

[Shri K.C. Pant]

consider them to be of such a confidential nature as would affect their business etc.

AN HON. MEMBER : The question is about the Government's issuing instructions to the banks.

SHRI H. M. PATEL : It is quite clear that the banks would exercise their discretion. But what I was requesting was this. Government may issue instructions to them that they should not exercise their discretion in favour of not providing these documents. The same considerations that apply for obtaining these documents from other banks may also apply to these two banks.

SHRI K. C. PANT : We are interested now in the nationalised banks and we should see that their interests are also protected. We want more and more people to put their money in these banks. So, we have to leave it to the banks a certain amount of discretion in this matter.

As I have said, I appreciate the spirit in which he has made the point, and I hope the banks will also do so.

SHRI H.M. PATEL: That means that they are inviting more people to open accounts in the State Bank rather than elsewhere.

M. R. DEPUTY-SPEAKER: The question is:

"That the Bill to provide for the enforcements of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected therewith or incidental there to, be taken into consideration".

The motion was adopted.

MR. DEPUTY-SPEAKER: There are many amendment tabled by Shri B.R. Shukla. The hon. Member is absent. So, I shall put all the clauses together to vote.

The question is:

"That clauses 2 to 7, clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clauses 2 to 7, clause 1, the Enacting Formula and Tital were added to the Bill

SHRI K.C. PANT: I beg to move:

"That the Bill be passed".

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed".

The motion was adopted.

12.40 hrs

DIPLOMATIC RELATIONS
(VIENNA CONVENTION)
BILL

THE DEPUTY MINISTER IN THE
MINISTRY OF EXTERNAL AFFAIRS
(SHRI SURENDRA PAL SINGH): I beg
to move:

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be taken into consideration".

The purpose of this Bill is to give effect to the provisions of the Vienna Convention on Diplomatic Relations 1961, to which India acceded on 15 October 1965, particularly those provisions which should be given effect to under our law. So far we have been implementing the provisions of the Vienna Convention on Diplomatic Relations dealing with matters like exemption from dues and taxes by taking action under different existing laws. There are notifications issued, for example, under the Customs Act, 1962, and the Income Tax Act, 1961, to exempt diplomatic missions and their members from duties and taxes. The provisions of the Convention regarding the immunity of missions and their personnel from local, civil and criminal jurisdiction are based on established international custom and have been respected

by our Government and the Courts. The intention now is to provide in a single statute a statement of relevant rules on the subject in terms of the Articles of the Vienna Convention itself. The Bill sets out the relevant Articles of the Vienna Convention in the Schedule and clause 2 of the Bill states that they will have the force of law in India.

The Vienna Convention on Diplomatic Relations was adopted in 1961. India is a party to the Convention since October 1965. For the greater part, the Convention restates in a concise form the well-recognised rules of international law and practice which have existed from time immemorial, but on some points on which state practice was not quite uniform, it removes doubts, develops the law and provides uniform rules.

The Vienna Convention on Diplomatic Relations consists of 53 Articles. Broadly speaking, the scheme of the Convention is as follows :

It deals with the establishment of diplomatic relations in general, including functions, size and location of diplomatic mission in the first 20 Articles. Next, it deals with privileges and immunities which must be accorded to a diplomatic mission, its premises and its archives, like inviolability, exemption from all national, regional or municipal dues and taxes, freedom of communication etc. This is covered in Articles 21 to 28. Thereafter, it deals with the personal privileges and immunity from jurisdiction exemption from social security regulations, tax exemptions, customs privileges and so on (Articles 29 to 36). This is followed by provisions on privileges and immunities of the members of a family of a diplomatic agent, other members of the staff of a diplomatic mission, such as technical and administrative staff, service staff and private servants, as well as provisions on the duration of privileges and immunities, and duties of third States through whose territory diplomatic agents may be passing (Articles 37 to 40). Finally, it contains certain provisions on the obligations of a diplomatic mission and its members towards the receiving State, provisions on the termination of diplomatic

missions, provisions on the effect of an armed conflict on diplomatic missions etc. in Article 41 onwards. Articles 44 and 45 relate to the situation arising in armed conflicts as well as diplomatic relations are broken off.

Most of these articles do not require legislation for implementation. They can be fulfilled by executive action, such as those regarding the establishment, continuation and termination of diplomatic missions. The Articles—in all 18 in number which require legislation for implementation are included in the Schedule to the Diplomatic Relations Bill.

This Bill, as Hon'ble Members will see, is a very short Bill containing only 11 clauses in all. It is not my intention to comment on each clause while making this motion for the consideration of the Bill. But I will briefly highlight some of the main features of the Bill. In clause 2, as I stated a little while ago, the Bill seeks to give the force of law to the 18 Articles of the Vienna Convention set out in the Schedule. But it also reserves the power to the Central Government to amend the Schedule in future by a notification in the official Gazette in case amendments are duly made and adopted to the provisions of the Vienna Convention which are set out in the Schedule. In clause 3 the Central Government is given the power to apply the provisions of the Schedule with such modification as may be required to the diplomatic mission and members of a State which may not be a party to the Vienna Convention, 1961 but with which India may have a separate agreement, convention or other the instrument under which similar privileges and immunities have to be mutually accorded. Similarly, where privileges and immunities analogous to those of a diplomatic mission and its members have to be accorded to any other *ad hoc* or Special Mission and its members, this can also be done by a Notification in the Official Gazette by the Central Government.

To make it possible to take appropriate reciprocal and even retaliatory action promptly in cases where other countries do not accord the normal privileges and

[Shri Surenderpal Singh]

immunities which are required to be given under the Vienna Convention on Diplomatic Relations 1961 to our diplomatic missions abroad and to their members, a provision has been made in clause 4 of the Bill to enable the Central Government to withdraw the privileges and immunities conferred by this Bill from the diplomatic mission of such a State or its members in India by a Notification in the official Gazette. We hope that the provisions of the Vienna Convention will be strictly observed by all States with respect to our diplomatic missions and their personnel abroad and no occasion will arise for Government to exercise its power in India under this Clause. But in case such situations do arise, Government will have the fullest powers to act and insist on reciprocity.

While this Bill is mainly intended to give the force of law in India to provisions of the Vienna Convention dealing with matters like immunity of a diplomatic mission and its members from local jurisdiction and exemption from dues and taxes, etc., opportunity has been taken in the Bill to deal with a few related matters such as the proper channel for serving any legal process, the manner in which the immunity of a diplomatic agent may be recognised and allowed, and the evidentiary value of a foreign office certificate. These matters are dealt with in clauses 8 and 9 which are intended to clarify doubts on these practical questions and state the correct practice which should be followed in such matters. Indeed, the rules stated in these clauses are well recognised in most countries, including India, and they have also been recognised and acted upon by our courts.

I shall be glad to provide any further explanation on the clauses of the Bill to which I have referred, or on any other matter directly connected with the Bill which may be raised during the debate.

Before I close, I might mention that the provisions of the Vienna Convention on Diplomatic Relations 1961 which should be given the force of law in India are

set out in the Schedule to the Bill itself. As regards the Convention as a whole, we have placed 40 copies of the Convention in Parliament Library for reference by Hon'ble Members. I move.

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be taken into consideration."

SHRI SURENDRA PAL SINGH : Now, I understand that a large number of Members of the House have expressed a desire that the Bill be referred to a Select Committee. We have gone in on this matter and in deference to the wishes of the hon. Members, I am glad to announce here that the Government has no objection to accepting the proposal. The name of Members of the Select Committee can be read out by me now or later on.

MR. DEPUTY-SPEAKER . I have received two amendments to this motion that the Bill be referred to a Select Committee. Only one can be put. One is in the name of Shri Shivnath Singh, and the other is in the name of Shri H. N. Mukerjee. I do not know which one should be put before the House. I have been told there has been some informal discussion between the Opposition leaders and the Government, and in principle they have agreed to the constitution of a Select Committee. But even so, the motion has to be formally moved. If Shri Shivnath Singh does not mind, I think it will be more coming if it is moved by the Opposition.

SHRI SHIVNATH SINGH (Jhunjhunu): Yes ; my intention was only to refer it to Select Committee. I have no objection to its being moved by the Opposition.

SHRI. H. N. MUKERJEE (Calcutta-North-East) : I move :

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for

matters connected therewith, be referred to a Select Committee consisting of 15 Members, namely :--

Dr. Henry Austin,
 Shri B. R. Bhagat,
 Shri R. D. Bhandare,
 Shri Tridib Chaudhuri,
 Shri Murasoli Maran,
 Shri Nathuram Mirdha,
 Shri Samar Mukherjee,
 Shri H. M. Patel,
 Shri N. K. P. Salve,
 Shri Sant Bux Singh,
 Shri S. N. Singh,
 Shri Surendra Pal Singh,
 Sardar Swaran Singh,
 Shri Atal Bihari Vajpayee ; and
 Shri H. N. Mukerjee

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

SHRI ATAL BIHARI VAJPAYEE (Gwalior) : Should we not invite the Rajya Sabha also ?

MR. DEPUTY-SPEAKER : This is only a select committee ; it is a financial Bill.

SHRI K. NARAYANA RAO (Bobilli) : My contention is, it is not a Money Bill.

MR. DEPUTY-SPEAKER : Have you read the Financial memorandum ?

SHRI K. NARAYANA RAO : Whatever it is.

MR. DEPUTY-SPEAKER : I expect the Members to read the Bill and the financial memorandum ; it is clear from the financial memorandum that it is a financial Bill. You say it is not a financial Bill. Are we to discuss it now ?

SHRI K. NARAYANA RAO : Simply because it has been mentioned in a Bill that it is a money Bill does it become automatically a financial Bill ?

MY. DEPUTY-SPEAKER : It is a financial Bill ; there is a financial memorandum and I have accepted it as such.

SHRI K. NARAYANA RAO : I shall stand corrected if the hon Minister can explain to me in what way it is a financial Bill.

MR. DEPUTY-SPEAKER : I am not admitting that motion now ; you can take it up when it comes up again for consideration. I put this motion for adoption by the House.

The question is :

" That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be referred to a Select Committee consisting of 15 members, namely :-

Dr Henry Austin, Shri B.R. Bhagat, Shri R. D. Bhandare, Shri Tridib Chaudhuri, Shri Murasoli Maran, Shri Nathuram Mirdha, Shri Samar Mukherjee, Shri H. M. Patel, Shri N. K. P. Salve, Shri Sant Bux Singh, Shri S. N. Singh, Shri Surendra Pal Singh, Sardar Swaran Singh, Shri Atal Bihari Vajpayee and Shri H. N. Mukerjee.

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

The motion was adopted.

12.52 hrs.

MOTION-RE : MODIFICATION OF PREVENTION OF FOOD ADULTRATION (SECOND AMENDMENT) RULES, 1971

SHRI N.K.P. SALVE (Betul) : Sir, I beg to move :

" This House resolves that in pursuance of sub-section (2) of section 23 of the Prevention of Food Adulteration Act, 1954, the following modifications be made in the Prevention of Food Adulteration (Second Amendment) Rules, 1971,