayurvedic and allopathic preparations which are in the market could be listed and whether a certain standard can be fixed so that any ordinary man may know that it is alcoholic and dutiable or not. I would submit that from this point of view also, it is necessary that this Bill should be sent to the Select Committee. A long time should be given. I would urge on the Government also that this law should be sent back to the Excise Department so that they may advise in a more definite manner than they have done in this case.

**Pandit Thakur Das Bhargava.** I join my friend in making the request to the hon. Minister to kindly send the Bill to the Select Committee. I think, ordinarily, every Bill should be sent to the Select Committee unless, of course, it is very formal and non-controversial. It is in the Select Committee that the pros and cons of a measure are gone into. Various points of view are brought forward in the Select Committee to consider the effect of the Bill, the lacuna in it and whether it will serve any purpose. In regard to this Bill, apart from many other objections which have been raised by my hon. friends, especially the Member who spoke last, I am quite clear in my mind that there are many objections which can be gone into only in the Select Committee and not in the House. The last objection which my hon. friend Shri Dhulekar took impressed me greatly. The words are:

"Medicinal and toilet preparations containing alcohol, which are prepared by distillation or to which alcohol has been added, and which are capable of being consumed as ordinary alcoholic beverages"

I know that alcohol has been defined and the chemical proportions of the ingredients are given in the definition. Then, we have to cross another hurdle,

the words being, "capable of being consumed as ordinary alcoholic beverages". These words 'ordinary alcoholic beverages' have not been defined. Having regard to items 2 and 3, the difficulties may perhaps be much more formidable. Perhaps evidence will have to be produced that it is capable of producing some particular effects on ordinary men. Suppose a person is addicted to drinking, those effects will not be produced on that man. The accused may have occasion to show that as a matter of fact this alcoholic beverage does not ordinarily produce those consequences which perhaps the legislature thought that it would produce. Unless and until some proportion of the chemical ingredients is pointed out, it will be very difficult to say whether any preparation will come under this definition or not. And then, who is the judge? I remember a case in the Hissar court where under the Excise Act the accused was convicted on the basis that it was alcohol. It was an illicit distillation case. When it went on appeal, the appellant just made an application to the Sessions Judge and said, kindly find out what the stuff is. When the bottle was bought and opened, it was found to contain pure water. I do not know how it changed or did not change. Supposing it is not water, even then, the question will arise whether it comes within the three definitions given in this Bill. This definition should be more precise and absolute. Otherwise, what will be regarded a dutiable preparation in one court will not be so regarded in another court. What may inebriate Shri A. C. Guha will not inebriate Shri Tyagi, I am sure. It all depends on habit.

**Shri A. C. Guha:** He may have been accustomed to that.

**Pandit Thakur Das Bhargava:** It depends on temperament. I think it would be very difficult to work this section.

Barring that, I think this Bill is opposed to certain fundamental rights under the Constitution. I find there is almost a habit with the powers that be to write down anything that pleases

them with regard to forfeiture. My submission is that all these enactments which enable the court to forfeit the property of an innocent person whose property cannot be forfeited: who has not committed any offence, are according to me opposed to the provisions of article 19(f) of the Constitution. Suppose we make a law that if this kind of preparation is taken by a train from one destination to another, the train itself will be forfeited to Government. If instead of the train I say motor car, tonga or bullock cart, nobody is offended. If I said train, it looks ridiculous. What are they doing? In clause 8 they say:

"Any court trying any offence under section 7 may order the forfeiture to the collecting Government of any dutiable goods in respect of which the court is satisfied that an offence under this Act has been committed.....

Not that any particular person has committed, but if an offence is committed, the powers are to be exercised.

"and may also order the forfeiture of any alcohol, drugs or materials by means of which the offence has been committed.....

I have no quarrel so far.

"and of any receptacles, packages or coverings in which any such goods or articles are contained.....

Even there, I have no quarrel.

"and the animals, vehicles, vessels or other conveyances used in carrying such goods or articles and any implements . etc."

My submission is this. The owner of these vehicles, animals, vessels and other conveyances may be absolutely innocent, and may not even know what these vehicles contained. Supposing there is a big packet and there are many articles there which may come under this definition his cart has been hired and the cartman does not know anything; nor has he been called upon

to show cause. Because another man has committed the crime, all these things are forfeited. I submit that a law of this nature is opposed to the fundamental rights given under the Constitution. Unless and until the court can predicate about one that he is guilty, the court has no authority to touch that person's property specially when he is not a party to this prosecution, and had no occasion to show to the court that he is quite innocent. It is quite faulty.

When I come to the other provisions of the Bill, it appears to me that there is some lacuna somewhere in the mind of the gentleman who is responsible for this Bill. Ordinarily, as you are aware, in all the States we have got excise laws. An excise officer is only like a police officer. Take any excise officer of any State and take the excise laws of any State. The excise officer is practically a police officer, and he is given all the powers of a police officer. While he is an officer of the department also, so far as prosecutions are so concerned, so far as conduct of investigation is concerned, he is none but a police officer. What do we find in this Bill? Clause 16 says:

"(2) For the purpose of sub-section (1)...etc. Sub-section (1) says:

"(1) When any person is forwarded under section 15 to an excise officer empowered to send persons so arrested to a magistrate, the excise officer shall proceed to inquire into the charge against him."

What will he do? Sub-section (2) says:

"(2) For the purpose of sub-section (1), the excise officer may exercise the same powers and shall be subject to the same provisions, as the officer in charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898 (Act V of 1898), when investigating a cognisable case."

[Pandit Thakur Das Bhargava]

This man is none but a police officer investigating a cognizable case. All these powers are given to him. You will be surprised to learn that this gentleman who is a police officer, who is given these powers under clause 16, is invested in clause 10 with absolute, unheard of and extraordinary powers. Clause 10 reads thus:

"(1) Any excise officer duly empowered by rules made in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act."

I have no quarrel. He is entitled to call. To do what? The clause says:

"(3) All persons so summoned shall be bound to attend either in person or by an authorised agent as such officer may direct and all persons so summoned shall be bound to state the truth on any subject respecting which he is examined or make statements and produce such documents and other things as may be required."

It does not stop here. Further it says:

"Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (Act XLV of 1860)."

This passes my understanding. This same man who enquires into an offence as an investigating officer becomes a judicial court and every person is bound to state the truth before him. Supposing an accused person goes, will he be given an oath? There is no provision of oath. He is bound to state the truth and therefore section 193 applies. Will the accused be prosecuted under section 193? Will that be judicial proceeding? Will the provisions of section 25 of the Indian Evidence Act be nullified and his confession also regarded as good? What

will happen? I have never seen such power being given to any excise officer under any excise Act. It appears that the person who drafted it did not know the nature of the powers which a police officer usually exercises. If you make this officer a judicial officer as also a police officer, he will become a hybrid officer the like of which you will not find in any other Act. If accused is obliged to state the truth such provision would offend the Constitutional provisions which do not allow an accused to be convicted out of his own mouth. Kindly see article 20(2) of the Constitution.

And what would happen? What would a police officer of this nature do? He would say: "This man abused me" and section 228 of the Indian Penal Code would be made applicable. Now, we know that under section 353 of the Indian Penal Code, if a police officer is deterred from the discharge of his duty, he can proceed against that person under the said section. I am surprised and I do not know why section 228 is invoked to make it a judicial proceeding. I for one would very humbly submit to the hon. Minister that this matter must be enquired into. It is a question of principle. You have to bring many more Acts. You are giving the police officer these powers and making it obligatory on the part of any person to state the truth. In the cases of murder, we have got a corresponding section 162 in the Criminal Procedure Code, where no person is bound to state the truth. What is the difference between an offence under the ordinary excise law and an offence under this law? Both are of the same nature. A person can be sent for six months in both these cases. So, it is an ordinary case and all the safeguards the law provides for an ordinary accused must be provided for this kind of accused also.

If you kindly see section 161 of the Criminal Procedure Code, the words are these:

"Any police-officer making an investigation under this Chapter or any police-officer not below such

rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture."

There is no obligation to state the truth and we know how the law has been working. If you kindly go into the history of the question, you will be pleased to see that the word "truly" which existed previously was taken away. When we were considering the Criminal Procedure Code even in the last session I remember I took strong exception to the fact that section 162 was taken away and ultimately the hon. Home Minister had to bring that section in when the Select Committee decided on it, and he took the credit for the fact that he was restoring it.

For this purpose, section 162 is not there. What would happen? There are so many other questions that with such large powers, no accused would be safe. The police officer has an obligation to write out certain statements if he so chooses. But, on this man there is no obligation to write down any statement. Today a person comes and makes a statement. When the case is challaned he makes an absolutely different statement. We have got nothing to go by. The accused cannot say that this man made a different statement before. It is absolutely necessary that the provisions of section 162 should be applied to the record and the record must be made. Unless a record of such statement is made, there will be great miscarriage of justice, and any accused will be within the hollow of the hand of the excise officer. We know what these excise officers are. We know how they make statements. They are not better than police officers. They will be able to

make any statement if there is no check on them. Therefore, I have to submit for the consideration of the hon. Minister that the provisions of sections 162 and 172 must apply. He must keep a record and then the record must be sent to another office. If the record is with him for a long time, he will substitute another record, and he will make it too hot for any person to get a discharge or acquittal from the Court. While I agree with Shri Dabhi that if the object is to enforce prohibition, the provision may be stringent, but at the same time we have to look to the accused also.

We know in how many cases the accused are convicted. Today also we got the figures from Shri Alagesan. What are the figures? Not even 20 per cent. which means that 80 per cent. of the accused are innocent and they are harassed for nothing, or the cases fail because either they are not properly investigated or innocent persons are challaned in court. And even in the 20 per cent, we are not sure if innocent persons are not sentenced. And if you give powers of this kind, then the excise officer can do what he likes. There is no check on him.

This thing cannot be decided here in this House. It is an abstruse question of law. It is a question of jurisprudence. It is a question of practice. It is a question of looking into the past acts to see whether what I am submitting is right or wrong. This cannot be done here. It can only be done in the Select Committee.

Now, again, if you will kindly see the other provisions of the law, some of them are almost surprising, I should say. I find in clause 9 it is stated:

"Any excise officer duly empowered by rules made in this behalf may arrest any person whom he has reason to believe to be liable to punishment under this Act."

Have you ever seen any language in any Code like this? Is he to judge who is liable to punishment? He can say: "I have got a reasonable suspicion in my mind. I suspect this man has committed the offence, and I hold

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from the evidence that this man has committed the offence." The words are "liable to punishment". This is an absolutely new innovation for the future. I want these words may be corrected and the right sort of words may be put in here. If he has committed an offence, this could be done, not otherwise.

Barring that, let me come to the powers of courts. We understand we are now moving towards a socialistic pattern of society and the liberties of the people are to be made more ample and more secure. But what do we find here? The punishment under clauses 13 and 16 is six months to the accused as we have seen. What is the provision in 17? And what does 17 deal with? It reads:

"(1) Any officer exercising powers under this Act or under the rules made thereunder who—

- (a) without reasonable ground of suspicion searches or causes to be searched any place, conveyance or vessel;
- (b) vexatiously and unnecessarily detains, searches or arrests any person;
- (c) vexatiously and unnecessarily seizes the movable property of any person on pretence of seizing or searching for any article liable to confiscation under this Act;
- (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."

The excise officer may be bribed by an enemy of mine for Rs. 5,000 to insult me, to arrest me, to challan me and then I may be acquitted. The man on the finding of the Court has indulged in vexatious behaviour, wants to in-

jure another person without reason or rhyme, and yet my friends have got a very soft corner for him because he is an official. Is this the socialistic pattern of society we are coming to? If you want that justice should be done, imprisonment should be given to him. I have seen in my practice that even police officers against whom we proved to the hilt that they had been guilty of forgery and perjury in courts are yet enjoying the favour of their officers. I cited some cases when the Criminal Procedure Code was being discussed here, but nobody has taken care to find out whether what I stated was correct or not. If the Government behaves like this towards its officers, then the public cannot look to the Government for justice. If it is proved to the hilt that an officer acted in this manner, what is there to protect him? Why not give him imprisonment? Make it subject to the discretion of the courts if you like. In a particular case the court may think that the gravamen of the charge is not very great. I can understand that. Give discretion to the court, but provide imprisonment. Then I come to clause 12 of the Bill. I am very glad that an obligation has been placed on owners or occupiers of land to report manufacture of contraband dutiable goods. I like this provision, but at the same time, the onerous duty which is being put on them has been made much more onerous by having the words 'or the rules made thereunder' in this clause. The person who gives his land to a certain person after having been assured that he has got a licence etc. cannot be held responsible for that man who is in charge of the land and fails to send the right information to so and so. For instance, the rules may say that the statistics should be given. But how is this person to give that? There are many other rules referred to in this Bill. I would not like to prolong my speech by referring to all those provisions. but if you read clause 19, you will find that there are many provisions for which rules can be made, and non-compliance of which would make the act of a person penal. At the same time,

the person in charge of the land, or the person to whom the land has been given, is not liable for any such thing. But the person who has given the land, even though he cannot possibly know that the person who is staying there is to comply with such and such a rule becomes guilty under this provision. On the one hand, we find that persons who have committed offences go scot-free or are not properly punished. On the other hand, we find that persons who have nothing to do with the offences become guilty if a third person does not comply with the rules. After having looked at this Bill from all these standpoints, let me now look at it from the point of view of another fundamental principle of our Constitution. When we were framing the Constitution, we had originally article 16, which said that commerce and trade in India shall be free; but ultimately we changed that section, and we put in the present articles 301 to 305. In regard to those also, an amending Bill is coming up, namely the Constitution (Fourth Amendment) Bill. But I would respectfully submit that I do not regard that India is one as long as there are these provincial barriers between one State and another. If you say that import and export licences shall have to be obtained if you carry your goods from one State to another, if you say that any State will be able to charge more for its goods than what is covered by the transportation charges, then I must submit that I cannot regard India as one. The very essence of our Constitution was, and it was a fundamental right, that every person in India shall feel that he belongs to one country, wherever he may be; whether he be in Cape Comorin or in the Himalayas. he should feel that he belongs to the same country, namely India, because he will be able to get things at the same rate throughout India; as between the States, there will be no barriers, and no restrictions whatsoever for free trade and commerce. That was the essence of our Constitution. But what do we find now? I find from the speech of Shri Bansal that even now a man in Gurgaon will have to take an ex-

port licence from Delhi, and a person sending goods to Delhi from Calcutta will have to obtain a licence there, while this man will have to obtain a licence here. I think that is again against the fundamental provisions of our Constitution.

I have not gone through this Bill thoroughly, and I am not an expert on medicines, etc. But judging it from the point of view of a layman, I find that all these things can be considered and remedied only if the Bill is sent to a Select Committee consisting of at least twenty persons.

I would, therefore, appeal to the hon. Minister to be kind enough to take this Bill to the Select Committee, and remedy all these defects. These may not relate to the actual substance of the Bill; and the hon. Minister is only concerned with charging duties, and he wants only finance.....

**Shri A. C. Guha:** I do not want any finance. The finance will go to the States.

**Pandit Thakur Das Bhargava:** But the States are all yours. If my hon. friend does not want any finance, and if the provisions here will not be in great use, then there is no purpose in having these provisions, as my hon. friend Shri Dhulekar has stated; and in that case, the Bill may not go before a Select Committee. But at the same time, the hon. Minister has made it clear that he wants to help the industry. Whether the money goes to the States or to the Centre, one thing, however, is clear and that is that the persons who would be arraigned as accused will be troubled beyond measure, if you keep these provisions. So, I would suggest, at least in the interests of those people, who are your own countrymen, give them good laws, laws not inconsistent with jurisprudence and the accepted principles of criminal law.

**Shri Gidwani (Thana):** What has the hon. Minister got to say to this amendment?

**Mr. Chairman:** Before I call upon the next speaker, I have to inform hon. Members that if the House agrees, the hon. Member wants to add certain further names to the list of Members on the Select Committee; and he has given me the following list, namely, Shri H. C. Heda, Shri K. S. Raghavachari, Shri Nemi Chandra Kasliwal, Shri Fulsinghji B. Dabhi, Dr. Ch. V. Rama Rao, Shri Choithram Partabrai Gidwani, Shri Satis Chandra Samanta, Shri C. R. Basappa, Shri N. Rachiah, Shri Upendranath Barman, Shrimati Ammu Swaminadhan, Shri K. T. Achuthan and Shri Nand Lal Sharma.

I hope the House agrees to this addition.

**Shri Bansal:** Pandit Thakur Das Bhargava's name may be added there.

**Mr. Chairman:** Yes, that is also added to this.

**Shri Gidwani:** Yes, his presence is quite essential there. I would like to know what the hon. Minister has got to say to this amendment. Is the hon. Minister accepting the motion for reference to Select Committee?

**Shri A. C. Guha:** May I know whether is any time-limit for this Bill?

**Mr. Chairman:** No. Since Government had not sent this Bill before the Business Advisory Committee, no time-limit could be fixed for it. So, the ordinary rules for legislation would regulate this debate, and there is no time-limit.

**Dr. Rama Rao:** If the hon. Minister is going to accept Shri Bansal's proposal, that will save a lot of time.

**Mr. Chairman:** That should be left for him. The hon. Member might continue his speech now. If the hon. Minister wants, he can intervene at some other stage, and say that he is prepared to accept Shri Bansal's motion.

**Dr. Rama Rao:** I rise to welcome this Bill as far as it goes, and while doing so, I strongly support Shri Bansal's amendment for referring this Bill to a

Select Committee. After all, we would not lose much time by that. We can fix a shorter time for it. We are sitting for almost a month and a half more, and we can finish it by the end of this month or some time next month.

While supporting Shri Bansal's amendment, I do not want to spoil the effect of Pandit Thakur Das Bhargava's very powerful and convincing—at least to us it is convincing—speech for sending this Bill to a Select Committee. However, I would like to point out one or two facts.

You know that the pharmaceutical industry of India has had to fight against very severe handicaps. Even now, it is in a very bad position. But fortunately in some lines at least we have made some headway, particularly in regard to tinctures and certain other preparations with which we are now concerned. I do not want to mention the names of any particular firms, but I would say that there are some firms in our country which make very good tinctures, and which compete with foreign firms also in spite of so many handicaps. I notice that it is the intention of Government to help this industry, and the sooner they take further steps in this regard, the better it will be for the industry.

There is no reason why we should allow any foreign tinctures and foreign toilet preparations to come and compete with fairly good preparations which are made in India itself. Of course, there are some difficulties in this matter, for there are foreign firms with their branches in India which manufacture these preparations. But that does not concern the Bill which is before us now. I would only say this much that the tariff wall must be raised to such an extent that it becomes almost impossible to import foreign tinctures and other foreign preparations for which we have got equally good substitutes here in our country.

I have some doubts about the Schedule in the Bill. I do not want to lay

down any restrictions, or hamper in any way ayurvedic preparations, but at the same time, if any State which believes in prohibition wants to put it through, we should not give scope under the guise of *ayurvedic* preparations for all sorts of alcoholic drugs to be sold in the form of *asavas* and *arishtas*. I again repeat that I am not against genuine ayurvedic preparations containing a very insignificant quantity of fermented substance or very little alcohol. But the real danger lies in this that alcohol itself may be sold in a certain proportion under various labels, such as tincture *zingiberis*, or *asavas* or *arishtas*, and that will defeat the object of Government. Of course, it is for the State Governments to see how far the prohibition policies are successful or not. But as far as we are concerned, we should not pass any Bill which will hamper them in putting through their policies.

With these words, I support the proposal of my hon. friend Shri Bansal.

**Shri N. Rachiah** (Mysore—Reserved—Sch. Castes): I support this Bill. This Bill is a multi-purpose Bill. Firstly, it attempts to fulfil a desire expressed in the Constitution, our sacred document. Our Constitution has accepted the principle of total Prohibition. When that is the principle, I think the Government have been doing the right thing in levying duties on alcoholic and also medicinal and toilet preparations containing alcohol.

Our country is a poor country. As such, we are in need of large revenues and funds for executing the First Five Year Plan, the Second Five Year Plan and other schemes. The most important and central factor of this Bill is that it levies excise duties on dutiable goods—this is apart from fulfilling the desire expressed in the Constitution.

Now, it has been the habit of producers to evade tax in our country. That has been the central factor in the Report of the Taxation Inquiry Commission also. So the Government must be very cautious. Also, they must be very careful in safeguarding the revenue on such dutiable goods which are produced in the country.

One hon. Member said that the Bill was drafted very badly. Simply because we do not like a particular provision in the Bill, we cannot say that it is badly drafted. I think it has been very correctly and carefully drafted and the Government deserve all congratulations in this respect.

**Shri Nand Lal Sharma** (Sikar): What about grammatical mistakes?

**Shri N. Rachiah:** Even with regard to grammar it is correct. If there is some grammatical mistake, it can be corrected. As such I support the Motion of Shri Bansal for reference of this Bill to a Select Committee. There is no harm in it. We can scrutinise it and if there is anything to be incorporated in it, we can do so. When the House is prepared to accept a Motion for reference of this Bill to a Select Committee, I hope the Government will also accept it. There will be no harm; before the 31st March the Committee will have to report to the House and the House will then consider it in detail.

As I said, this is a multi-purpose Bill. At the same time, some hon. Members said that this Bill was meant to punish innocent people in the country. I, as one of those belonging to that category say that this Bill is not meant to punish innocent people. There are certain people who produce medicinal and toilet preparations. They may attempt to evade taxation. They may attempt to mix alcohol in medicinal and toilet preparations. In such cases, when a person really attempts to evade the provisions of this Bill, Government should not sit back but punish them and book them in the interest of public revenue and also in the interest of the country itself. So we need not be afraid that it will punish innocent people.

But there is one point. The police officers are there. They have been vested with a large amount of power. There are many cases where they have taken malicious action. Government should be very hard on the officers who misuse the power given to them. Sometimes such officers may have to be

[Shri N. Rachiah]

summarily dismissed for misuse of their powers. We have been repeatedly bringing it to the notice of Government, particularly the Home Minister.

Simply because a particular Government officer tries to misuse his power, we need not be afraid of passing this Bill. At that rate, we need not pass any Bill. There are many Acts, which have not been properly implemented. But that is not the fault of the legislature or this Parliament. It is the fault of the officers concerned—or the Government themselves—in executing such laws. So from that point of view even to eradicate any evil, as a matter of fact, and to raise the standard of the people there must be sanction of the law.

This Bill is a very important Bill. It is also a very simple and non-controversial Bill, and as such, I very strongly support it.

Regarding Prohibition also, my hon. friend from Bombay has pointed out that it has been a very good success in any State where it has been introduced either totally or partially. Even according to newspaper reports, I see that in the Bombay State total prohibition has been a very good success. It has been the aim and dream of Gandhiji to see that intoxicating liquors are prohibited in the interest of the poor man in India. As such, I am very thankful and grateful to the Central Government and the Planning Commission for having set up a Committee with Shri S. N. Agarwal as Chairman with regard to the introduction of total prohibition in the country. The people at large, particularly the common people who form 99 per cent. of the population of the country, are welcoming this noble idea because this step is going to fulfil totally a long cherished ideal of the Constitution. I support this Bill.

**Shri Sinhasan Singh** (Gorakhpur Distt.—South): The more I read this Bill the more I find that every clause contradicts the other clause, and I go the whole hog with Pandit Thakur Das Bhargava when

he says that this Bill is more confusing than clearing.

The Bill before the House does not give us a precise point to consider. For example, three kinds of excise officers are mentioned in this Bill. If you read the chapter 'Powers and duties of officers and landholders,' you will find that clause 9 gives power to any excise officer, who has been duly authorised, to arrest a person. Then, clause 10 gives power to any excise officer, duly authorised, to summon a person, and he has also the right of punishing the man under sections 228 and 193, i.e. for bad behaviour, false statements etc. Then the officer who arrests, sends the man, under clause 15, to an officer who has been empowered to send that man to the Magistrate. That is, the officer arresting is not called upon to send the man to the Magistrate within 24 hours, but he will send the man to an officer—an excise officer—who has been authorised to send the man to a Magistrate. The excise officer, as in the case of police officer who is empowered, must directly send the man to the Magistrate. But in this case the arresting officer may be a different officer; he is not empowered to send him to the Magistrate. He will take some time to send the man to that excise officer who is authorised by law to send the man to the Magistrate, or in case there will be no Magistrate, to another excise officer who may have power to go into the matter. Then again there is clause 16. This limits the powers of the excise officer to those of a police officer in charge of a police station, as defined in the Criminal Procedure Code—i.e. a sub-inspector. Under clause 10, an excise officer is given the power of a Magistrate. Under clause 16(3):

"All officers exercising any powers under section 15 or this section shall so exercise their powers as to ensure that every person who is arrested and detained in custody is produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for

the journey from the place of arrest to the court of the magistrate."

Now, if a man is arrested under clause 9 by an officer, that officer has not the power to send that man to the Magistrate. So he will take some time to send that man to that officer—excise officer—who has been empowered to send the man to the magistrate. Now, sub-clause (3) of section 16 states that he must reach the magistrate within 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate, which may take two or three days. According to some article in the Constitution—I do not remember the number of the article—the man arrested must be produced before the magistrate within 24 hours. In this way there is a lot of confusion. So, the Bill requires overhauling and, therefore, must be referred to the Select Committee. I remember a case in the U.P. Legislature when Bills started on coming in quick succession. I had occasion to talk to the Legal Remembrance and he said "What am I to do? I am asked to prepare a Bill in 24 hours and so I prepare the Bill without looking into the fact whether the Bill contravenes other Acts or not." This Bill has been prepared hurriedly to give an equilibrium in the case of duties. The idea is good and there should not be different excise duties in different States. The purpose of the Bill is very good, but the working of it, if it remains as it is, will do more harm than good. The Government, I hope, will very gladly agree to refer it to the Select Committee, and I am sure the Bill will not come back to the House in its present form but it will come in a much improved form, with all the confusions, ambiguities and difficulties removed.

3 P.M.

As Shree Dhulekar pointed out, the description of the preparations are given in one case as Ayurvedic preparations containing self-generated alcohol, which are not capable of being consumed as ordinary alcoholic beverages and in the other case the same preparations which are capable of be-

ing consumed as ordinary alcoholic beverages. What preparation will be declared by the excise officer to be one capable of being consumed as ordinary alcoholic beverages may be declared by another excise officer as not capable of being consumed as ordinary alcoholic beverages. This confusion can be removed only if the Bill goes to the Select Committee. When we are enacting a law, it must be one that will stand the test of time. Today I was reading the report of the Finance Department about their investigation department. Regarding the law of 1948 on investigation of income-tax, the Supreme Court, in one case, decided that one part of it was inoperative or *ultra vires* and in October 1954, the other part was also declared inoperative. Cases are taken to the law courts and we get a decree against us and so we must be more careful in framing laws and not make the whole Parliament a laughing stock before the world. When a law is declared *ultra vires*, it means that the whole labour is lost, money is lost and so on.

**Shri A. C. Guha:** If you will kindly permit me to intervene, most of these discussions have been going on under some misapprehension. The wording and the phrases used in this Bill are almost a reproduction from some of the existing Bills, particularly, the Central Excise and Salt Act and the Sea Customs Act. There is nothing which can be revolting to our sense of jurisprudence and which violates the sense of justice or humanity. I could have said all these things later on, but to remove the misgivings I would at this stage say that these are reproductions from existing enactments.

**Mr. Chairman:** The hon. Minister will have the opportunity to reply but there might be different contexts.

**Shri Shnhasan Singh:** Because they are reproduced from existing Acts, are they good laws?

**Mr. Chairman:** The hon. Member might conclude his speech.

**Shri Sinhansan: Singh:** I have nothing to add. This should not be the guiding principle to have another confusing law. You must have a clear law and for that purpose, reference to the Select Committee is the first necessity. As everybody has said that it may be referred to the Select Committee, I hope Government will have no objection.

**श्री नंद लाल शर्मा :**

तर्दिद्वयमय्यर्थं धाम सारस्वतमुपासमहे ।

चन्द्रप्रसादात्त्प्रलीयन्ते मोहन्यतमस्तुष्टाः ।

सभापति महांदद्य.....

**Shri Dhusiya (Basti Distt.—Central-East-cum-Gorakhpur Distt.—West—Reserved—Sch. Castes):** On a point of order. In the Parliament, only Hindi and English are the two languages spoken. How then can Sanskrit be spoken here?

**Mr. Chairman:** I expect this much tolerance from hon. Members to listen to it.

**श्री नंद लाल शर्मा :** मैं सभापति महांदद्य का उस सहायता के लिए जो उन्होंने प्रदान की है, धन्यवाद करता हूँ ।

विधेयक आंधीयां औं स्नान आदि की सामग्री के सम्बन्ध में हैं जैसा कि उद्देश्यों, आवृत्तक्षट्टस एंड रीजर में बताया गया है। मैं समझता हूँ, यह हमारे साम्यवादी भाइयों को स्वीकार होना चाहिए क्योंकि इसका पहला उद्देश्य साम्यवाद की समता को लाना, और समस्त भारत में uniform rates of excise and a uniform procedure for the collection thereof के प्रोजेक्ट को लागू करना है। यह शब्द हीं और इन का अर्थ इतना ही है कि दूश में जहाँ जो कर भेद हैं वे दूर हों और सारे भारत में एक

ही रंट्स हों। यह उद्देश्य तो इस विल की तालिका में दिये गये हैं। लेकिन दुर्भाग्य से या साँभाग्य से इस विल के अन्दर जो पैर हैं और वे बीसियां हैं और इन में से कुछ को पढ़ने से तो एसा प्रतीत होता है जैसे कि यह विल प्रांहीशन या मदा निषेध लागू करने के लिए दनाया गया है, और उस मदा निषेध के अनुसार शैद्यत के अन्दर जितनी भी टायलें प्रैंगेंज, मैंडसनल प्रैंगेंज, आयुवैदिक प्रैंगेंज और दूसरी जो प्रैंगेंज हैं उनका विवरण दिया गया है। मेरी समझ में नहीं आता कि यदि मदा निषेध इसका उद्देश्य है और जैसा कि हमारे कांस्टीट्यूशन में, हमारे संविधान में स्वीकार किया गया है और यदि हमारी सरकार उस नीति का स्वागत करती है तो उसके लिए १३८० पर गैलन और तीन रुपये पर गैलन इत्यादि का कोई प्रश्न ही नहीं उठता है। उसके लिये तो ऊंचे से ऊंचे रंट पर कर लगाएं कोई भी विरोध नहीं करेगा और यदि इसके ऊपर सीधा प्रतिबन्ध लगाया जाये तो उचित था, इन दैटीब के लगाए जाने का प्रश्न ही नहीं रहेगा।

एक बात मैं इसके शैद्यत के बारे में कहना चाहता हूँ। हमारे मित्र श्री रामा राव ने कहा कि आयुर्वेदिक आंधीयां के नाम से कई मादक पदार्थ जो हैं उनको कहीं छूट न मिल जाए। यदि वे चाहते हैं कि वे आंधीयां जिन में मादक पदार्थ इस्तेमाल किए जाने बज्जरी होते हैं आयुर्वेदिक विधियां के अनुसार उन आंधीयां पर प्रतिबन्ध लगा दिया जाए यह आयुर्वेद पद्धति से अनीभृता सिद्ध करता है इसका मैं कहा विरोध करता हूँ और एसा करना आयुर्वेदिक सिस्टम के ऊपर एक बहुत भारी आघात करना होगा इसीलए इसका मैं सिद्धांत रूप से विरोध करता हूँ।

दूसरी बात मैं इस विल की बनावट के सम्बन्ध में कहना चाहता हूँ। अभी श्री सिंहासन सिंह जी ने कहा, वही अच्छी बात कही, कि यह परस्पर विरोधी तमः प्रकाशवदिकू द्वस्वभावाः

पदार्थों से पीरपूर्ण है। एक धारा का विशेष करने वाली यहां पर अनेक धाराएं हैं। आप धारा ६ और धारा १० को दीखिये जो पावर टू एर्स्ट और पावर टू सम्मन के बारे में हैं। अभी यहां पर बतलाया गया कि वे दो भिन्न अफसर हो सकते हैं परन्तु यह भी हो सकता है कि एक ही अफसर हो। इसके आगे यह निरीश्वत नहीं किया गया कि वह ट्रायल कोर्ट दूसरी कॉन्सी होगा। क्या वही एक मात्र अफसर जो एर्स्ट करता है क्या वही अफसर होगा जो सम्मन जारी कर सकेंगा और उसी को निर्णय देने का अधिकार होगा अथवा वह आदमी किसी और कोर्ट के द्वारा ट्राई किया जाएगा। इसका निश्चय इस बिल में नहीं किया गया है। इसके साथ साथ जैसे श्री भार्गव जी ने अभी विशद रूप से इसका वर्णन किया है कि हमारे भूत अधिकारों के ऊपर यह एक बहुत भारी घात है किसी भी व्यक्ति को भी उसकी स्वतंत्रता छीन लेने की, उसकी सम्पत्ति पर अधिकार कर लेने की, और वैसे भी उसे कई प्रकार से कष्ट पहुंचाने की सम्भावना हो सकती है। कहा जाता है कि धारा ६ और १० के विशेष में या उनके ऊपर एक बूँक लगाने के लिए हमने यहां सेक्यूरिटी २७ रुपये है। “Excaticus search, seizure etc., by excise officer.” किन्तु यहां पर भी हमको यह निरीश्वत नहीं हुआ कि बर्डन आफ प्रूफ किसके ऊपर है। जिस व्यक्ति को निरपराध पकड़ लिया गया है उसको अपनी निरपराधितासिद्ध करनी होगी जो कि जीरसप्रूफस के सिद्धान्त के विरुद्ध है। वस्तुतः हर एक व्यक्ति को न्याय निरपराध मानता है जब तक कि उसके विरुद्ध कोई अपराध सिद्ध न हो जाय। अब ऐसी परीक्षिती में उसको एक व्यक्ति ने पकड़ लिया। पकड़ने के बाद उसको स्वयं अपनी निरपराधता सिद्ध करनी होगी, उस अफसर के विरुद्ध। फिर यदि वह अपराधी सिद्ध नहीं हुआ और वह गया तो उस पुलिस अफसर की बोनाफाइडी या मैलाफाइडीज को सिद्ध करने का बर्डन उस आदमी पर आवेगा या उस अफसर पर अपने को निरपराध सिद्ध करने का बर्डन आवेगा यह

यहां पर निरीश्वत नहीं है। इधर सेक्यूरिटी २० में “bar of suits and limitation of suits and other legal proceedings” दिया गया है, जिसके अनुसार उस व्यक्ति के विरुद्ध जो गुण फैल में अपने कर्तव्य का पालन कर रहा हो कोई प्रोसीर्डिंग नहीं की जा सकती। अब वह गुण फैल के प्रोसीर्डिंग का बर्डन किसके ऊपर है, उस व्यक्ति के ऊपर जिसने अपना कर्तव्य पालन किया या उस व्यक्ति के ऊपर जो कि निरपराध सिद्ध हो चुका है और अपने को दूसरे दिये जाने के कारण जिसने सूट दायर किया है।

हमारे माननीय मंत्री महोदय ने कह दिया है कि जो वास्तविक कानून है उसी में से वह ट्रूक है उठा उठा कर यहां रखे हैं। लौकिक वह न हो कि “कहीं की इंट कहीं का रोड़ा, भानुमती ने कुनवा जोड़ा”। जो सामग्री कहीं से से उठाकर यहां रख दी गयी है वह यहां ठीक बैठती है या नहीं इसका कुछ निश्चय नहीं है। ऐसी पीरपूर्णी में मैं इसे प्रबर समीक्षित को प्रिये जाने के प्रस्ताव का अनुमोदन करता हूँ।

**Shri C. R. Iyyunni (Trichur):** While I have great pleasure in supporting this Bill, some of the discrepancies that have been pointed out by some Members here seem to be valid. While it may be easily conceded that a measure of this nature is absolutely necessary, some of the provisions that are contained here do not seem to be quite all right. For example, as has been pointed out by Pandit Thakur Das Bhargava, the powers that are granted under clause 9 are entirely vested in the Central Government.

“Any excise officer duly empowered by rules made in this behalf may arrest..” etc.

The House will kindly consider that that power is entirely vested in the Central Government. To me it appears that it would be but fair if the rules that are to be framed were framed by the Central Government and are placed before the Parliament. The Parliament, after looking into the

[Shri C. R. Iyyunni]

rules, and if within a period of a month or three months, no suggestions are made, they may consider the rules to be quite all right. Otherwise, the powers that are vested in these excise officers are so vast that an excise officer can do things which an ordinary man can find to be intolerable. The powers that are granted to the excise officer are so vast. If, as a matter of fact, he does something wrong, say, without reasonable ground of suspicion or vexatiously and unnecessarily detains any person, the punishment that can be awarded by a court of law is only Rs. 2,000. On the other hand, in the case of a man who probably gives some information a false information, so far as this matter is concerned, his punishment may extend up to two years, whereas the officer concerned can be punished only to the extent of Rs. 2,000. When the officer perhaps knows that the information is false and yet when he acts under that false information, I would say that the punishment provided is certainly very immoderate. I must say that it should be as serious as the one that ought to be given to the person who gives the false information. It is definitely stated thus:

"vexatiously and unnecessarily detains, searches or arrests any person."

But the punishment is only Rs. 2,000. Of course, he is liable to punishment of Rs. 2,000 whereas the other man has to go to jail. That is the position. This aspect may be considered.

Then I come to the practical difficulties in the administration of this law. There are various Ayurvedic medicines in which, by a chemical process, alcohol is generated. In the case of the preparation of such medicines, certainly a licence will have to be taken. If a licence has to be taken, of course, they have to abide by the rules and regulations and conditions that are laid down by the officer concerned. To my mind, it appears that it is each for an officer to do serious injury to the development and advancement of the ayurvedic system of

medicine, unless an officer of a very high grade is given the power to grant such licences or not to grant them. There are inspectors and excise officers of lower grade, having a salary of say below Rs. 100 per mensem, and therefore we should decide whether the power to grant licences should be vested in such officers. Small officers will make a report and the officers above them will enroze the statement and the officers still above them will just approve it and say. "It is all right". Unless an enquiry is set on foot by the higher officers with regard to the granting of licences, it would be very unfair. Otherwise, I am afraid that the ayurvedic system of medicine will be subject to very serious repercussions on account of the provisions contained here. Of course, it may be said that in certain States there are systems of granting licences, though I am not very certain about it, but of course I can understand it. But the whole thing will depend upon how it is administered. If the law is administered by smaller fries who get only a very small salary and who are amenable to—I need not say what that means—influences, monetary or otherwise, the position will be rather dangerous.

Another matter for which I have serious objection is with regard to the rule making powers. Under the rule-making powers—clause 19 sub-section (2) (ii) it is stated:

"The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(ii) prohibit absolutely, or with such exceptions, or subject to such conditions as the Central Government may think fit, the manufacture, or any process of the manufacture, of dutiable goods or of any component parts or ingredients or containers thereof; except on land or premises approved for the purpose."

The word 'absolutely' should be removed from there of course, by an amendment it can be done. There should not be any absolute prohibition so far as these things are concerned. Under certain conditions it may be allowed and if those conditions are not there then they may be prohibited.

**Shri N. M. Lingam:** Sir, the scope of the Bill is very limited. The hon. Minister while introducing the measure said that he had three objects in view. One was securing uniformity in the rates of taxes levied and excise duties collected in the various States. The second was to help implementation of prohibition policy in some of the States and the third, he added later on was to secure the same object through another measure that was promised this morning by the hon. Minister for Commerce and Industry.

My own feeling is that this Bill simply helps to create uniformity in the country with regard to the levy of duties. This is what the statement of objects and reasons say: "In order to secure uniformity, the entry relating to excise duty on medicinal and toilet preparations containing alcohol, etc....." It is not one of the objects of the Bill to secure greater success in the implementation of the policy of prohibition embarked upon by certain States. I would ask the hon. Minister to show what precisely are the provisions in this measure that are designed to accelerate progress of prohibition.

Sir, from the point of view of helping the pharmaceutical industry in the country, this measure is welcome, but we cannot in this context overlook the fact that this policy of giving encouragement and more facilities for the development of this industry impinges directly on the policy of prohibition to which the country as a whole is committed although only a few States have actually framed laws for enforcing the policy of prohibition. From this point of view it could be argued that this measure itself is unconstitutional. Article 47 of the Constitution says:

"The State shall regard the

raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health."

Then article 37 says:

"The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws."

So, applying this principle to see whether we are by this measure helping to implement the policy of prohibition successfully. I am constrained to come to the conclusion that we are not, for the simple reason that the few restrictions imposed by certain prohibition States are sought to be removed by this measure; nor can it be argued that medicinal and toilet preparations are not used extensively and are not a menace to the successful working of prohibition. I shall, Sir, with your permission read from the Report of the Expert Committee which went into this question. This is what the report says:

"With the advent of prohibition in some of the States in 1937 it was noticed that a large number of medicinal preparations were being used as beverages for satisfying the craving for drink. Such States, in pursuance of their policy of prohibition, found it necessary to impose stringent restrictions to control the sale and possession of such medicines. This again created bottle-neck in the free flow of inter-State trade."

**Shri Dhulekar:** Is the word 'ayurvedic' there?

**Shri N. M. Lingam:** Wait. I am coming to that.

**Shri Dhulekar:** Why 'coming'. Say whether it is there or not.

**Shri N. M. Lingam:** It is there.

**Shri Dhulekar:** Then read that.

**Shri N. M. Lingam:** Please wait, I shall come to that.

So, here, the States have imposed restrictions in the interest of prohibition policy. But, as Pandit Thakur Das Bhargava said, that is a thing which is not desirable in the larger interests of the country. We do not want any barriers as between States in matters of trade.

Then, Sir, here is a resolution adopted by the All-India Excise Conference which says:

"But in view of the possibility of misuse, it is recommended that a central co-ordinating authority should prepare a uniform list of medicinal and toilet preparations, which can be put to other than medicinal use, and which should, therefore, be excluded from the concessional rate."

We do not contemplate any such distinction in this measure in the preparation of drugs or in the preparation of toilet, medicinal and other preparations.

The following paragraph in the Report of the Committee is significant:

"The task of formulating uniform rules and suggesting uniformity in matters of taxes, licence fees and lists of preparations is by no means an easy one in view of the diversities existing at present due to differences in the policies of the different States. Some are prohibitionist, some have introduced partial prohibition and some have not yet introduced prohibition; and as the treatment of spirituous preparations is closely linked with the requirement of prohibition, both internal movement and inter-State movement are thereby affected. Under these circumstances, two sets of rules would appear to be unavoidable. It is presumed, however, that in pur-

suance of the directive principle contained in article 47 of the Constitution all the States will eventually adopt Prohibition. One set of rules to be administered uniformly in all the States should be prepared on this basis."

So, I would like to know from the hon. Minister how in view of our commitment to introduce prohibition throughout the State, he propose to implement this measure successfully; because, there is, I feel, an inherent conflict between the provisions of this Bill and our commitment not only to successfully implement the policy of prohibition in certain States but also to extend the same policy throughout the country.

Sir, in the evidence tendered before the Committee, this is what the men in charge of enforcement of prohibition in Madras and Bombay said:

"The officers administering the prohibition Act in the States of Madras and Bombay, however, spoke about the misuse of some of these preparations and the misuse, they pointed out, was neither isolated nor confined to one or two preparations. One after another, several preparations assumed notoriety by attracting illicit users, and their sales disclosed increasing demand till controls were clamped on them. It was observed by the Committee that in Madras most of the preparations that were extensively misused were those which had not been prepared strictly according to the pharmacopoeia. Spurious medicines with high alcoholic content and fancy trade names were manufactured and sold in the market for satisfying the cravings of those addicted to drink. And since the Excise officers posted to the bonded laboratories were precluded from interfering with the mixing of alcohol in medicines and were only charged with the function of ensuring utilisation of alcohol, there is no

possibility of ensuring manufacture of medicines according to the standard pharmacopoeia."

So it is quite clear that the measure that is before the House is not going to help implement the policy of prohibition. On the other hand, it seeks to relax some of the restrictions imposed by State Governments. Sir, I speak with personal knowledge that in spite of the great sacrifice made by some of the State Governments, people have fallen a prey to the influence of these medicinal and toilet preparations in the prohibition areas. I know hideous poison is being sold in the name of medicinal preparations and it has wrought untold havoc among several families.

So it is not enough to say that this Bill or this policy of the Government has rendered nugatory the policy of prohibition to which under the Constitution we are committed. On the other hand, it has done positive harm to the health of the people by encouraging the use of spurious preparations going in the name of medicines. So unless this inherent conflict is resolved, there is no use of passing a measure like this.

As far as the scope of the measure is concerned it is unexceptionable, I agree, because we propose to introduce uniformity and remove barriers between States in trade. But how does it square with our policy of introducing prohibition throughout the state? Prohibition is one of the main planks in our programme. It is a policy to which the whole House is committed because it is one of the Directive Principles of our State Policy.

So I would urge the Minister to withdraw the Bill. After all, there is no urgency about it. The States can collect tax under article 277, and we can review the whole position having regard to the findings of the Prohibition Enquiry Committee which is going into the question thoroughly.

Also, I would suggest to the hon. Minister that this measure may be framed with reference to the other measure promised by the hon. Minis-

ter of Commerce and Industry to be introduced in the House in the near future.

Unless this inherent conflict is resolved, this measure is going to achieve neither successful prohibition, nor successful trade, nor again development of the industry. This is the principal aspect of the matter that I wanted to bring to the notice of the House. With these words I sit down.

**Shri A. C. Guha:** As I have already indicated, the proposal for Select Committee, at least as put forward by Mr. Bansal, is not acceptable to me or to Government. I think it is almost an absurd proposal that the Select Committee on a Bill whose purpose is very limited, as put in the Statement of Objects and Reasons, can take up the consideration of numerous other recommendations of the Expert Committee, and while most of those recommendations can be implemented only by the State Governments and not by the Central Government. So, from that point of view, I think the Select Committee proposal, at least the scope which the Mover of the motion envisaged for the Select Committee, may not be quite in order for the Bill.

**Shri Bansal:** Why "not in order"? Say "absurd" again.

**Shri A. C. Guha:** You can see, in the "Object and Reasons" the present Bill is intended to implement this provision of the Constitution. So you cannot go beyond the purpose of the Bill, in the Select Committee. Anyhow, that is for the Chair to decide. I can only make my submission.

**Mr. Chairman:** My purpose is lost when the Government does not agree.

**Shri A. C. Guha:** Then I think I should take up the case of Pandit Thakur Das Bhargava. I am sorry he is not here.

**Shri Bansal:** Therefore you can spare him; you could use more polite words with reference to him.

**Shri A. C. Guha:** I have always been polite with everybody.

**Mr. Chairman:** There need be no discussion.

**Shri A. C. Guha:** Sir, my friend Pandit Thakur Das Bhargava frequently becomes eloquent on certain matters. There was the Bill which preceded this one, and there also he was very much eloquent. And I can understand his point of view and appreciate it also. In our early days, in the first decade of this century, we were made to read a book by Lee Warner, entitled "Citizens of India". Later on that book was replaced by another book, by Mr. N. N. Ghosh, and I think the name of that book was somewhat more blunt, "Benefits of British Rule" or something like that.

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** "England's Work in India."

**Shri A. C. Guha:** Oh; Yes.—"England's Work in India". Thank you. There we were made to learn that one of the benefits of the British rule was the British system of jurisprudence where the burden of proof lies on the prosecution and unless and until the man is proved to be guilty he is to be considered innocent. This is quite a good idea, but I think we have long ago passed that period of *laissez-fair* where these ideas could have some relation to actualities. Time has changed and ideas of jurisprudence also is changing.

He has cited some of the clauses of this Bill and has said that the Bill is badly worded, that some of the provisions of the Bill have injured the very basic principles of the Constitution or of the sense of natural justice. I can say that those clauses, which he has described as abhorrent to natural justice or the basic principles of the Constitution, most of those things are actual reproductions from the existing enactments, and some of those enactments have been in force for a number of years. It cannot be said that all those enactments were hurriedly drafted or that they have created mischief in the country. I can readily admit that

that every piece of legislation, as every piece of human handicraft, must have some defect. I cannot claim perfection for this legislation or for any legislation passed by this House. But compared to the other legislations, I think this piece of legislation is not any worse drafted or is not in any sense more abhorrent to our sense of justice. This Bill, I should remind the House, really belongs to the Central Excise Department. Some of the provisions which he has referred to are reproductions of similar words in the Central Excise and Salt Act, which is not a recent Act. One or two other provisions have been reproduced from the Sea Customs Act enacted in 1873, quite a venerable law which has been in operation for a number of years.

He has given notice of certain amendments. But, I am sorry he won't be here to move those amendments.

**Mr. Chairman:** He might come.

**Shri A. C. Guha:** I shall welcome him.

The other points mentioned by hon. Members are about prohibition and about ayurvedic medicines. I think perhaps due to some faulty expression or something like that, I might have been misunderstood by some Members. As far as I recollect I used the words that while framing this Bill, we have kept an eye also on the prohibition policy.

**Shri Nand Lal Sharma:** Favourable or askance?

**Shri A. C. Guha:** As the English phrase would mean. I do not recollect to have said that one of the purposes of this Bill is to directly help the prohibition policy. For that purpose, I should refer to another Bill which the Commerce and Industry Ministry may place before the House in the near future—I am not able to say when it will be done—which would control inter-state movement of these drugs. The purpose of this Bill is very limited, as stated by the hon. Member who

spoke last viz. to implement the provisions of article 268 of the Constitution and thereby to bring about uniformity in the rates of excise duties. I stated in my introductory speech how these duties were varying from one State to another State. With the help of the States, on the interim report of the Expert Committee, some sort of uniformity has now been implemented. That has got no legal force behind it. It is based only on the good grace and kind co-operation of the different States. Things cannot be left in that nebulous state for a long time. That is why we have introduced this Bill so that there may be legal force behind this uniformity in the rates for these drugs. I cannot claim that this Bill purports to help the prohibition policy. But, as I have used the words, I should repeat that we have also kept an eye on the prohibition policy of the Government.

**Shri N. M. Lingam:** Whatever it may mean.

**Shri A. C. Guha:** Yes, because, that is not the purpose of the Bill. Some of the clauses if properly worked would help in the prohibition policy. That is by determining which of the drugs may be considered potable and which are not considered potable, so that the different States may take adequate action on such determination of the categories of these drugs. That is only an indirect way of helping the prohibition policy. The real purpose of this Bill is to bring about uniformity. To criticise this Bill from the point of view of prohibition, I think, is not quite justified.

**Shri N. M. Lingam:** What prevents people from taking non-potable drugs?

**Shri A. C. Guha:** Even the prohibition States won't prohibit because they are not potable.

As regards ayurvedic medicines, I should say as I have stated before, that we are not putting any stricter conditions or terms on them than at present. The present position is, some of these ayurvedic drugs containing self-generated alcohol which are likely to be used as ordinary alcoholic beverages

are subjected to varying duties in the different States. In Saurashtra, the duty is Rs. 3 per bulk gallon. In the U. P. it is Rs. 60 per gallon. In Hyderabad, it is Rs. 5 per gallon. In another place, it is Rs. 7-8-0 per gallon. In West Bengal, it is Rs. 30, and in Madras it is Rs. 35.

**Shri Dhulekar:** I may correct him by saying that in U.P. the duty of Rs. 60 is not for self-generated alcohol. It is charged for *sanjeevinis* and *suras* which are distilled. That is the difference.

**Shri A. C. Guha:** This word is used by the Expert Committee. Here we are providing:

Ayurvedic preparations containing self-generated alcohol, which are not capable of being consumed as ordinary alcoholic beverages... No duty.

Ayurvedic preparations containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages..... Rs. 3 per gallon.

While the duty has been varying from Rs. 3/- to Rs. 60 in the different States, we are making it a uniform duty of Rs. 3. I think, from the point of view of ayurvedic medicines, there is nothing objectionable in this Bill.

**Shri Sinhasan Singh:** Will this reduction of duty help prohibition or otherwise?

**Shri A. C. Guha:** It is for the sake of uniformity. That is the main purpose of the Bill.

**Shri Sinhasan Singh:** The hon. Minister said that he had kept an eye on prohibition. Would this reduction from Rs. 60 to Rs. 3 lead towards prohibition?

**Mr. Chairman:** I think the hon. Minister said that that would be regulated by a different Bill and that that is not the object of this Bill.

**Shri N. M. Lingam:** The other Bill regulates imports and exports.

**Shri A. C. Guha:** Inter-state movement.

**Shri N. M. Lingam:** It has not got anything to do with the percentage of alcohol.

**Shri A. C. Guha:** That would be determined by the rules under this act.

Some hon. Members referred to the rule-making powers. Quite a number of enactments passed by this House provide for rule-making powers to the Government or government officials. I can say that no report has come—at least I do not know whether any report has come—that these rule-making powers have resulted in a great havoc to the people or have caused much harassment to the people. If any such case is reported, Government will always take some action. It is quite likely that rule-making powers work according to individual temperament; just as any other statute also. Some officers may digress into some things which are not within their jurisdiction, or which may be reprehensible from the point of view of social justice. That does not depend on whether there are rule-making powers or not. That is just according to the frailties of human nature. We have always to be content with the human elements we have at our disposal. Rule-making power is not a new thing. There is no point in objecting to the rule-making powers. I see no ground for sending this Bill to the Select Committee for revising the rule-making powers. As is already the policy of the Government, all these rules will be placed before the House and so, if anything is found to be repugnant, the Members can raise some discussion on those rules. That will be open to them, and I think there is no need to send this Bill to the Select Committee.

I again appeal to Mr. Bansal. I feel he has taken objection to my use of the word "absurd". That does not mean that I have to say anything against him personally, but when he

makes a proposal seriously, he should at least see the limitations of this Bill. This Bill is particularly intended for one purpose and to implement only two of the recommendations; but if he wants to bring all the 32 or 31 recommendations within the purview of the Select Committee, surely I shall have to say that is an absurd proposal. And I can tell him that out of the 31 recommendations about 20 have been implemented if not **wholly** at least partially. Ten others are under the consideration of different Governments. Most of them are not within the purview of the Central Government, and so the Select Committee will not be in a position to take any notice of those recommendations.

I hope he will withdraw his motion and that the Bill will be passed.

**Mr. Chairman:** We have this motion for consideration as well as the motion for reference to Select Committee. Would the hon. Member like me to put his motion for Select Committee to the House first?

**Shri Bansal:** In view of what the Minister has stated, in spite of the fact that every Member.....

**Mr. Chairman:** No qualifications now, it must be clear.

**Shri Bansal:** In spite of the fact that every Member who has spoken has supported me, he has thought it fit to describe my proposal as absurd. In spite of that I withdraw my amendment.

*The amendment was, by leave, withdrawn.*

**Mr. Chairman:** The question is:

"That the Bill to provide for the levy and collection of duties of excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drugs or narcotic, be taken into consideration."

*The motion was adopted.*

**Mr. Chairman:** Now, we take the Bill clause by clause. There are no amendments to clauses 2 to 7.

The question is:

"That clauses 2 to 7 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 7 were added to the Bill.*

**Mr. Chairman:** Clause 8. Pandit Thakur Das Bhargava. Absent. Clause 9 and 10. There are amendments to these clauses by Pandit Thakur Das Bhargava who is absent, and to clauses 13 and 17. There are no amendments to the other clauses.

The question is:

"That clauses 8 to 21 stand part of the Bill."

*The motion was adopted.*

*Clauses 8 to 21 were added to the Bill.*

#### The Schedule.

**Shri S. C. Samanta:** I beg to move:

- (i) In page 9, line 32, for "alcohol" substitute "spirit".
- (ii) In page 9, line 33, add at end "but are known as Asavas and Arishtas."
- (iii) In page 9, omit lines 34 to 36.

In the Schedule ayurvedic preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages do not come in for any duty. It is not alcohol but it is spirit which is generated. So, I would request the hon. Minister to accept my amendment to substitute "spirit" for "alcohol".

By the next amendment I want that the words "but are known as Asavas and Arishtas" should be added at the end, so that it would read:

"Ayurvedic preparations containing self-generated spirit, which are not capable of being consumed as ordinary alcoholic beverages,

but are known as Asavas and Arishtas."

There should be no duty on the above.

By the third amendment I want that the next classification, viz, "Ayurvedic preparations containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages" should be removed. I have come to know that there are some such preparations which are made from distillation. In order to put duty on them, I would request the hon. Minister to change the description to: "Ayurvedic preparations containing distilled alcohol which are capable of being consumed as ordinary alcoholic beverages." My intention is that Ayurvedic medicines which are not of an alcoholic nature should be duty-free. So, if the hon. Minister can make the change suggested by me instead of accepting my amendment No. 6, I shall be glad.

**Mr. Chairman:** Amendments moved:

- (i) In page 9, line 32, for "alcohol" substitute "spirit".
- (ii) In page 9, line 33, add at the end "but are known as Asavas and Arishtas"
- (iii) In page 9, omit lines 34 to 36.

**Shri Dhulekar:** I wish to put in one word.

Ayurvedic preparations in which there is spirit or alcohol which are produced by distillation come under classification (i). Therefore, there need not be any fear that ayurvedic preparations which are distilled and which are capable of being consumed like spirit or wine would be subject to duty, but I do not wish that they should be exempted from duty. But I would submit that it is necessary to clear this idea from the mind of the Government that these ayurvedic preparations which are called asavas and arishtas in which there is self-generated alcohol can also be used as ordinary

[Shri Dhulekar]

alcoholic beverages. This idea is very wrong. Up to this time I have not read in any newspaper or anywhere that ayurvedic preparations of this kind have been used in large numbers and that there have been any criminal prosecutions either in Bombay, Madras or any other province. I have not seen that. I shall be obliged if the hon. Minister gives me any case or any number of cases in which the *asavas* or *arishtas* have been used as wine.

4 P.M.

Why am I asking for it? The reason is that all these *asavas* and *arishtas* contain ingredients which cannot be taken in large quantities by anybody. Supposing there is *drakshasav*, if a person takes more than two ounces of it, he is bound to get diarrhoea. If any person takes *kumariasav*....

**Dr. Suresh Chandra** (Aurangabad): Who says?

**Shri Dhulekar:** I say it. He is bound to get diarrhoea, if it is *drakshasav*. My point is that when *drakshasav* is prepared, so many other things are put into it that it cannot be used as a drink. In the same way, other *arishtas* also cannot be used as a drink. They have got so many medicinal properties that if you take them habitually or take them even for two or three or four days, you will find that you become ill of so many diseases. Simply because the word *draksha* or grape is there, you cannot put *drakshasav* in a class with port-wine.

**Dr. M. M. Das:** It is just like port-wine, and it can be taken.

**Shri Dhulekar:** At least, I have not seen it.

**Mr. Chairman:** Let this not be decided among the Members themselves.

**Shri Naad Lal Sharma:** This is to be decided by the Chair?

**Shri Dhulekar:** I know all these ayurvedic preparations, and therefore, I can say that. My point is that you must fix some percentage of alcohol whereby you can call it a beverage, so

that the excise officer may not dump every *drakshasav*, every *kumariasav*, and every other *asava* or *arishta* as a beverage. So, Government must make up their mind and say that self-generated alcohol above ten or twelve per cent will be considered as beverage or as wine, while a percentage below that will not be considered so. Some such percentage must be fixed by Government. Otherwise, there will be lot of difficulties, for every *asava* has got some self-generated spirit, and according to this provision, it may be said that every *asava* can be used for beverage. Even if an *asava* has only two per cent of self-generated spirit, and a man takes it, the excise officer can go and catch hold of the man, saying, this contains two per cent of alcohol, and you can easily drink two bottles of it as beverage. But that is impossible. How can you take a medicine to the tune of about two bottles? So, there is a loophole in this phrase:

"Ayurvedic preparations containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages."

I am not saying that you should not impose any duty on it. I am not opposed to the levy of the duty. But I am opposed to this thing, namely that by not fixing the percentage of alcohol in these preparations, you are opening the doors for corruption to every officer, so that without any difficulty, he will enter a *vaidya*'s shop or a medical practitioner's shop and say, come on with a five rupee note or a ten rupee note; and he will get that note and coolly walk away. If he is asked, why did you not *chalaan* that man, he would say easily, it was only an *asava* which had self-generated spirit to a small extent, and therefore it could not be taken as beverage.

[**SHRIMATI RENU CHAKRAVARTY** in the Chair]

I would, therefore, suggest that you must go into this question and fix

some definite percentage. Although with his force of speech my hon. friend the Minister of Revenue and Defence Expenditure might be able to persuade Shri Bansal to withdraw his amendment for referring this Bill to a Select Committee, yet I would request him to look into this very simple matter. Every day, we are hearing from all corners of the country that there is corruption. You say that corruption should be reduced, but now you are giving another handle to the officers for corruption. I would like to tell the hon. Minister that with this provision, the duty that would be collected on ayurvedic preparations such as *asavas* and *arishtas* will certainly be a hundred times less than what your excise officers will collect indirectly in the form of illegal gratification.

I would request the hon. Minister to assure this House that under the rule-making powers, they will certainly put in somewhere that self-generated spirit or alcohol below a particular percentage would not be considered as an alcohol or a dutiable article under this Bill. If some such provision could be made in the rules, then I shall certainly thank the hon. Minister for that.

**Dr. Suresh Chandra:** I have been listening to the speech of my hon. friend Shri Dhulekar very carefully, and although I do not entirely agree with him on the point that the *darkshasavas* or *kumariasavas* cause motions and diarrhoea—because I have also some experience of this, and I have also taken *drakshasav*, and I think it is given by the ayurvedic doctors for giving more strength and also to cure stomach disorders—yet I agree with him in regard to the other point that he has made, and I hope that the hon. Minister will consider that point, and make the necessary amendment to this provision. *Drakshasavas*, *kumariasavas*, and other *asavas* which are made by the ayurvedic doctors cannot be considered on a par with port-wine and other wines to which a reference has been made by my hon. friend the

Parliamentary Secretary to the Minister of Education, Dr. M. M. Das. For, as Shri Dhulekar has pointed out very rightly, these *drakshasavas*, and other *asavas* contain very little alcohol, and even that little quantity is created by certain fermenting processes only. So, if you want to avoid corruption, and if you want also that the ayurvedic men should keep to certain standards so far as these *asavas* are concerned, it is very necessary that you should fix some definite percentage of alcohol on which you can levy your excise duty. So, I support what Shri Dhulekar has said, and I hope the hon. Minister will see his way to accept his amendment.

**Shri A. C. Guha:** As I have already stated, the position regarding the Ayurvedic medicines, as provided in this Bill, will in no way be worse than the position prevailing now. Rather, I feel that the position will be somewhat better off.

I cannot claim any expert knowledge in regard to any of these drugs, potable or non-potable, but I should like to say that we have been guided in this matter by the expert committee's recommendations and we have accepted their wordings and their recommendations in this provision also.

As for what Shri Dhulekar has stated I can surely agree to his proposal that while the rules are framed, attention should be kept on these points. After the rules are framed, if he feels that there is anything which needs improvement in those rules, surely we shall consider those things. I hope, therefore, that there will not be any apprehension in his mind in regard to this matter. We can give him this assurance that while the rules are being framed we shall certainly consider all these points.

He also mentioned something about the corrupt practices of our officers. Of course, if we proceed on the basis that all our officers are corrupt, then we cannot have any step forward. It is true that there may be some corrupt

[Shri A. C. Guha]

officers, but I feel that by and large our services maintain a standard of integrity and corruption may not be the practice or the usual habit with our officers. If our officers are indulging in corrupt practices, they can do so not only in the case of ayurvedic medicines, but also in the case of allopathic medicines. So, that is no argument for exempting ayurvedic medicines from the provisions of this Bill.

**Shri Dhulekar:** I never appealed for exemption.

**Shri A. C. Guha:** I agree with his point with regard to the rule-making power. If after the rules are framed, he finds anything which has still to be improved upon, he may just communicate it to us and we shall surely consider it.

I hope Shri S. C. Samanta will not press his amendments but will withdraw them and let the Schedule be passed as it is in the Bill.

**Dr. M. M. Das:** Is consideration of the amendments of Shri S. C. Samanta going on now in the House?

**Mr. Chairman:** Yes.

**Dr. M. M. Das:** I wish to speak a few words on the amendments.

**Mr. Chairman:** After the hon. Minister has replied to them?

**Dr. M. M. Das:** I am sorry.

**Shri N. M. Lingam:** Probably, he wanted to speak on the 'Children Bill'.

**Shri S. C. Samanta:** I would have been glad if the hon. Minister had accepted my amendments because, according to his intention, I wanted to specific *asavas* and *arishtas*. However, according to his desire, I beg leave of the House to withdraw my amendments.

*The amendments were, by leave, withdrawn.*

**Mr. Chairman:** The question is:

"That the Schedule stand part of the Bill."

*The motion was adopted.*

*The Schedule was added to the Bill.*

**Clause 1—(Short title, extent and commencement.)**

**Shri A. C. Guha:** I beg to move:

In page 1, line 6, for "1954" substitute "1955".

**Mr. Chairman:** The question is:

In page 1, line 6, for "1954" substitute "1955"

*The motion was adopted.*

*Clause 1, as amended was added to the Bill.*

*The Title was added to the Bill.*

#### **Enacting Formula**

**Shri A. C. Guha:** I beg to move:

In the Enacting Formula for "Fifth Year" substitute "Sixth Year".

**Mr. Chairman:** The question is:

In the Enacting Formula for "Fifth Year" substitute "Sixth Year".

*The motion was adopted.*

*The Enacting Formula, as amended was added to the Bill.*

**Shri A. C. Guha:** I beg to move:

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

I should say one word in regard to a point mentioned by Shri Bansal in his speech, as I forgot to refer to it earlier. That is about the bonded warehouse arrangement. I think he has been under some misapprehension. The provision in the Bill regarding bonded warehouse is not a compulsory provision; it is quite optional. The point is that the duty will be leviable in the State in which the drugs will be stored in bonded warehouses, if the manufacturer so decides to have a bonded warehouse. For example, the Bengal Chemicals may have a bonded warehouse in Delhi. Then in the case of those which will be released from the

bonded warehouse in Delhi, the duty will be levied in the Delhi State and the revenue will go to the Delhi State. It is not necessary that the manufacturer will have bonded warehouses all over the country; it is not even compulsory to have bonded warehouses anywhere. The only provision is that the duty will go to the particular State in which the bonded warehouse is situated, if the manufacturer decides to have a bonded warehouse. I thought I should clarify this point and remove the misapprehension which the hon. Member might have in his mind.

There are no other points left un-replied.

**Mr. Chairman:** The question is:

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

*The motion was adopted.*

SEA CUSTOMS (AMENDMENT)  
BILL

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):**  
I beg to move\*:

"That the Bill further to amend the Sea Customs Act, 1878, be taken into consideration."

The Sea Customs Act is a very old Act. In fact, it was enacted in 1878. Since then, there have been some amendments to this Act. I think last year I had to pilot an amending Bill. I can tell the House that we are just considering a thorough overhauling of the Act; but it may take some time before we can have such a thorough revision of the Act bringing the different provisions therein upto our present requirements. For the time being, we have to make certain amendments to meet some emergent situation and it is for this purpose that this Bill is introduced.

This, also, is naturally, a Bill with a limited scope. I think I can divide the scope of this Bill into four different categories. There have been certain conventions and practices

developed during these years according to the requirements of our foreign trade.

There are no legal backing to those conventions and practices. This Bill seeks to provide a legal backing to those practices and conventions. What we have been doing in practice, we now want to put on the statute to have the formal sanction of the law and of this House.

The second point is to take some additional power for controlling smuggling. It may not be quite unknown to this House that smuggling has increased rather enormously. Previously there was not much economic incentive for smuggling, but due to so many restrictions and controls, and licences and prohibitions due to the development of indigenous industries and also due to our having long land borders after the partition of India, smuggling has become more rampant and has also become a paying proposition. Certain articles are prohibited for import and even for export, and if a smuggler can get them into or send them out of India, he can reap rich profits. This economic incentive for smuggling was lacking so long; now it has become necessary for the Government to take stringent measures and to take additional powers to stop smuggling.

The third purpose of the Bill is to regulate the customs house clearing agents. There also certain conventions and practices have developed according to the changing phases of our foreign trade. We want now to put these things in a legal form by embodying them in the statute.

The fourth purpose of the Bill is, of course, a minor one, but still from the administrative point of view, it has become important. With the complexities of the developing foreign trade, there have been some cases where it is not possible for the customs authority to make correct assessment in the initial stages. Things might have been cleared on a wrong

\*Moved with the recommendation of the President.

[Shri A. C. Guha]

assessment. When the wrong assessment is prejudicial to the assessee, he comes before the Government or the Central Board of Revenue for review or appeal, but when the wrong assessment is to his benefit, it is not in the interest of the assessee to file an appeal for review. In such cases, we have no authority to open up the case again. We are taking power by this Bill that in appropriate case the Central Board of Revenue might open any case on which assessment has been made, payment given and goods cleared.

These four points are, in short, the main purpose of the Bill.

The first point regularising the conventions and practices is mostly for the benefit of the traders and the business community, such as clearance of goods on payment of a provisional duty and this is provided for in clause 3.

Then, with regard to prior entry system, it means that a ship may come here on a particular date, but the manifest and bill of entry may be presented earlier than that date and all the preliminary work might be done in the meantime, so that as soon as the ship arrives, the goods may be cleared without waiting for the formalities to be undergone after the arrival of the ship. The necessary provisions in this respect are in clauses 7 and 8.

Regarding assessment and realisation of duty before actual examination, this is also for the benefit of the traders and the business community.

We have provided a new thing in clause 9 and it will be for the benefit of the exporters. In the case of a short-shipped goods, now the person concerned has to present his claim within five days of despatch. It is not always possible for the exporter to get almost immediately a correct estimate of the goods shipped and he may not be in a position to make his claim for refund of export duty within five days. We are now extending

the period to three months, so that in the case of short-shipped goods, the exporter may make his claim.

As regards the licensing of clearing agents, the provision we have put in the Bill will be helpful to the business community. The present law, if properly interpreted, would mean that the clearing agent would have to take a licence for every consignment of goods that he has to clear. In fact, it has not been possible to work on these lines and we can say that we have been working rather without any legal authority in treating the clearing agent as having a sort of a permanent licence. We are providing here that the licence would be given to the clearing agent and he need not apply for a licence for every consignment of goods to be cleared by him. We are also providing certain rules for the grant of the licence and, if necessary, also for cancellation of the licence. Certain cases have come to our notice in recent times of undesirable activities of the clearing agents, and under the present law it is not possible for us to deal with such delinquent clearing agents properly. We are putting this thing on a proper footing and according to the requirements of the present international and foreign trade of India.

There are certain lacunae in the present Act. As I have said, we have no power to review the cases assessed by the Customs Collector. The Board is now taking the power to review and re-open cases.

Again, certain articles may be exported out of India, enjoying the privilege of drawback of the imported ingredients used in the manufacture of that article. It may happen that the articles might not have been sold in the foreign countries or the consignee in the foreign country might not have taken delivery of those things and if those articles come back to India, we have no provision now to ask for the refund of the drawback which the exporter had while exporting the articles.

So, by providing this, in such cases we may ask for the refund of the drawback which has been enjoyed. Otherwise, this article which might come back after export would be enjoying a sort of privilege and advantage over other articles manufactured in India and which have not got this good fortune of having an oversea trip.

Then, the most important provisions are the anti-smuggling provisions. As I have stated, smuggling has increased I think on all most all days when questions on Finance are asked during the Question Hour, there are a number of questions in both the Houses regarding smuggling in different forms, and so I can take it that this House and the Members are quite alive to the seriousness of this problem. We have put in this Bill certain provisions which give additional powers to the Government and these are embodied in clauses 10 to 15 of the Bill. I can say that some of these provisions which are embodied here are in fact taken recourse to even now, say, in respect of X-rays. In several cases, we have to put the suspected smuggler to be X-rayed, and we have found some precious metals or jewels hidden in their bodies and we have had to extract these things. Strictly speaking, we had perhaps no legal authority to subject the suspected to be X-rayed, but anyhow we are putting those things in this Bill and we have also provided that this will be done only by the order of the court and under proper medical supervision.

**Shri Velayudhan** (Quilon cum-Mavelikara-Reserved Sch. Castes): I think the whole point is covered.

**Shri A. C. Guha:** As the hon. Member has said, I think I have covered almost all the points in the Bill.

**Shri Bansal** (Jhajjar-Rewari): What do you say? Have you really covered all the points?

**Shri A. C. Guha:** Almost covered; I cannot say I have covered all the points.

**Mr. Chairman:** The hon. Minister may continue undisturbed.

**Shri A. C. Guha:** I should now leave the Bill to the charge of the hon. Members of this House and I hope they will be pleased to pass the Bill.

**STATEMENT RE: INCIDENT DURING PRIME MINISTER'S VISIT TO NAGPUR**

**Mr. Chairman:** I have to bring to the notice of the House that the Government desires to make a statement on a particular incident that happened during the visit of the Prime Minister at Nagpur. Have I the permission of the House to allow Pandit G. B. Pant to make a statement?

**Several Hon. Members:** Yes.

**The Minister of Home Affairs (Pandit G. B. Pant):** I thank you and the hon. Members of this House for giving me permission to interrupt the proceedings in order to inform the Members about a deplorable incident which occurred during the Prime Minister's visit to Nagpur this morning, about which the Madhya Pradesh Government have issued an official communique. The communique runs as follows:

"An incident occurred at a road crossing at about 11.45 this morning when the Prime Minister was going from Sonegaon airport to Nagpur. He was travelling in an open car with the Governor and the Chief Minister on either side of him. He was standing in the car. There were big crowds on either side of the road. A rickshaw puller pushed his rickshaw in front of his car which resulted in the car stopping. The rickshaw puller advanced towards the car and jumped on the foot-board. He had a knife in his hand. He was immediately over powered by the Military Secretary to the Governor and some police-officers. The Prime Minister's car proceeded immediately after, according to the programme and went to the Chief Minister's House where he addressed a meeting of some

[Pandit G. B. Pant]

M.L.As. and others. The rickshaw puller who was arrested gave his name as Babu Rao. The matter is under investigation."

Since vague reports about this incident were whispering about and there had been considerable concern among the Members and also among the public, I have considered it necessary to give the facts that have been authoritatively stated by the Madhya Pradesh Government. The Prime Minister is cheerful, in his best spirits, and is following his heavy programme as usual. He does not seem to attach any significance to this incident and he in fact looks upon even things, much more grave, with utter unconcern. The Members will however join me, I hope, in thanking Providence, congratulating the country and wishing that our beloved Prime Minister may be spared for many, many years to lead the country on to its destined goal.

#### SEA CUSTOMS (AMENDMENT) BILL

**Shri C. C. Shah** (Gohilwad-Sorath): I have a few observations to make about one of the clauses of this Bill. This Bill concerns some technical matters about the levy of customs duty about which I know little. But it also takes certain additional powers to check smuggling with which I am in wholehearted support. Those powers are contained in clauses 10 to 15. There is one clause among this group of clauses, namely, clause 14, to which I wish particularly to draw the attention of the House. That clause reads as under:

"Where any goods are seized under this Act on the ground that they are smuggled goods, the burden of proving that the goods are not smuggled goods, shall be on the persons from whose possession the goods are seized."

In the Notes on Clauses, on this particular clause, it is stated as follows:

"At present when action is taken against persons who are in

possession of smuggled goods, it is not always easy for customs authorities to prove that the goods are smuggled goods. This clause places the burden of proof in such cases on persons, from whose possession suspected smuggled goods are seized. Such a provision is necessary in order to safeguard the revenues of the State."

This raises a very important question and that is why I wish to say a few words about it. Nobody can have any sympathy for smugglers. It is not my intention, in drawing attention to this provision to save any smuggler or do anything of the kind, but it should not mean that we have got only to utter the word 'smuggler' or 'blackmarketeer' to be able to pass any Bill of any kind or nature. There must be something which we must satisfy ourselves about to show that we are doing something which is right and proper, even if it is to check smuggling or blackmarketing. Now, if you read this clause, Sir, you will find that any goods can be seized on the ground that they are smuggled and then the person in whose possession the goods are found has to prove that they are not smuggled goods. Now, what is the definition of smuggled goods? The definition of 'smuggled goods' is "goods on which duty has not been paid." Therefore, if any goods are seized from my possession, on the ground that they are smuggled goods, they can be seized and then I have to prove that customs duty has been paid on those goods. This covers every class of goods and all kinds of goods.

I will give one or two instances to illustrate how unworkable this provision is and what great hardship it will cause to trade and commerce. Supposing for instance, an importer in Bombay receives a consignment of watches or fountain pens on which he pays import duty. Then he sells parts of that consignment to various dealers in Bombay. Those dealers sell the goods to upcountry constituents all

over India and some parts of that consignment, for example, are in Delhi. Then the Customs Officer, alleging—he has only to allege—that these goods are smuggled goods seizes them. Then what happens? The person in whose possession those goods are found has to prove that they are not smuggled goods. He has to prove that customs duty has been paid on those goods. How is he to prove that? How is he to go to the original importer? The goods might have passed through several hands before they came to him. How is he to go to the original importer and get the bill by which he can prove that customs duty has been paid? Take the case of a consignment of watches which has passed through several hands after customs duty has been paid. How is the ultimate dealer in an upcountry place from whom the Customs Officer suspecting that the goods are smuggled goods, seizes them, to prove that customs duty has been paid on those goods? Again, take the case of bullion or gold. I know there is large-scale smuggling in gold. I do not wish to defend it, but if there are smugglers, at least there are some honest dealers also in the country. It is not that all dealers are smugglers. Gold has no label and you cannot put a label on gold to show that import duty is paid on it. It is well known that import of gold has been prohibited in India since the last seven years so that there can be no gold in India now on which import duty can be proved to have been paid, unless you have to go seven years backwards. Now, take the case of a dealer in Bombay from whom a Customs Officer seizes 500 tolas of gold on the ground that it is smuggled gold. That gold may have passed hands through many people before it came to him. How is he to prove that seven years back customs duty has been paid on that gold? I submit it is impossible to prove it. Now, remember this. If it is alleged that these are smuggled goods, even if the man is a *bona fide* purchaser paying full value, he is not protected. If I prove that I have paid full price for the goods, even then unless I prove

that import duty has been paid upon those goods, the ground that I have paid full value is no defence under this clause. Now, a man may have purchased 100 tolas of gold in the open market paying the full price. A police officer follows him and seizes the gold. I have seen many such raids in Bombay. I have dealt several cases of alleged smuggling like this. What is the present position under the existing law? Under the existing law the position is that if a Customs Officer seizes gold on the ground that it is smuggled gold, he has to prove that it is smuggled gold before it can be forfeited. But the decision is left only to the customs authorities, either it may be the Collector of Customs or the Central Board of Revenue or the Joint Secretary of the Finance Department; but no court can intervene. If these authorities find that the goods are smuggled goods on however slender evidence laid before them, that finding is final. I know of a number of cases in which gold has been seized on the ground that it is smuggled gold and if it were to be proved in a court of law that it is smuggled gold, the Customs Officer could never have proved that it is smuggled gold. Yet, the customs authorities have held that it is smuggled gold and have forfeited the gold. They have already very wide powers under the existing law. Their finding whether some particular gold is smuggled or not is final and no court can interfere unless the courts come to the conclusion that the Customs Officer in his investigation has failed to follow the principles of natural justice, or has exceeded his authority. Therefore, in a number of cases I know they have suspected that the gold was smuggled and the same was forfeited. But, the Government have not found these wide powers enough. Now, they are taking a power which I humbly submit to the hon. Minister is extra-ordinary and it shall make trade impossible in certain items, particularly in bullion.

Now, I will give you an instance of a case which I am recently handling.

[Shri C. C. Shah]

A bullion merchant who has been doing bullion trade for the last 40 years openly purchased—it is established—700 tolas of gold at full market rate and paid Rs. 70,000 for it in ready cash. He had borrowed this money from somebody else in order to be able to carry on the trade, —he purchases, sells it back, pays back the money and so on. The Customs Officer seized that gold on the ground that it was smuggled gold. That gold has remained with the customs officials for the last six months and Rs. 70,000 of this man has been locked up which he has borrowed from somebody else. Yet, it is open to the Customs Collector, even on any slender evidence put before him, to come to the conclusion that it is smuggled gold and forfeit it. Those powers he has already got and not being satisfied with those powers the Government now only has got to say: "We suspect this is smuggled gold. We seize it on the ground it is smuggled gold. Now you prove that import duty has been paid upon it." I submit again, it is impossible to prove it. Therefore, even though in some cases smuggling may go on, after all smuggling may be due to the inefficiency of your administration. Smuggling may be due to corruption in your administration. It may be due to your import policy which makes certain goods scarce and therefore, it is profitable to smuggle goods. So, to a particular extent it may be necessary to modify that policy or it may be necessary to tighten up your administration. But, in order to safeguard State revenues you cannot put a provision in law which makes trade impossible or which makes honest people.....

**Dr. Ram Subhag Singh (Shahbad South):** Blackmarketeers.

**Shri C. C. Shah:** Not only that. It makes it impossible for honest people to do any trade or business. There is any quantity of gold in India at present. My father may have purchased 100 tolas of gold ten years

ago. I may have it in my house. The customs officer takes it into his head to do so, and says, I suspect this to be smuggled gold. He comes to my house and makes a search and seizes the gold. He has only to say, I seize this on the ground that it is smuggled. I have to prove that import duty has been paid and that it is not smuggled gold. My father may have purchased it ten years ago; it may have remained in my house. As I said, there is any quantity of gold in India today. I know there is smuggling in gold. How much, I do not know.

**Shri Mulchand Dube (Farrukhabad Distt.—North):** Will the ground of seizure not be certified?

**Shri C. C. Shah:** No; he has only to say that this is smuggled gold. Having seized the gold, the other man has to prove that it is not smuggled gold. I submit that this provision, even to protect the State's revenue or to prevent smuggling is too drastic. I know that in several instances we are now modifying the ordinary principle of jurisprudence by shifting the burden of proof here and there. In many cases we have done that out, in this case it goes to this length that a man who has paid the full price for it is not protected. I would earnestly request the hon. Minister to consider as an exception to the rule that if a man proves that he is a bona fide purchaser.....

**Shri M. D. Joshi (Ratnagiri South):** Will he not have receipts or other documents to show that he has purchased?

**Shri C. C. Shah:** He has receipts for the purchase. He has no document that the import duty has been paid. That is why I began by saying that smuggled means goods on which no import duty has been paid. The mere fact that he has paid the price is not enough. Let us compare, this Bill for example, with the Bill, which we passed this morning, the Railway Stores (Unlawful Possession) Bill. Even there, we wanted to be drastic. If you compare the provisions, you

will find that this provision is something more extraordinary than the one we have put in that Bill. The Railway Stores Bill has the provision:

"Whoever is found, or is proved to have been in possession of any article of railway stores shall, if the court sees reasonable grounds for believing such article to be or to have been the property of any railway administration, unless he proves that the article came into his possession lawfully, be punishable..."

There are two conditions: one that the court must have reasonable grounds for believing that such an article is the property of the Railway Administration. A judicial decision has to be made by a judicial officer that it is the property of the Railway Administration. Secondly, the defence can be that I am in lawful possession. Lawful possession means, I am not a thief, I have paid the price for it, I have purchased it in the open market, I have not stolen these goods. That is being in lawful possession. Under this clause, even if you are lawfully in possession, which means, even if you have paid the full price for it, it does not convince Government unless you prove that the Import duty has been paid on it -- before, I earnestly submit to the hon. Minister that even though the merchants and the business community may be suspected to do many foul things, let us not do things which make trade and commerce impossible.

**Shri H. N. Mukerjee (Calcutta-North-East):** I am in general agreement with the objective of the Bill which my hon. friend Shri A. C. Guha has brought forward. But, I feel that even though his objective regarding more expeditious and efficient checking of smuggling is something which we all share, we have to remember that regulations however carefully they are drawn up, cannot make up for lax administration, or what is even worse,

sometimes corrupt administration. That is why I wish to draw the attention of the House to this particular aspect of the matter, namely that the administration of the regulations ought to be as efficient and honest as we wish it to be. I do not wish to imply for a moment that in the Customs Department corruption is general. On the contrary, I should say the generality of our officers are extremely honest. But, there must be black sheep in every fold and if some of the black sheep happen also to be big bugs in the administration, then disaster is likely to follow.

I say this because, though I do not know a great deal about customs administration, I happened to receive last year certain information regarding the working of the Calcutta Customs and the operation of the draw-back regulations. I asked certain questions of the hon. Minister on the 29th March, 1954. If I may be permitted to give a short resume of the points that I wanted to clarify through these questions, I will say that under the rules which are incorporated in the *Customs House Manual*, draw-back was admissible to the extent of the full customs duty levied at the time of importation on aviation spirit which was uplifted by aircrafts proceeding out of India. The quantity of oil taken by the aircrafts was shown in a document called the *Export General Manifest*, which was issued in respect of each shipment at the airport by the agents and countersigned by the customs officials. When claims were received from the claimants, the quantity on which draw-back was claimed was verified by reference to the document *Export General Manifest*, as is the custom, and where the quantity was not found, the claims were rejected. I got certain information on the basis of which I made an enquiry from the Minister which indicated that up to September 1953, certain claims filed by a very important firm, amounting to Rs. 15 lakhs were found to be not in order and the dealing

[Shri H. N. Mukerjee]

officials who were minor clerks, who detected this and filed a complaint with the secret service which is attached to the organisation of the Collector of Customs, in Calcutta. When the enquiry was in progress under the aegis of the secret service, a very high official, it seems, called back the papers from the secret service. The clerk who had given information regarding the initial likelihood of corruption was transferred and then a recommendation came from the Central Board of Revenue for the sanction of certain claims as a special case.

When I asked that question, the Minister found that I had a great deal of information on which I could pursue by means of supplementaries, and therefore he was good enough to suggest that I should write to him about the materials which I had. I wrote to him, I think, on the 1st of April giving him particulars of what I had got. I gave him certain numbers regarding the Customs House office files. As far as I am concerned, I am not in the know of these things. I cannot vouch for the absolute accuracy of this kind of thing. All I wanted was that there should be a thoroughgoing investigation of this position because I had also got certain information regarding some discriminatory treatment to a very important aluminium manufacturing concern in the country regarding the draw-back on aluminium, and certain raw materials which were got for the purpose of manufacture in this country. I had got some material of this sort and I forwarded to the Minister such material as I thought was relevant. In the last session I again reminded the Minister of this matter by means of another communication. It may be that the Minister has taken certain steps regarding this. I got certain answers to my questions when I asked them and I got the impression that there was an attempt on the part of the administration to hush up this matter. There was no attempt, of course, to deny that there have been

certain mistakes, or there had been certain things done which should not have been done. It was said that it involved about Rs. 15,000 while my information was that the amount involved was very much higher. As far as I am concerned, I do not know the rights or wrongs of the matter. What I am concerned with is that these allegations involve, as far as the allegations are concerned, very high-up officials. Even the answers of the Minister suggest that there is a kind of *hocus-pocus*, something wrong somewhat which is being sought to be covered up. I want this kind of thing to be straightened out. That is why I say that it is not sufficient only to have very good regulations. I am very happy that the Minister wants to tighten up the regulations regarding the checking of smuggling. I wish him all success. But, it is very important to remember at the same time that the administrative machinery should also be tightened up. If this kind of allegation comes in, cases of corruption on a high scale, corruption in which high officials are alleged rightly or wrongly to have been associated in wrongful deals with big concerns, foreign as well as Indian, then, surely, there should be a thoroughgoing investigation, and I am happy to say that as far as my humble effort was concerned in forwarding to the Ministry what I got by way of information—those who informed me could not give their full names because they were afraid of being victimised in Calcutta, but I gave whatever information I got and I was rather astonished.....

5 P.M.

Shri A. C. Guha: As far as I recollect.....

Shri H. N. Mukerjee: I do not wish the Minister to intervene before my point is finished.

Mr. Chairman: I think the hon. Minister can reply later.

Shri A. C. Guha: I think I sent a reply to his letter.

**Shri H. N. Mukerjee:** A real investigation has to be made into this kind of allegation, and I hope that the Minister will really look into the information which I sent in to him. And that is the only point which I wanted to make, *viz.*, that administration is more important perhaps than regulation as far as smuggling is concerned.

**Mr. Chairman:** I think there are not very many speakers who are desirous to take part at this stage.

**Shri Bansal:** There are.

**Mr. Chairman:** Then, I think we have to adjourn, though I think it will be quite a long adjournment. Anyway, we adjourn, since there are so many desirous of taking part.

*The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 14th March 1955.*

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