

moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1975, in excess of the amounts granted for those services and for that year.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1975, in excess of the amounts granted for those services and for that year."

*The motion was adopted.*

SHRI H. M. PATEL: I introduce\* the Bill.

I beg to move†:

"That the Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1975, in excess of the amounts granted for those services and for that year, be taken into consideration.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1975, in excess of the amounts granted for those services and for that year, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: We shall take up the Clauses.

The question is:

"That Clauses 2, 3 and the Schedule stand part of the Bill."

*The motion was adopted.*

*Clauses 2, 3 and the Schedule were added to the Bill.*

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

SHRI H. M. PATEL: I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted.*

15.19 hrs.

#### MOTOR VEHICLES (AMENDMENT) BILL

THE PRIME MINISTER (SHRI MORARJI DESAI): Mr. Deputy-Speaker, Sir, I beg to move:

"That the Bill further to amend the Motor Vehicles Act, 1939, as passed by Rajya Sabha, be taken into consideration."

This is a Bill which has been brought in for three or four specific purposes. The chief one is to take some effective action to prevent accidents which are increasing particularly on account of the influence of liquor and intoxicating drugs. Many accidents are attributed to their effects. We are therefore tightening this provision so that anybody who is found on blood test to have consumed alcohol will be liable to prosecution and if he is convicted twice, his licence is permanently liable to be cancelled. It is necessary to have this kind of simple test because, otherwise, it is very difficult to bring home the guilt of the persons concerned and, therefore, this is one of the

†Introduced with the recommendation of the Vice-President acting as President.

†Moved with the recommendation of the Vice-President acting as President.

(Shri Morarji Desai.)

main provisions that relates to motor cycles. It has been found that 90 per cent of the motor cycle accidents result in head injuries. It is, therefore, necessary to take more precautions against that emergency. Therefore, it is being made compulsory to put on helmet. For the Sikhs who have put on turbans, it is very difficult for them to wear these helmets. It is not intended to give protection by helmets or to give exemption from the necessity to wear helmets to turban-wearers. That would be futile.

Then anybody can put on turbans by saying that he is not going to put on helmets. But, for the Sikhs, it is a matter of religious practice and, therefore, it is essential for them and so that exemption has to be given to them. Therefore, they are given the exemption; they are also protected because they have also thick hair along with the turbans. This is not the case with the other turban-wearers.

Then, there is no speed limit provided for scooters, motor cycles. That is also one of the causes for the accidents and, therefore, a maximum speed of 50 k.m. is provided.

Another amendment is because of some of the difficulties that we experience relating to the new comers for the issue of national permits. It has been provided so that one who has a permit for public transport will get the national permit. That means there is no place for the new comers at all and, therefore, that is suitably amended so that any person can get a national permit if he is found fit and suitable, this Bill is designed to give protection to those who drive or use motor cycles, scooters, as far as possible from accidents and there is a provision on which, I find, some amendments moved. That is about the revision of fees for driving licences. Provision is now made that the fees will be fixed from time to time by rules and the rules will, of course, be published and also placed before the House.

Therefore, there is no question of any arbitrary decision. But, it is necessary to have this kind of provision so that it becomes flexible. It is not our intention to profiteer from these fees at all. But this fee was fixed more than thirty or forty years ago and it has not been changed. The costs have increased and hence it is necessary to increase the fees. It is not that we have taken this power arbitrarily. There is no intention to fix arbitrary fees very high. That is not the intention at all.

This is why the Bill was unanimously accepted in the Rajya Sabha. I hope this will also meet with the unanimous approval of this honourable House.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Motor Vehicles Act, 1939, as passed by Rajya Sabha, be taken into consideration."

I find that there are some amendments. There are three amendments for sending it to the Select Committee.

First of all, I would like to know from the hon. Members whether they have taken the approval for all the names; that they have given here. I find that the first name is that of Shri Morarji Desai and there are two amendments.

SHRI MORARJI DESAI: They have not been asked by them at all.

MR. DEPUTY-SPEAKER: Anyway, I shall ask them to move. Is Shri Vinayak Prasad Yadav here? He is not here. Is Shri Yuvraj here? He is also not here. Shri Shrikrishna Singh here? He is also not here. Mr. Ravi, are you moving?

SHRI VAYALAR RAVI: (Chirayinkul): I move:

"That the Bill further to amend the Motor Vehicles Act, 1939, be referred

to a Select Committee consisting of 9 members, namely:—

Shri C. K. Chandrappan,

Shri Morarji R. Desai,

Shri M. N. Govindan Nair,

Shri N. Sreekantan Nair,

Shri K. Ramamurthy,

Shri K. Vijaya Bhaskara Reddy,

Shri C. M. Stephen,

Shri V. M. Sudheeran, and

Shri K. P. Unnikrishnan

with instructions to report by the first day of the next session." (10)

MR. DEPUTY-SPEAKER: Have you taken the approval of the Minister?

SHRI VAYALAR RAVI: If the hon. Prime Minister desires, I can withdraw that amendment. Sir, he is the Minister in charge of this. If it is out of order, I shall move another amendment.

MR. DEPUTY-SPEAKER: This will be out of order. Evidently you have not taken the consent of the Minister.

SHRI VAYALAR RAVI: Sir, I fully support the Bill moved by the hon'ble Prime Minister. As has been explained by the Prime Minister, the purpose is to tighten the law so as to prevent more accidents. Sir, many accidents occur due to drunkenness on the part of the drivers. The world knows very well the attitude of the Prime Minister towards liquor and drinking. Therefore, I have no doubt in my mind that he will enforce the provisions of the Bill with all its strictness.

Sir, I would like to make a few points. Traffic in our country has increased due to the expansion of the network of roads, especially national highways and then introduction of national permits and regional permits. If you look at the whole thing you will find, Sir, the road accidents is

not a concern of today only. Even in 1969—when the hon'ble Prime Minister was the Deputy Prime Minister—a study panel on this aspect was appointed. The Chairman of this panel was Shri K. T. Merchant. It made an in-depth study into the reasons for the increasing number of accidents and made suggestions to prevent the same. Several recommendations were made by this Study panel in 1972.

Sir, the total number of deaths due to road accidents in 1972 was 15,500. So, it is really a matter of concern for all of us. Even in Delhi the deaths due to road accidents were around one thousand. In Delhi the main reason for road accidents is that the people are not observing traffic rules. Even if there is red light they do not stop. The D.T.C. is another menace on the road. This Study revealed this alarming situation of the road accidents which made the hon'ble Prime Minister to move this Bill. The reasons for road accidents are shown as rash driving, multiplicity of vehicles and poor maintenance of roads. But I want to draw the attention of the Prime Minister to an important aspect that 60 per cent of the drivers are incompetent. They are lacking in many aspects of driving.

Sir, the licensing system has many defects. This has been reported even by the police. I believe that the Delhi Police has suggested to the Government that a radical change is necessary in the licensing system. Today, everybody knows anyone who has some influence etc. is able to get a licence. I would like to appeal to the Prime Minister that a radical reform should be brought about in the licensing system and the driving licence should not be issued to everybody. The person concerned should have knowledge of the traffic rules. They should have the knowledge of the road sense. This is necessary to avoid accidents as much as possible. Sir, I support the Bill. Here I may refer

[Shri Vayalar Ravi]

to a report which says that a Police Official had complained to the Magistrate that he had challaned a scooter driver 219 times in three weeks, yet the driver could violate the law and escape. Any how, there is a provision here for the cancellation of the licence.

Take the Clause 7 of the Bill. There is a very little amendment to this Clause. According to this the Government is vested with powers to make rules in order to fix the fees. According to the Motor Vehicles Act, the fee has already been fixed. But my point is that a fee has again been prescribed. But you are taking away the right from the Bill. Now, you may change the rule and you may charge for more money from the people who apply for the licence as licence fees. These two clauses 7 and 11 will give the right to the Government to charge more money from the people. You may fix more money under Clauses 9 and 11. But I appeal to you not impose more levy for issuing licences and for renewing the licences.

Another point is very important, that is Section 17. In Section 17, you have made a good change. I welcome it, because suspension is upto 5 years. It is very good. But on one point I want your clarification. You say that it should not exceed more than 5 years. It means the judge can decide on the punishment of even one year or six months. I wish the hon. Prime Minister may fix the minimum punishment of 5 years. If you say it should not exceed the period of five years, the judge can even fix six months. So, I want that the minimum prescribed punishment of suspension of licence should be five years or, in the case referred to in clause (b) two years.

Then coming to Section 17A, that is, automatically suspending the licences, I wish to draw the attention of the hon. Prime Minister to the other Clause. Here in the old Act Clause

17(5) fixes only for a period of six months. It says: "The court shall unless for special reasons to be recorded in writing which thinks fit to order otherwise order the disqualification of an offender (a) who having been convicted of an offence punishable under Section 116 is again convicted of an offence punishable under that Section . . . . ." Earlier you have said that Section 17 fixes five years. Here it says six months. I want a clarification on this.

Then I come to Section 17B. It includes a provision for cancellation or suspension of the licence. It is a very good provision. I fully support that Clause. But the provision of this clause comes under Clause 116.

Then coming to the provision under Section 17, the hon. Prime Minister is himself very particular about this provision. It is regarding a person driving a vehicle under the influence of drugs. Section 17B says like this:

"17B. (2) Without prejudice to the provisions of sub-section (2) of section 17, if a person, having been previously convicted of an offence punishable under section 117, is again convicted of an offence punishable under that section, the Court, making such subsequent conviction, shall, by order cancel the driving licence held by such person."

Earlier in 17(b) the option is given; it says that such authority may cancel or suspend for such period as it may deem fit. Here you have not given the option; you say merely 'cancel'. This is discrimination. I have in this connection moved an amendment and I hope the hon. Prime Minister will accept it.

Another very important thing is regarding 117. I refer to page 5. Whoever while driving or attempting to drive . . . . , it goes on to say. Now, 'attempt to drive' is a wide term. It is in the original Act also. Especially the Prime Minister assured this House



that he would strictly enforce law. Police officers<sup>d</sup> will be enforcing the law. It can be misused. We have seen how it was done. You have already had experience of it.

SHRI MORARJI DESAI: I say the rule of law.

SHRI VAYALAR RAVI: How can the Minister or the M.P. or the I.G. of police control every action of every police man? It is difficult. We give powers to thousands and thousands of police men. Those powers can be misused. I have not said that it had been misused. It says here 'attempt' to drive. I myself may be sitting at the wheel and anybody can come and say: you are attempting to drive. On page 6, there is another clause, 126 (a) says that 'police officer in uniform'. It never describes the rank. What kind of a police officer? Of what rank? Any police officer can suspect a man and say: you are drunk. My amendment is on that point. I am afraid that this expression 'attempt to drive' has to be defined properly. There are other clauses on the same page. 126(a)(iii) has to be looked into; I request the hon. Prime Minister to look into it. A police officer in uniform, if he feels, he can get hold of a person and say: he is drunk. It is not necessary to prove. It needs clarification. What does it mean? Clause 4 is very interesting. If a police officer has reasonable cause to suspect him of having alcohol in his blood or urine, he can do certain things. This is giving blanket authority. What is 'reasonable cause'? The hon. Prime Minister says that it will be the rule of law. This power can be misused and anybody can be arrested without a warrant. A man need not be taken to the hospital or to a magistrate. He can take a person into custody; he need not take the test before the magistrate or in the hospital.

SHRI M. N. GOVINDAN NAIR (Trivandrum): Do you know that there is a devise and if you breath into it it will show? When that is there,

why are you afraid that something will happen?

SHRI VAYALAR RAVI: Who takes the evidence? That is the point. It must be before a magistrate or some senior police officer.

श्री चौधरी बलबीर सिंह : (हंशियारपुर)  
आप पादा हा छो दें ।

SHRI VAYALAR RAVI: What is this? I am speaking on the Bill. I am only saying that the witness must be taken before a police officer or the magistrate. He must justify his position, because the man who has been taken into custody can go to a court of law and file a suit stating that the police Officer wanted to humiliate him, insult him by taking him to jail. Therefore, in order to save the police officer himself, he should be supported by proper evidence. It must be done before an authority, either a Magistrate or a senior Officer. There should not be a blank cheque. I am not taking much of the time of the House. I fully support this Bill. I only wish that my amendments will be looked into by the hon. Prime Minister. My intention in moving the amendments is to prevent the misuse of law. With these words, I support this Bill.

श्री दुर्गाचन्द्र (कांगड़ा) : उपाध्यक्ष महोदय, प्रधान मंत्री जी ने जो बिल पेश किया है, इसके आब्जेक्टिवज बहुत अच्छे हैं। लेकिन इस बिल में इतनी ज्यादा अमेंडमेंट्स की गयी हैं कि मैं तो यह समझता हूँ कि इस बिल को इस हालत में लाने के बजाए बिल्कुल नये बिल की शकल में इस बिल को लाया जाता तो बहुत अच्छा होता। इसको पढ़ने से मालूम होता है कि एक्सप्लेनेशन से लेकर सब सेक्शंस तक में अमेंडमेंट किये गये हैं जो कि करीब 80 अमेंडमेंट्स होते हैं। लेकिन जिस उद्देश्य से यह बिल लाया गया है वह बहुत अच्छा है। इस बिल में सरकार को खुद भी अमेंडमेंट्स करनी पड़ी हैं। सरकार की भी 9 अमेंडमेंट्स हैं।

[ श्री दुर्गाचन्द्र ]

जहाँ तक ऑरिजनल बिल की सेक्शन 7 का सवाल है उसमें भी कहीं 11 रुपये और कहीं 9 रुपये लिखी हुई थी जिसके बारे में प्रधान मंत्री जी ने कहा है कि यह बिल बहुत पहले का पड़ा हुआ था और आज कल कास्ट में बहुत वृद्धि हो गयी है और जिसके कारण खर्चा बढ़ गया है इसलिए सरकार से यह अधिकार ले लिया है कि वह जो मुनासिब समझेगी वह फीस रखेगी। लेकिन सरकार जो अमेंडमेंट लाई है उससे तसल्ली हो गई है कि यह भी 25 रुपयों या इतने रूपयों से ज्यादा नहीं बढ़ाई जाएगी। इस तरह इसके बारे में सीलिंग लगा दी गयी है, सरकार के अधिकार को रेस्ट्रिक्ट कर दिया गया है। इसलिए अब किसी को कोई चिन्ता करने की जरूरत नहीं है।

ऑरिजनल बिल की धारा 11 को भी अमेंड किया गया है जिसके अनुसार फीस लगाने का अधिकार सरकार को दिया गया है।

ऑरिजनल बिल की धारा 17 में भी पांच साल के बजाए दो साल किया गया है और दो साल के बजाए पांच साल किया गया है। यह भी बहुत अच्छी चीज है। इस तरह से बहुत सी कमियाँ इस बिल से दूर कर दी गयी हैं।

इस अमेंडमेंट बिल के द्वारा ऑरिजनल एक्ट में एक नई धारा 17ए जोड़ी गयी है। उसमें सर्टन कैपिज में ड्राइविंग लायसेंस को कंसिल करने या मस्पेण्ड करने का प्राविजन है। इस तरह से मोटर व्हेकिल एक्ट में जो कमियाँ थीं वे दूर कर दी गयी हैं। ऑरिजनल एक्ट में एक क्लॉज 17बी भी जोड़ी गयी है।

सेक्शन 8 जो है उसमें प्रधान मंत्री जी ने कुछ वजाहत कर दी है। उसमें मोटर साइकिल जो थीं इनके बहुत ज्यादा ऐम्सीडेंट्स हुआ करते थे लेकिन अब उनको हैड गीयर पहनना

पड़ेगा। लेकिन वह सेक्शन वैग है। ड्राइवर तो हैल्मेट लगा लेगा लेकिन जो पीछे आदमी बैठे हैं वह न पहने हों तो कोई जुर्म नहीं माना जायगा। मेरा कहना है कि पुलिस को यह अधिकार होना चाहिए कि वह पीछे बैठने वालों को भी कह सके कि हैल्मेट पहन कर चले। क्योंकि ड्राइवर तो हैल्मेट इस्तेमाल कर रहा है, किन्तु जो साथ पीछे बैठा हुआ है वह इस्तेमाल नहीं करता है, ता सर तो उसका भी टूटेगा। इसलिये पीछे बैठने वालों को भी हैल्मेट पहननी चाहिए।

अब से सरकार ने यह कानून पास किया तो हैल्मेट के दाम दुगने हो गये हैं। सरकार को पहने हैल्मेट प्रोडक्शन का इंतजाम करना चाहिए था उसके बाद कानून बनाना चाहिये था ताकि लोगों को ठीक दाम पर हैल्मेट मिल जाते।

सेक्शन 9 अमेंडमेंट एक्ट की ऑरिजनल एक्ट की 117 सेक्शन में ऐल्कोहल या दूसरे इन्टॉक्सिकेंट्स इस्तेमाल करने के लिये पैनाल्टी लगायी गई है। इनकी वजह से बहुत ऐक्सीडेंट्स होते हैं और मैं समझता हूँ कि इस पैनाल्टी के डर से ऐक्सीडेंट्स कम होंगे। सेक्शन 10 में पुलिस को अधिकार दिया गया है कि जो भी ऐल्कोहल निध हो रहा है या दूसरे लिये हो रहे हैं और गलत तरीके से ड्राइविंग कर रहे हैं तो ऑरिजनल सेक्शन 128 में (ए) (बी) (सी) सब-सेक्शन ऐड किये गये हैं जिनके मुनासिब ऐसे लोगों की त्रीद टेस्ट की जायेगी लेबोरेटरी में। इसका प्रोवीजन किया गया है। तो जहाँ तक सारे ऐक्ट का सवाल है मैं समझता हूँ कि उनमें सभी सहमत होंगे। लेकिन इनके लम्बे अमेंडमेंट के बजाय कुछ और भी चीजों को देख लिया जाता तो यह बिल और भी अच्छा हो सकता था, इसके सारे लूपहोल्स खत्म किये जा सकते थे। क्योंकि मैंने कहा 80 अमेंडमेंट्स हैं। तो ड्राइवर्स के लिये जहाँ तक यह प्रोवीजन है, जो संशोधन दिये गये हैं, उनसे सुधार होगा। लेकिन

ज्यादातर ड्राइवर्स की ठीक ट्रेनिंग न होते हुए भी उन्हें ड्राइविंग लाइसेंस जारी कर दिये जाते हैं। इसलिये सरकार को लाइसेंसिंग अथोरिटी को हिदायत करनी चाहिये कि हैवी वैहिकल्स के ड्राइवर्स को लाइसेंस जारी करने के पहले उनका ठीक से टेस्ट लिया जाय। अगर इसका प्रोजेक्शन हो तो ऐक्सीडेंट्स और भी कम हों।

SHRI JAGANNATH RAO (Berhampur): Sir, I rise to welcome this Bill which is non-controversial and partly clarificatory in nature. The Motor Vehicles Act was passed in 1939 and thereafter it underwent changes in 1942, 1950, 1956, 1969 and 1970. Every time an amendment was brought to meet a certain situation. So, piecemeal amendment was done from 1939. I think the time has now come for bringing forward a comprehensive Bill along with certain other provisions, because new situations have arisen. When the original Act was passed in 1939, the motor vehicles traffic in the country was very small compared to rail traffic. In these 40 years, road transport has increased by leaps and bounds and is posing a problem to the railways. We have this rail-road competition. There are public sector undertakings dealing with road transport. There are private owners also dealing with road transport. When a route is operated by a public undertaking, permits are also given to private owners to operate on that route, thereby causing loss of revenue to the public undertaking. Other problems also have arisen. So, to meet the present situation I think a consolidated Bill is required.

Sir, I am glad that some amendments are sought to be introduced. First, clause 2 seeks amending Sections 7 and 11 of the Principal Act, I remember that the fee for driving licence was originally Rs. 5. When I obtained driving licence 35 to 40 years ago, it was only Rs. 5. Later on it was increased to Rs. 11. If the Government wants to enhance the fee for obtaining a driving licence, why not

mention it in the Bill itself? Make it Rs. 15, and then you may say that 'the Government may from time to time enhance'. Now, it is left to the discretion of the Government to fix any fee that it fit. It is not going to be a major source of revenue for the State. Whereas the motor vehicles taxation is a source of revenue for the State, I do not think that the driving licence fees would be a major source of revenue for the State. Whatever it is, the Central Government has taken power to frame the rules and those rules are to be laid on the Table of both the Houses.

Clause 4 seeks to amend Section 17 of the principal Act, the sole idea being to enhance the punishment provided for. From two years, the Bill seeks to make it 5 years and where it was one year, it is now seeking to make it two years. But still the discretion of the court is there. Therefore if you want at least to fix a minimum, then raising it to 5 years you may say 'not less than two years'. The discretion of the court is also to be limited. The object of the amendment may not be achieved unless a minimum sentence is prescribed in cases dealing with the second offender.

New Section 17A is sought to be included by clause 5. Here again, it relates to the suspension of driving licence, a disqualification. Here, clause (a) of Section 17A says:

"For a period of six months from the date on which the case is registered."

Supposing the case is not disposed of in six months. There are cases pending for more than one year. Then, for six months if it is suspended, later on he automatically gets the licence. But the case is still pending. This amendment does not visualise the contingency of this type. Therefore, if you want to use 'suspension', let it be till the disposal of the case because the later clause (b) makes it clear by saying:

[Shri Jagannath Rao]

"If such person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be."

The idea is clear. If the discharge and acquittal is made less than six months, automatically the disqualification is lifted. If it is for six months, it is there. Therefore, first it should be till the pendency of the case or if the case is disposed of within six months, he will automatically have the benefit. I think that this should be made clear.

Again, about the suspension of the driving licence, it is said that only this order may indicate the particular type of vehicle which he cannot drive. Once the suspension is there, he should be debarred from driving any motor vehicle. Supposing the driving licensee gives the right to drive a heavy vehicle, his licence is suspended. That means he cannot drive with the licence for six months or till the disposal of the case or till he is acquitted. Then he can as well drive a motor car or a light vehicle. Is this the idea to give that privilege to the offender? I do not know.

Then, Section 63 of the parent Act which deals with the national permits, is now being sought to be amended. The hon. mover, the Prime Minister, while moving the Bill said that the idea is to give benefit to even newcomers. Amendment (2)(a) of course makes it clear which is as follows:

"For the words 'grant to public carriers in a State such number of national permits', the words 'grant, in a State, national permits to the owners of motor vehicles who use, or intend to use, such vehicles for the carriage of goods, for hire or reward, in respect of such number of vehicles' shall be substituted;"

Therefore, a person owing a vehicle, a new comer, may get a permit, and whereas clause (b)(i) says:

"For the words 'to a public carrier authorising him to operate as a

public carrier', the words 'to the owner of a motor vehicle authorising him to operate as a public carrier shall be substituted."

I do not know whether the object of the Bill is clearly brought out in this amendment. Clause 8 introduces new Section 85A. I welcome the requirement of having a crash helmet not only by the driver but also by the rider on the pillion. In Delhi we find that the whole family goes on the scooter. Two children are made to stand in front, the lady sits on the pillion with her baby in her arms. Like that all the five people go on the scooter. When I see the sight, I get nervous. While negotiating a curve, the vehicle takes a slant and we are afraid it may skid. Yesterday I read in "The Statesman" that an in-patient in the Safdarjang Hospital a young girl of 18 by name Kalpana, who was supposed to be suffering from a gall bladder complaint, was taken by a young intern on a scooter and both of them met with an accident and that girl died within one hour and that intern was seriously injured. Therefore, the use of a crash helmet is not only to be insisted upon, but we should also see that not more than two persons ride on the scooter, one on the pillion and the other, the driver. No children are to be allowed. Unless that condition is there, we cannot avoid accidents. It is common knowledge that the whole family goes by scooter. Because of transport charges, they are not in a position to go by bus or phat-phat or a scooter rickshaw.

Then, about the exemption given to turban-wearers, I have no quarrel with Sardar Sahibs. By custom or religion they have to wear turban. Then, what about Marwaris in Rajasthan? They also wear a big turban with a number of folds. In Haryana, Chaudhuris also wear turbans. In Karnataka in South, they wear lace turbans. My friend Shri Lakkappa may testify to it. If they happen to ride by scooter, they may ask why should they have a helmet. They have to remove the turban and put

on the helmet. Therefore, I would say it is a practice of certain community, not necessarily by religion, to use a turban, they may be exempted. The whole idea of insisting on a crash helmet is to avoid accidents so that head injuries are not there, so that the person can survive in spite of injuries. That is the idea. That idea could be well met in cases where a person is accustomed to put on a turban. If you ask a person to remove the turban and put on the helmet, young men may do it, but the elderly people would like to continue to have the turban.

About accidents, most of the accidents happen under the influence of liquor or by persons who are accustomed to take intoxicating drugs. Now, we have prescribed a big machinery for taking blood test, breath test and urine test. It is all good. But what about the enforcement machinery? They should also be free from drinking. It should also be seen that the police who are on traffic duty should be persons who are sober and who are not accustomed to intoxicating drinks or drugs. Now, it is very difficult to find a person who is not habituated to drinks, otherwise it will be like a drunken man preaching temperance. He may not be sober, but still he is in a position to drive. Therefore, who is to determine this? Only the person who does not drink can say that the driver is drunk and again there is an escape clause in Section 117 which says: 'if he is incapable of driving'. Then the courts may think that he is incapable of driving. But the courts may think that he may have taken drink, but still he is capable of driving. It is difficult to think of every case that may come up before the court.

16 hrs.

I have no more comments to make on this Bill. While supporting this Bill, I would only say that a comprehensive Bill should be brought forward as early as possible.

\*SHRI A. K. SAHA (Vishnupur): Mr. Deputy Speaker, Sir, with your permission I would like to speak in Bengali.

\*The hon. Prime Minister has introduced the Motor Vehicles (Amendment) Bill, 1977 which seeks to amend the parent act of 1939. Sir, I wholeheartedly support the Bill because through this Bill the Government seeks to curb accidents on roads by raising punishments for those who drive motor vehicles under the influence of liquor. This is a welcome measure and should find support from all corners of the House. Another measure which is sought to be introduced through this Bill is to make the use of helmets compulsory for the motor cycle and scooter drivers. However, I have a feeling Sir, that instead of trying to amend the parent Bill from time to time, a time has surely come when the problem of motor traffic and the complications that have arisen during the last 38 years should be gone into in greater detail and a comprehensive bill introduced in this Bill to plug the loopholes that are causing more and more accidents but also to make provision for such situation which did not exist when the original bill was passed.

Sir, while supporting the measures in the Bill taken against the alcoholic drivers of motor vehicles I would like to submit that road accidents do not occur only on this account even though it may be one of the major contributing factors for road accidents. Bad road conditions are also responsible for major road accidents in our country. Apart from the national high ways and the cities, the roads in the rural areas are in bad condition and it is here that the vehicles meet with disastrous accidents because they are mostly kutcha roads and after the rainy season they undergo such damage that a turtule truck or an outdated bus is a common sight in the rural areas. Many of the rivers do not have bridges and the unmanned

[Shri A. K. Saha]

railway crossings contribute their share for increasing the number of accidents in the country.

It would not be out of place to say Sir, that many motor vehicles still ply on the roads of the rural India and in the hilly districts which should not be allowed to go on the road because such vehicles had outlived their road efficiency and remain a serious threat to passengers. Unfortunately, the State Administration do not exercise adequate checks and the owners of such unroad-worthy vehicles manage to secure road permits through bribe and other unfair means. In fact, such departments are the dens of corruption and unless drastic measures are taken to improve their working, we may not be able to achieve the desired results.

The Prime Minister has on many occasions given expression to his determination to improve the economic conditions of the rural India. I am sure the Prime Minister will agree that this objective cannot be achieved unless we are able to spread a good net work of roads in the rural areas and provide them with the facilities, that the motor vehicles offer. You will be surprised to know Sir, that there are many villages in the country which are not connected by bus or trucks despite the fact that there has been a tremendous increase in the total number of motor vehicles in our country during the last 20 years. Unless we are able to do it, I am sure we would not be able to make a real head way in our task for rural upliftment. Though not covered strictly within the provisions of the present Bill, I would request the hon. Prime Minister to kindly ensure that more funds are made available to State Governments for the construction of rural roads and linking the remote villages with the more progressive sectors of the State through motor transport.

With the increase in the price of petrol and motor parts it has become

very difficult for the self employed motor car drivers to maintain their vehicles in fit condition to avoid road accidents. It is very necessary therefore that the Government should apply their mind to find out ways and means for providing the spare parts and petrol at a concessional rate to such people so that they have not to postpone urgent repair of their vehicles and keep them in fit condition. I would also request the Prime Minister to state the revenue that is earned by the State agencies through this Act and the amount of money that they spend on road construction or maintenance of roads. It is my submission that more funds should be spent on road construction and its maintenance if we are serious to minimise the number of road accidents in the country. And I am sure the Prime Minister will introduce a more comprehensive legislation in the next session of Parliament. With these words Sir, I support this Bill.

**SHRI JAGANNATH SHARMA** (Garhwal): This is a very welcome measure and a step forward in the right direction. The amendment-sought, to some extent, to minimise accidents. I congratulate the Government on its earnestness and care for the safety of the people by bringing in stricter measures, but we also know that during the last 30 years implementation of the existing provisions of the Motor Vehicles Act by the previous Government was not proper. One reason for this is lack of willingness to enforce the measures. Certainly we have been moving farther and farther away from the Gandhian ideals in the spirit of implementation. Our concern with regard to introducing new legislation to make people abstain from alcoholic drinks while driving certainly strikes the malaise where it is most malignant, but at the same time it is a positive step in the direction of implementing the policy of prohibition incorporated in the Directive Principles of State Policy which our founding fathers have embodied in the Constitution for the governance of the State.



Now I would like to draw the attention of the hon. Prime Minister to some of the provisions of the Bill. In para 2 which amends section 7(8) of the Act, the amount of eleven rupees has been replaced by the words "such fees as the Central Government or the rules made under this Act specify." My humble submission is that the Central Government is not empowered to fix the amount, though the amount fixed earlier probably was not challenged in any court of law because it was a meagre amount. I would like to draw the attention of the hon. Prime Minister to the State List and the Concurrent List of the Constitution. Item No. 57 of the State List says:

"Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions or entry 35 of List III."

That means the imposition of taxes is the responsibility of the State in consonance with the provisions of entry 35 of the Concurrent List. Entry 35 of the Concurrent List says:

"Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied."

That means, the Centre has only to lay down the principles and not the amount. The amount was raised from Rs. 5 to Rs. 11 by an amending Act of 1956. Originally, in 1939, it was only Rs. 5. My submission is that the Central Government is not empowered to fix the amount; it can only enunciate the principles on which the taxes can be levied by different States in the country. I do not want to dilate on this any further because the hon. Prime Minister has already said that he was not in favour of making it a revenue earning source. I do not want to deal with part IV because it only relates to the power given to the courts to enhance the period of disqualification.

Now, I would like to refer to paragraph VII. This relates to the control of transport vehicles. Under this Chapter and as per the recommendations of the Transport Development Council, wayside amenities must be provided to tourists. It is also a very welcome amendment because the hon. Prime Minister has said that the newcomers can be given permits and the number of national permits can be increased to double or to treble. That is one aspect of the problem. The main problem is relating to the tourist vehicles. I have seen in my constituency that there are no wayside amenities for the tourists, especially on the road leading to Badrinath.

**SHRI HARI VISHNU KAMATH** (Hoshangabad): Time should be extended for this. Even the earlier Bill has taken one hour and 45 minutes. You have got the power to extend it by half-an-hour.

**MR. DEPUTY-SPEAKER:** I have been trying to be very liberal. But we have already exceeded the time.

**SHRI JAGANNATH SHARMA:** The Transport Development Council has recommended that while deciding the number of tourists vehicles on nationalised routes, wayside amenities should be given first priority. In this very connection, I would like to say that some of the State Governments have nationalised the road transport. I would like to refer here to the Tamil Nadu Stage Carriages and Contract Carriages Act which was passed in 1973-74 under Article 39 of the Constitution and the purpose of this was:

"Whereas in clauses b) and (c) of Article 39 of the Constitution, the State should in particular direct its policy towards securing with the ownership and control of the material resources of the community and so distribute as best to subserve the common good and with the operation of the economic system, does not result in the concentration of wealth and means of production to the common detriment;

[Shri Jagannath Sharma]

And whereas for that purpose, it is expedient to nationalise the transport of passengers by road in this State."

Now, some other States have nationalised their transport. It is well known to everybody that inter-State transport is working even among three States. There is inter-road service from UP to Madhya Pradesh. Thus either the Road Transport be nationalised or Inter-State Transport be made more efficient and convenient.

Regarding Section 85, it says:

"No motorcyclist shall carry more than one person in addition to himself."

This has never been observed since the Act came into existence. In fact, it is as if this Section does not exist in the statute book. The policeman does not stop anybody violating this Section. Hundreds of children are helped to go to schools by their parents in the morning and in the evening the wife joins with the child in her lap to the amusement of the policeman even at the Vijya Chowk who does not like to stop the family from their evening trip and would not like to invoke the provision of Section 112 imposing penalty of Rs. 100 for the first breach.

Lastly, only one point about the "police officer". Under the Act, the "police officer" means even a village policeman. A village policeman is equivalent to a village postman who is even a part-time employee. A village policeman is a "police officer" within the meaning of the Police Act, 1861. In a reported case, ILR 9 Madras 97, this position has been clarified. If the powers under Section 128A, 128B and 128C are given to a part-time village policeman, there will be a great harassment to the people. I would, therefore, suggest that the "police officer" under this Section should not be below the rank of the Sub-Inspector. I hope, the hon. Prime Minister will define "police officer" as

not below the rank of the Sub-Inspector or even the Deputy Superintendent of Police. Otherwise, the people will be harassed and a lot of inconvenience will be caused to them.

**SHRI HARI VISHNU KAMATH:**  
Sir, I move that the time allotted for this Bill to be extended by half an hour. Let it be put to the House. I do not ask for more.

**MR. DEPUTY-SPEAKER:** Mr. Kamath, instead of that, what I am proposing to do is to allow 5 minutes to Mr. Kodivan and 5 minutes to you and then close the discussion. I think, that is reasonable enough.

**SHRI P. K. KODIYAN (Adoor):**  
Mr. Deputy-Speaker, Sir, I am very glad that the Government has come forward with this amending Bill in order to bring down the rate of motor accidents in our country. We are all very anxious over the mounting incidence of road accidents in our country, particularly in the last six months. So, I wholeheartedly support this piece of amending legislation.

I only want to point out that it seems that the Government is under the impression that most of these accidents are due to the influence of liquor or drugs. I want to point out that even if this amending Bill is accepted and the law is enacted as proposed by the hon. Prime Minister, the accidents on the roads may continue so long as the condition of our roads is very pitiable except on the National Highways. This aspect has also to be taken into consideration. Secondly, the question of proper maintenance and repairs of motor vehicles has also to be taken into account.

With regard to the licensing system, that has already been pointed out by hon. Members. The licensing system has to be made more stringent because more often persons who are not qualified are given licences. In Delhi, the traffic police are not discharging their responsibility very efficiently because I have found that only occasionally, once or twice in a year, they observe

a traffic discipline week or something like that. But afterwards, it is all relaxed. A road survey carried out by the Road Research Institute in Delhi has revealed the astounding fact, that Rs. 1.60 lakhs is being extracted by the Delhi Police every month by way of gratification from motor, scooter and cycle-rickshaw drivers. The traffic police should be put under strict control in implementing the provisions of this Bill.

As some hon. Members have pointed out the powers given to the police in the Bill may lead to harrasment of innocent people because the Police Officers have been given blanket authority to take into custody any person if they suspect him to be under the influence of liquor. This aspect has to be looked into carefully.

My last point is this. Why should there be so many tests like blood test, urine test, breath test and so on? This is a cumbersome procedure and it may lead to more harassment. If there is any device to find out the influence of liquor, whether a particular driver has taken liquor or not and if that device can be effectively used then I do not understand the necessity of so many tests like blood test, urine test and so on, which I have already pointed out, may lead to more and more harassment. With these words I extend my wholehearted support to the Bill.

SHRI HARI VISHNU KAMATH (Hoshangabad): Mr. Deputy-Speaker, Sir, while I am at one with the Prime Minister in his laudable effort for the consummation of his excellent objective of averting deaths on the roads caused by accidents by people driving under the influence of drinks or drugs or mere reckless and dangerous driving, I would request hon. colleagues on both sides of the House to bestow close attention on only one clause of this Bill, and that is Clause 10; and I will speak on that only and no other provisions of this Bill, because in my humble judgment, I am afraid—I almost have a hunch—that unless

there are administrative controls, and strict supervision is exercised by competent officers over the authorities is empowered by this clause of the Bill, this might tend to become an engine of oppression in the hands of petty officers dressed in brief authority.

I am aware that many accidents, most of them, are caused by people at the wheel, men and women both,—quite a large number of women are at the wheel today. I do not say that they do not drink or they may not be so careful as other drivers are. I do not want to go into details about this matter. Well, I am aware that most of the accidents are caused by the influence of drinks or drugs. I am also aware, you are also aware, and the House is aware that many accidents are caused by reckless pedestrians, reckless cyclists, careless parents leaving their children on the roads unattended, uncared for, who are run over by vehicle whether driven under the influence of drinks or drugs or not. If the execution or implementation of these provisions of law, Section 128A, Section 128B and Section 128C, the new provisions, the amendment to the parent Act, is not effectively supervised, I am afraid, the petty officers may tend to harass and oppress citizens and also to make money. I do not say that all are corrupt, but we have got very bitter experience of the police officers during the Emergency, during the dark days of tyranny and terror, from June 1975 to February-March 1977. In Delhi itself, when I was in Tihar Jail, I learnt, on a reliable authority, from those people who came inside the jail, that police officers dressed in uniform—I do not know whether it was constables or head constables or sub-Inspectors—would come and threatened the middle-class people, the shopkeepers:

सौ रुपया लाम्बो, पांच सौ रुपया लाम्बो, हजार रुपया लाम्बो, नहीं तो यह है मोसा वारंट, बन्द कर देंगे गन्दर ।

Here also I am afraid, because of the provision as it is

[Shri Hari Vishnu Kamath]

worded here—my friend has drawn the attention of the House to that—, “attempting to drive”, any police officer in uniform can easily come and say, “You have attempted to drive; if you give me Rs. 10, if you give me Rs. 15, I will let you off”. That has happened very often in the past. I know, cyclists without light used to pay 8 annas or one rupee; in the evenings; I know, the cyclist who was caught paid Re. 1 or Rs. 2 or 8 annas, and the policeman let him off. So also here, for imaginary offences, ‘might-have-been’ offences, the police officers may try to extort money from innocent people who neither drink nor come under the influence of drugs nor drive recklessly or dangerously.

I know, the Prime Minister has got a great reputation as a fine administrator, and I hope that he will impress upon those charged with authority to administer this Act to ensure that innocent citizens, innocent people, are not harassed or oppressed by persons dressed in brief authority.

I would also like to know whether this amendment, particularly the new Sections 128A, 128B and 128C, mentioned in Clause 10 of this Bill, is modelled upon the U.K. Statute, the British Statute, which, as far as I remember—if my memory does not betray me—was enacted during the last British Labour Government regime under Mr. Harold Wilson. A woman Minister—I forget her name—was in charge of this particular Bill in the House of Commons; the Bill was piloted by her and a breathalyser came into vogue after the passage of that Bill, and the device was introduced in the U.K. But, as far as I remember a few years later, a couple of years later, there were serious doubts whether the breathalyser was doing the work that it was intended to do, whether the device was not a complete failure at all. There were serious doubts raised, and I am not sure whether today the breathalyser device is still in vogue in the U.K.,

in England, in Britain. I would like to have information on this point, if the Prime Minister can enlighten us.

One more point, and I have done. The new Section 128B invests any police officer in uniform with this power; sub-clause (4) of section 128A reads:

“If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.”

What does this mean? If a person required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of his breath-take refuses or fails to do so, he can be arrested without warrant. That means that any police officer may just go to any person and say ‘well, you are driving and I suspect there is alcohol in your blood: you must have a breath-test’. I don’t drive now-a-days but I used to many years ago, and I knew some drivers very well: I knew they did not drink nor had recourse to drugs—they were sober drivers. I am, however, afraid that if this is left as it is, unamended, there may be improper, inefficient and corrupt administration in this field. Any police officer in uniform—even a constable—can go and ask for a breath-test and the person may refuse. This is what people reportedly did in Britain: they said ‘we do not want to go in for a breath-test as we are not drunk’. I think in India the position is worse because, though some of our officers are very good officers, efficient, not corrupt and men of integrity, there are quite a large number who have not so good a reputation, who have no integrity and are corrupt and inefficient, and

who make money by hook or by crook, more by crook than by hook. That is the situation in India.

So, this is but one specimen of such provisions in the Act—that if a person refuses to have a breath-test, a police officer may arrest him without warrant except while he is in hospital as an indoor patient. I do wish that, even at this late stage, this Bill is referred to a Select Committee of the House so that it can probe these matters further so as to ensure there is good and proper administration of the Act. Cars and motor vehicles are increasing in number now and so are drivers, and there will be more drivers and cars in the years to come. I therefore wish that it is referred to a Select Committee so that it may examine it closely and carefully to ensure that it does not become an engine of oppression in the hands of petty officers dressed in brief authority.

**THE PRIME MINISTER (SHRI MORARJI DESAI):** Mr. Deputy-Speaker, Sir, I am very thankful to my hon. friends who have drawn my attention to different aspects of this Amendment Bill and to the misuse that can take place. I am also very happy to find that the hon. Members are studying even such small Bills so carefully.

There are two or three matters on which I think I need say something, particularly the question of taxation. It was mentioned that this will not be legal. But this is not taxation: this is a fee which is recovered and that is why it has deliberately been mentioned as a fee charged for the licence given for driving. It is not a tax on the vehicle but a fee payable by the driver. This is quite a different thing altogether and, therefore, there is no legal bar of constitutional bar to this.

Now, the question about the possibility of its being misused by a police officer is very much there. I do not say that the possibility is not there, especially in view of the fact

that there has been a lot of corruption and we have got to remove it. But this problem also is difficult to deal with unless every police officer is empowered to do this—because, on the roadways there cannot be higher police officers located at every point to see that these things are checked. Therefore, every police officer has got to be empowered to take action in this matter. But he can arrest without a warrant only if a person suspected of being under the influence of alcohol refuses to give a breath-test. It is certainly possible that somebody, may be some police officer, may take into his head to extort some money from somebody and ask him to give breath-test. But why should that man submit? If he is arrested and it is found that he has been wrongly arrested, I am going to see and issue instructions to all States also that such people should be dismissed summarily. Once that action is taken, I am quite sure that this evil will be checked. As a matter of fact, the major task of this Government is to see that corruption is minimised. I cannot say that it will disappear completely; it is not possible for any evil to be removed, but it should be totally minimised, that is what I would say, and we are taking some steps in that direction. In this matter also, I am assure my hon. friends that I shall see what I can do to see that this is not misused. Not only that, but it can also be negatively utilised for taking money from a person who is under the influence of alcohol; he can allow him to go off. Well, if that happens also, he should be dismissed summarily. It must be done in such cases also.

**SHRI B. RACHAIAH (Chamarajanagar):** Article 311 of the Constitution is there; he has the right to go to the court.

**SHRI MORARJI DESAI:** Let him go to the court. If he does it rightly. I do not think the court will interfere with it. We have more confidence in the courts than you have.

[Shri Morarji Desai]

I am not worried about it. I think, the court will support every right action and they should not support any wrong action and on that score, I have no doubt.

But all these things can be properly regularised; not that they cannot be regularised. It is all a matter of proper administration. It is only because the Government went wrong at the top, therefore, all this corruption has come in. That corruption can be minimised. I have no doubt about it in my mind, but the evil has been so rampant that it will take a little time to remove it. But we do not want to give more time than is vitally necessary to check this evil. Therefore, on this score, I shall be thankful if such cases are brought to our notice, wherever they happen, and we will certainly go into them and take stringent action as soon as possible.

The question of carriers has been misunderstood. This is for goods carriers and this is not for passenger carriers. There is no nationalization of truck traffic at all; carriers of goods are not nationalised at all. Therefore, that does not apply to this.

The question was, whether riders and drivers of motor-cycles and scooters will not put on helmets. It is provided that both drivers and riders have to put on helmets; whether there are five people on it, or four people on it, they will have to wear helmets. We will, of course, consider whether more than two men should go on a motor-cycle. We are thinking of overhauling the whole Act and that is being gone into very carefully. When that happens, we will take this up also. There was a suggestion also that we should try to bring in a new measure, fully considered so that we can remove whatever difficulties have come to notice in the old Act. That is being done, but we cannot wait for that in order to provide for these matters and that

is why, we have brought these amendments?

I hope that after these explanations, my hon. friends will accept the Bill as it is.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill further to amend the Motor Vehicles Act, 1939, as passed by Rajya Sabha, be taken into consideration".

The motion was adopted.

MR. DEPUTY-SPEAKER: We would now take up clause-by-clause consideration of the Bill. There are some amendments. Now, I am just trying to find out whether the hon. Members who have given notices of amendments are serious about moving them. The usual practice is to ask them to send their chit to the Table within 15 minutes. But I do not want to wait for 15 minutes.

Mr. Ravi, you are moving your amendments?

SHRI VAYALAR RAVI: Yes, Sir.

MR. DEPUTY-SPEAKER: There are no amendments to clauses 2 to 8.

The question is:

"That clauses 2 to 8 stand part of the Bill."

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

Clause 9—(Substitution of section 117)

SHRI VAYALAR RAVI: I beg to move:

Page 5, line 22,—

omit "or attempting to drive,"  
(11)

Page 5, line 23,—

omit "or attempting to ride,"  
(12)



Here is a point to which I wish the hon. Prime Minister gave a satisfactory reply. What the Prime Minister said are very good wishes that he would instruct the States to summarily dismiss the corrupt officials. But my fear is that this wording 'attempting to drive' and 'attempting to ride' will lead to a lot of misuse and harassment. It is true that the Prime Minister can issue directions and you can make enactments providing for summary dismissal. In this connection, I know the courts will do justice. There is no doubt about it. But, as far as government servants are concerned, of course, you can see the whole lot of judgments, you will see that they get the utmost protection and rightly so. Under Art. 311(b) of the Constitution they should be given reasonable opportunity to be heard.

The main point is that no action can be taken against any officer without a proper enactment as to what is meant by corrupt practice. There are many enactments by the States regarding corrupt practices but I do not know whether they cover summary dismissal. So, my fear is that this phraseology 'attempting to drive' and 'attempting to ride' will cause damage to the people. As the Prime Minister rightly said, that is possible. So, I wish that it be deleted.

Another point is about Sec. 17(b)(2) about which the Prime Minister made no mention which provides direct punishment to the people who drive after drinking. I have moved an amendment. There should be an option for suspension also. Prime Minister has not made any mention about it.

**SHRI MORARJI DESAI:** We are not going to act against the law at all in the matter of these punishments. Therefore, my hon. friend need not be worried about his past in this matter. We are not used to

those things. We will not do anything which is against law. Therefore, Government servant will be certainly protected in the matter of illegal actions. But if they do any illegal action, they will not be saved. That must also be understood. We can provide proper and correct remedies for it.

In the matter of suspension and cancellation, I do not know what exactly he meant, when he said that it is for six months only. What happens if it goes beyond six months? This is to see that the cases do not go on beyond six months? Such cases should not. Why should they go beyond six months? They are simple cases. They do not require any long evidence nor is there complication about them. Therefore, they will be finished very quickly and six months is more than enough. But after first conviction certainly it will be suspended. If he is convicted a second time, it will be cancelled permanently. After suspension also he is required again to go in for a test further. Then only it will be returned to him, not otherwise. Therefore, proper safeguards have been provided. I would only request him to withdraw his amendment.

**SHRI VAYALAR RAVI:** Please read 17B. (2).

17B(1) clearly states—

"as was referred to in section 116."

You say 'cancel' only. There is no suspension.

**SHRI MORARJI DESAI:** It has to be cancelled when he is convicted twice.

**MR. DEPUTY-SPEAKER:** I shall put amendment Nos. 11 and 12 moved by Shri Vayalar Ravi to vote.

*Amendments Nos. 11 and 12 were put and negatived.*

**MR. DEPUTY-SPEAKER:** The question is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

*Clause 9 was added to the Bill.*

**Clause 10—**(Insertion of new section 128A, 128B, and 12C.

**SHRI VAYALAR RAVI:** Sir, I beg to move:

Page 6, line 1,—

after "police officer"

insert 'of the rank of a Deputy Superintendent of Police or equivalent rank' (13)

Page 6, line 2,—

omit "or attempting to drive a motor vehicles" (14)

Page 6,—

after line 43, insert—

"(4A) After arresting a person under sub-section (4), the police officer shall produce such a person before a Magistrate within two hours and shall repeated a breath test carried out by him on that person under sub-section (1) or sub-section (2)." (15)

Page 7, line 3,—

add at the end—

"In the presence of a Magistrate" (16)

**Amendment No. 13—**I have stated after "police officer"

insert "of the rank of a Deputy Superintendent of Police of equivalent rank"

I am saying this because of my past bitter experience when I was a student leader and Youth Congress Leader. I am talking of the past 23 years. Hon. Prime Minister was my leader once upon a time. Shri Morarji Desai was holding office as

Finance Minister or Deputy Prime Minister. This mischief occurred in those days, happened and is bound to come. Prime Minister with all his good wishes and good thinking thinks everybody as a saint. Unfortunately, in police force as Shri Kamath rightly put are good as well as bad people.

**SHRI MORARJI DESAI:** I was not incharge of police as a Deputy Prime Minister.

**SHRI VAYALAR RAVI:** Prime Minister was a very strong man in the Cabinet those days. This Bill has nothing to do with politics.

Police is bound to create mischief because of different types of people. Rules may be defined, but this will not serve the purpose. I, therefore, say that:

after "police officer"

insert "of the rank of a Deputy Superintendent of Police or equivalent rank"

My next amendment is regarding 128A.

**MR. DEPUTY-SPEAKER:** 14, 15 & 16.

**SHRI VAYALAR RAVI:** 14 has already been rejected and is gone.

I want to add a new clause.

128A(4) as Mr. Kamath also pointed out says—

"police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient".

The only reason that the police officer has to record is 'this man refused to give the breath test'. If the Police Officer records or makes an FIR "this gentleman attempted to

drive and the wheel", I suspected him. I wanted him to make a breath. He refused. I arrested him.

Taking the man to hospital, taking blood, urin, etc. a lot of harassment can be done. That is why I would like the Prime Minister to accord utmost safeguard to the citizens of this country so as to save people from this kind of harassment. 4A may therefore be added—

"(4A) After arresting a person under sub-section (4), the police officer shall produce such a person before a Magistrate within two hours and shall repeat a breath test carried out by him on that person under sub-section (1) or sub-section (2).

This may be added to grant safeguard the citizens from harassment. The next one is 128A(5). It says:

A person arrested under this section shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

In the police station, before whom? The man goes to the police station. He does not have witness. There is no magistrate to record his statement. There is nobody to record. There must be a senior police officer. Whatever record comes to the police station must go to a court of law. It is taken as evidence. We found many cooked up cases, not only during these 19 months, but for many years past. Therefore I moved an amendment to provide for the presence of a magistrate. It is only for safeguarding the interest of the citizen. The intention is to minimise the misuse to that extent. I hope that the hon. Prime Minister will appreciate this and accept it.

SHRI HARI VISHNU KAMATH: I want to raise a point for clarification and for getting some information. I had earlier raised the point when

I spoke briefly on the Bill but the Prime Minister did not choose to answer that point. I don't blame him, he perhaps forgot about it. I have heard about the breathalyser device in England, which was in vogue there 10 years or 15 years ago, but later on it was found that it was not very effective. I don't know whether it is still in vogue. If that is not in vogue, I would like to know whether Government proposes to develop in our own country this device, because we are doing scientific and technological research here some of which is laudable and creditable. Are we going to develop in this country a breathalyser for that purpose which will be quite effective?

SHRI MORARJI DESAI: We have already devised a breathalyser. Previously it was imported and was available for Rs. 15, now this will be available only for Rs. 2 and it is very effective. Nearly 50,000 pieces can be produce in the year. Therefore, there is no difficulty about it.

I cannot understand the anxiety of my hon. friend Shri Ravi. But one should not be so anxious as to defeat in other ways the purpose of justice to the citizens and to save them from accidents. As I said we are taking all precautions that are necessary. How does he expect that a person will be produced before the Magistrate within two hours? How does he assume that the police station is far away from the magistrate's court? I cannot understand why he expects to go beyond the Criminal Procedure Code where the man is supposed to be produced within 24 hours before a magistrate. But how can it be done within 2 hours? This I cannot understand. What is to be done in the police station? Only his sample will be taken and that will be produced in the court and the court will be taking into account the analysis done by a qualified person and not simply by the police officer. But the police officer has to be sure that no-

[Shri Morarji Desai]

body is subjected to a wrong test; he takes the breath test and if there is nothing in the breath test no further case arises. That is now this is done. I cannot say that it cannot be misused. But even the right to speak here is misused and for that can we take away the right to speak here? We cannot take away the right. The right has to be there. Therefore, I hope my hon. friend will bear with me in this matter.

SHRI VAYALAR RAVI: You define the police officer. Will you define it?

SHRI MORORJI DESAI: Any police officer.

MR. DEPUTY-SPEAKER: I will now put amendments Nos. 13, 14, 15 and 16 to the vote of the House.

*Amendments Nos. 13 to 16 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 10 stand part of the Bill".

*The motion was adopted.*

*Clause 10 was added to the Bill.*

*Clauses 11 to 13 were added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 1, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted. ....*

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

SHRI MORARJI DESAI: I move:

"That the Bill be passed".

My hon. friend, Shri Kamath ought to be very happy because not only his amendment has been actually put into practice but it has also extended the time by 35 minutes instead of thirty minutes. That is what has happened. I am happy about it. I do not want to unnecessarily hurry anything without a proper consideration being given to it. I have nothing more to say. I hope this will be accepted unanimously.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed".

*The motion was adopted.*

16.57 hrs.

OIL AND NATURAL GAS COMMISSION (AMENDMENT) BILL

MR. DEPUTY-SPEAKER: Now, we move on to the next Bill. Shri Bahuguna.

THE MINISTER OF PETROLEUM, CHEMICALS AND FERTILIZERS (SHRI H. N. BAHUGUNA): Sir, I beg to move:—

"That the Bill further to amend the Oil and Natural Gas Commission Act, 1959, as passed by Rajya Sabha, be taken into consideration".

This is a very simple Bill regulating some procedures with regard to the powers of the Commission to appoint officers. Only one thing is important. That is, Government, for the first time, is taking power to issue directions to the Commission with regard to its affairs as well as with special reference to the employment, that is, with a view to seeing that the scheduled castes and scheduled tribes employees are recruited in the same manner as is done by the Government Departments. After hearing the hon. Members, I have tried to dispel any misunderstanding, if any.