

[Shri Morarji Desai]

they not want to hear me? If the hon. members are very courageous, they cannot frighten me. That is what I am going to tell them. They cannot dictate to me. I do not want to dictate to them anything. But one who does not want to be dictated must not dictate to somebody else anything. This is what I have to plead with my hon. friends.

I am not, therefore, going to say what happened in the Executive Committee, but I must say here when he has put two matters that I assured the Executive Committee . . . (*Interruptions*)

श्री मधु लिभये : आपने पढ़ा नहीं है।

मैं इनके बारे में नहीं कहा था

(*व्यवधान*)

SHRI MORARJI DESAI: He has not heard me at all.

MR. SPEAKER: You may not agree with him, but you should hear him.

SHRI MORARJI DESAI: What I am saying, he has not heard me. I am not referring myself to any assurance; I am referring to the report in the *Patriot*. If the hon. Member relies on, and he also repeats it, where is it said that I assured the Executive Committee members or the Executive Committee that decision will be taken with the consent of the Executive Committee? This is entirely false, and if any members of my Party have told the hon. Member, I should like to be confronted with them. Then he will know who is right and who is wrong, because this is not a thing which is said even by the farthest imagination. Therefore, this is entirely wrong.

About the other thing, when I have said it, I am within my rights; that is also a duty that the Government should consult the Party before it takes any important decision; therefore, it was wrong to have taken this decision without taking the party into consultation. That is all that I

have said. I stick to it and I will stick to it. I have nothing more to say.

12.24 hrs.

BANKING LAWS (AMENDMENT)
BILL—contd.

MR. SPEAKER: We now take up further consideration of the following motion moved by Shri Morarji Desai on 1st August, 1968, namely:—

“That the Bill further to amend the Banking Regulation Act, 1949, so as to provide for the extension of social control over banks and for matters connected therewith or incidental thereto, and also further to amend the Reserve Bank of India Act, 1934, and the State Bank of India Act, 1955, as reported by the Select Committee, be taken into consideration.”

Yesterday there was a point of order raised by Shri Srinibas Misra. Would the hon. Minister like to say something about the point of order?

THE DEPUTY PRIME MINISTER AND MINISTER OF FINANCE (SHRI MORARJI DESAI): This is a fantastic point of order that has been raised. That is all that I would say. It either means that the hon. Member does not know how to read the sections of law or it means that this is a deliberate attempt only to pass time, for the thing is so clear. He says that these sections are omitted. I do not know how he says that these sections are omitted.

SHRI SRINIBAS MISRA (*Cuttack*): He may be the Deputy Prime Minister or Shri Morarji Desai. But is he entitled to speak like this?

SHRI MORARJI DESAI: I am entitled to speak like that? If I am not justified, the hon. Member can certainly pull me up. Let him first hear me and then say what he wants.

He has said that certain sections are omitted from this Act. That is not

a fact. There are these sections in the Act. What has happened is that either it is a deliberate misrepresentation or a misunderstanding. That is all that I can say.

There was a section introduced in this Act in 1965 in order that the Reserve Bank could give guidance also to co-operative banks, and that was section 56. Section 56 applied these things to the co-operative banks. If the very first part of the section is read, then what it means will be understood. It reads thus:

"The provisions of this Act as in force for the time being shall apply to or in relation to co-operative societies as they apply to or in relation to banking companies subject to the following modifications, . . .

These modifications are that section 10 would not apply and the other section would not apply and so on. They are deleted for that purpose. They are omitted for that purpose not for the purpose of the banks. This is a matter for the banks. No co-operative societies are involved in this. Therefore, the sections are there. I do not know how the hon. Member interprets this.

It is entirely wrong I call it fantastic, in order not to say that it is a misrepresentation.

SHRI SRINIBAS MISRA: We are not expected to maintain a library of all the Acts. We depend upon the Parliament Library. Only yesterday I got a copy of the Act as amended or corrected up to the 31st July, 1968. This shows that all these sections are omitted. So, the hon. Deputy Prime Minister cannot say that it is fantastic. I have verified that Act 23 of 1965 had one section 56 inserted. In this section 56, the Act was amended, so far as it was applicable to co-operative societies, and three sections were omitted. Even then, the objection that I raised yesterday is valid. Had the hon. Minister looked carefully into the wording,

1265 (A) LSD—10.

he would have found out that the objection is still valid. It was amended by Act 23 of 1965.

SHRI S. M. BANERJEE (Kampur): Now, a bigger objection has come.

SHRI SRINIBAS MISRA: I am going to prove that what the hon. Minister has said is not valid.

Act 23 of 1965 reads as follows:

"Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

(1) This Act may be called the Banking Laws (Application to Co-operative Societies) Act.

(2) It shall come into force . . . Then it amends in Chapter II of the Reserve Bank of India Act, and in Chapter III it amends the Banking Companies Act, and says:

"In the Banking Companies Act, 1949 hereinafter referred to as the principal Act, in the Long Title and the Preamble, the word 'company' shall be omitted . . .".

Then, it amends something.

Then Part V is added, and Part V says:

"The provisions of this Act as in force for the time being shall apply . . .".

I would like to stress the words 'for the time being'. Ordinarily, the drafting procedure is to say 'as it will stand amended from time to time'. But here the wording is 'as in force for the time being', which means as on that day. It says:

". . . shall apply to or in relation to co-operative societies as they apply to or in relation to banking companies subject to the following modifications . . .".

Then, certain sections are omitted, and certain sections are substituted and certain sections are amended.

[Shri Srinibas Mishra]

Now, what the hon. Minister wants to do by amendment is this. There are two things. One is that the Act as it is applies to banking companies, and the other is that the Act as modified by Part V, section 56, applies to co-operative societies. By this amending Bill the hon. Minister wants to amend with respect to co-operative societies those sections which are not applicable to co-operative societies. Under the original Act, some sections are not applicable to co-operative societies but they are being amended now.

That being the position, the objection raised by me yesterday still holds good, although I admit that the Parliament Library should have corrected it by saying that section 56 was there. But still my objection is valid.

Let me give you just one example.

SHRI S. M. BANERJEE: Which copy is correct? We do not know.

SHRI SRINIBAS MISRA: Under Act 23 of 1965, section 10 was omitted in its application to the co-operative societies. In the present Bill, under section 56 Government want to say that sections 10, 10A, 10B and 10C and 10D shall be also omitted. They were not applicable to the co-operatives. How can they amend something which is not applicable to co-operative societies? How can they amend something which is not in existence? This is one point.

There is also a very sinister attempt here. Part IIA which consists of the whole of section 36 was omitted in its application. Now, to Part IIA there are other parts added, namely IIA, IIB and IIC. Now, in part IIC some provisions regarding labour have been added. Under the amending Act, Parts IIA and IIC were not made applicable to co-operative societies, but part IIB is there. How can Government do that? When Parts II, IIA, IIB and IIC were not there originally and they were non-existent, how could they repeal them and make them not applicable? It is something which is very wrong.

MR. SPEAKER: The hon. Member says that this is also fantastic?

SHRI SRINIBAS MISRA: Therefore, I say that it is fantastic.

SHRI SURENDRANATH DWIVEDY (Kendrapara): What is the reply to this point? This particular Bill is applicable to certain co-operative societies. These very provisions do not exist at all. For instance, as the Member has pointed out, there is section 56. What is the reply to that point? If it is not there and does not exist, how are Government going to repeal it? The hon. Minister must make that clear. This is not fantastic. I hope the Deputy Prime Minister will not come forward and say that this is fantastic, even though he may have a copy of the Act supplied to him; we have got only the copies supplied by the Finance Ministry or the Law Ministry.

SHRI MORARJI DESAI: I have not seen that copy. So, I do not know.

SHRI SURENDRANATH DWIVEDY: I think it will be wrong on our part to proceed with the Bill unless this position is clarified.

MR. SPEAKER: That will arise only when we take up the clauses.

श्री मन्मथ लिंगम (मंगेर) : यह नहीं हो सकता है। मेरा तो स्थगन प्रस्ताव या नियम 340 के तहत। उसमें बहस एडजर्ब करने की बात है। जब तक इसका फैसला नहीं हो जाता तब तक बहस नहीं हो सकती है। या तो प्राप यह कहिये कि यह गलत है या यह कहिये कि सही है। पहले इसका फैसला होना चाहिये।

MR. SPEAKER: The hon. Member can move for adjournment of the debate; he can defeat the motion or do anything. I know that he has a right to oppose the introduction and he can do that.

श्री मन्मथ लिंगम : इसका फैसला होना चाहिये।

SHRI SURENDRANATH DWIVEDI: It is a procedural matter. I think that it will be very wrong on our part to proceed with this Bill unless this matter is clarified.

श्री कंवर लाल गुप्त (दिल्ली सदर):
जो एतराज उठाया गया है जब तक सरकार इसका जवाब नहीं दे देता तब तक इसके ऊपर डिस्कशन नहीं होना चाहिए। मंत्री जी इसका जवाब दें। पहले इसका स्पष्टीकरण न हो जाय और फिर आपका निर्णय हो जाये तभी आगे बहस हो सकती है।

SHRI RANDHIR SINGH (Rohtak): May I invite the attention of my hon. friends Shri Kanwarlal Gupta and Shri Srinibas Misra to section 8 of the General Clauses Act? That will give the remedy to their contention. This relates to construction of references to repealed enactments.

"Where this Act or any Central Act"—

The Bill is now coming—(Interruptions). Let them apply their brains.

"repeals or re-enacts any provision of a former enactment, then references in any other enactment to the provisions so repealed shall be construed as references to the provisions so re-enacted".

श्री रवि राय (पुरी): ये किसी और प्रश्न पर बोल रहे हैं क्या?

SHRI RANDHIR SINGH: How can they understand? They have no knowledge of law? This is the reply in regard to cl. 5 and cl. 10. About 36.....

श्री रवि राय: यह हरियाणा बजट नहीं है।

SHRI RANDHIR SINGH: As regards 36, there is a reference to section 26 of this Act, provision as to

offences punishable under two or more enactments:

"Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of the two enactments but shall not be liable to be punished twice for the same offence.

This is the reply to both the contentions of my hon. friend.

SHRI P. RAMAMURTI (Madurai): On a point of order.

SHRI H. N. MUKERJEE (Calcutta North East): You, Sir, had indicated when you suggested that this matter might be mentioned at the time when we took up clause by clause consideration, that there is room for difference of opinion on this very important issue. If that is so, it goes to the root of the matter. Whether you uphold it later on one way or the other, is a very different proposition. At the moment, you have expressed yourself being in doubt, and since it goes to the root of the matter, since this House cannot take cognisance of a Bill which purports to amend sections which, according to Shri Misra, do not exist, and since this is a point on which you cannot make up your mind—if you have made up your mind, you may tell us so . . .

MR. SPEAKER: I have made up my mind. It does not exist, as Shri Misra has said, in the Library copy. It is missing there. But in other copies it exists.

SHRI SRINIBAS MISRA: I have submitted my copy to you.

SHRI KANWAR LAL GUPTA: Even in my copy, it does not exist.

SHRI H. N. MUKERJEE: He has a right to point out this. It does not matter if in one government publication copy it exists. Every government publication copy is an authoritatively published copy, to be taken as an authoritative publication. I

[Shri H. N. Mukerjee]

have not applied my mind to this matter. I do not know if you have. But after having heard the Deputy Prime Minister and Shri Misra, I am myself in doubt. And when you had suggested that this matter could be agitated later on, I thought that you yourself also were in doubt. If it is not so, please tell us. But if it is so, then at this particular point of time, we cannot proceed with consideration of a Bill which is being impugned in a manner which goes to the very root of the thing, because we cannot take cognisance of a piece of legislation which purports to amend sections which do not happen to exist. That is the point that is made.

SHRI MORARJI DESAI: May I say this? I just now got that copy.

MR. SPEAKER: How can it be that in one copy it is not there while in others it exists? They are all government copies.

SHRI MORARJI DESAI: That is what I am trying to explain. This copy is modified upto the 1st July 1964, not 1968. But on that I find that while putting that there, it is written 'Corrected up to 31-7-68' and signed by somebody. But when you look inside, they have scored out several sections. That is how it is shown. But there is nothing else mentioned about it. There are some slips attached. I cannot say that this is the copy which is available anywhere. But if you get a copy anywhere which is available, which is with me and which we are using and which people are using, where this exists

SHRI SRINIBAS MISRA: I got the copy from the Parliament Library.

SHRI S. M. BANERJEE: We are concerned with the copies available in the Parliament Library.

SHRI MORARJI DESAI: This is not a personal copy, this is the copy

which is available in the market. Even granting what he says, I do not know who has scored it out; whoever has done it, has not taken again the trouble to re-number the sections. There cannot be an Act in which there are sections 1 to 9, then 11 to 15, then 18 to 23 etc. There cannot be an Act like that. You can see the copy which is with me. This is not a thing which can be believed in by anybody. It is somebody's mistake, I do not know whose mistake it is.

SHRI TENNETI VISWANATHAM (Visakhapatnam): The hon. Deputy Prime Minister's argument is somewhat strange. He says an Act cannot be like this. I have seen the Act of 1965 which is published in the Gazette of India, which, under our statutes, is the most authoritative publication. There it is written that section 10 of this very Act is omitted, as also some other sections. If the corrections have not been carried out in the particular copy in the possession of the gentleman, it is not open to the Deputy Minister to ask, "How can such an Act exist?" It is the fault of the office. The copy is supplied by the Library; and the Library is supplied by the Department.

After the omissions were all carried out, the Act was put in the Library in July 1968, and there certain sections are omitted. And if you look into several other Acts also which are printed in the Code, you will find that asterisks are placed where sections are omitted. Apparently, some mistake was committed here in the office. It is much better to gracefully admit the mistake, and then go through the thing once again.

Another argument put forward by him is that it should have been pointed out in the first instance. The Opposition is not as well equipped as the hon. Deputy Prime Minister, and sometimes there may be delay, but

there is nothing wrong on our part to have discovered the mistake even at this stage. It is much better that they withdraw the Bill. We are prepared to go through the entire thing again, except 36(d).

SHRI P. RAMAMURTI: The Deputy Prime Minister was saying that it is a fantastic thing that there can be section 11 after section 9.

MR. SPEAKER: Why don't you forget that "fantastic".

SHRI P. RAMAMURTI: Usually when a particular section is omitted, the amending Act also says that the sections are re-numbered, but unfortunately in the Act that was passed in 1965 there is no section which says that, after omitting certain sections, the other sections will be re-numbered. It is also common, when there are too many sections, that they do not provide for the re-numbering of various sections, and the Banking Act being a long Act, containing so many sections, having been amended a number of times, probably Parliament thought it unnecessary to re-number the sections, putting asterisk marks. That is how you will find section 11 after section 9. When the Act is printed, they will put section 10 and put an asterisk mark and a footnote saying that it is repealed. That is how it is done. If the hon. Finance Minister is aware of the ordinary course of legislation that is resorted to in this Parliament and country, he would not make this fantastic claim that it is fantastic.

SHRI MORARJI DESAI: May I say that the mistake is in the other Act; it should have been written 'applicable to the co-operative societies only'.

SHRI KHADILKAR (Khed): I have tried to find out the truth about the point of order which was raised yesterday. Yesterday, I saw two copies. One was not properly corrected. Perhaps he got hold of a copy which was not properly corrected. So, I got the Code itself which was the authoritative text. According to this Code,

section 3 of Part I applied to co-operative societies in certain cases; that exception has been noted. Secondly, "any other co-operative society except in the manner and to the extent specified in part V....." Another exception has been emphasised. In Section 5, it says "No banking company....." There are several parts. Part V which has been printed by the Reserve Bank almost as a separate Act says that section 10 shall be omitted. On that basis, Mr. Misra raised a point of order yesterday. I have gone through the Act very carefully. So far as the omission of section 10 is concerned, that is an exception which has been made in section 3 itself; it was not deleted. In the confusion yesterday, I could not decide that point. Section 10 shall be omitted in relation to co-operative societies only.

SHRI SURENDRANATH DWIVEDY: He has accepted that.

SHRI KHADILKAR: He got hold of an Act which was not corrected properly and therefore there was some confusion.

As for the present point of order that has been raised by him, I could not just now make up my mind.

MR. SPEAKER: Anyway it is clear now. The point of order mentioned by the Deputy-Speaker was on the basis of the code that was in the Parliament Library. Now, it is clearly seen. I also verified in the Chamber before I came here. The correction ought to have been made and it should have said that it does not apply to the co-operative societies. Instead of that, they proceeded on the basis of what Mr. Misra said. He could not be blamed. On the basis of the wrong correction, he had done so. I think we can now proceed with the Bill. Shri N. Dandekar.

श्री रवि राय : मोरारजी भाई इसको वापिस ले लें। क्यों इस तरह की टिप्पणी करते हैं? उनको वापिस ले लेना चाहिए।

[Shri Srinibas Mishra]

SHRI SURENDRANATH DWIVEDY: The point of order has not been disposed of.

MR. SPEAKER: I have called on Mr. Dandekar.

श्री मधु लिमर: मैं फिर नियम 340 के अन्तर्गत विवाद स्पष्ट करने के लिए प्रस्ताव करूँगा।

MR. SPEAKER: It is a different matter; you can oppose it.

SHRI SRINIBAS MISRA: Shall I take it that the point of order that I raised today had been ruled out?

MR. SPEAKER: You can oppose the Bill.

SHRI SURENDRANATH DWIVEDY: The point of order raised today has not been considered.

MR. SPEAKER: Yes; I considered it and I have not allowed it.

SHRI P. RAMAMURTI: I am raising another point of order. I refer to section 36 of the original Act which is being amended. Section 36 of the original Act says that the Reserve Bank may during the course or after the completion of any inspection of the banking company under section 35 by order in writing impose such terms and conditions as may be specified therein. It says certain things then. That is, what the Reserve Bank is empowered to do. Then, Part A comes. It is a continuation of that section: "Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of the banking company being conducted in a manner being detrimental" and so on. It can do certain things. Where any order is made in respect of a director, then section 36B comes. "If the Reserve Bank is of opinion that in the interests of a banking company or its depositors it is necessary so to do, it may, from time to time by order in writing, appoint with effect from such date..." etc. The entire section 36 deals with certain powers which

should be given to the Reserve Bank for the purpose of seeing that the management of these different banks is conducted properly. The entire section is nothing else. And it is this section which we are supposed to be amending—whatever you have put in here—at the moment.

If you take the proposed section 36, you will find:

"If, upon receipt of a report from the Reserve Bank,....failed to comply with the directions..." etc.

The whole thing is in order here. If the Reserve Bank is empowered to do certain things and give certain directives to the various banks and if they fail to do that, what should be done is, the Government can take them over. It is quite in order. But then, another section, 36AD, is now being sought to be inserted here which says:

"No person shall obstruct any person from lawfully entering or leaving any office", etc.

What has this got to do with the directives, to the powers that are being given to the Reserve Bank? It is entirely alien to the whole scope of that section. Not only alien to the whole scope of the Bill, but it is even entirely alien to the powers that are sought to be given to the Reserve Bank. That is why I say that you cannot somehow or other put in something here, and I am objecting to it. Of course, Parliament is entitled to legislate anything, but after all, legislation has got a certain method. When we are supposed to be discussing certain things, the discussion is brought to bear upon that. When we are discussing what should be the powers of the Reserve Bank and how the management should behave with regard to that, suddenly, you cannot insert a criminal offence there. How can this Parliament, when we are discussing something else, bring to bear its mind on an entirely different subject altogether? Therefore, I think that this is a wholly obnoxious piece of legislation:

MR. SPEAKER: You are going into the merits of the Bill.

SHRI P. RAMAMURTI: I am not going into the merits. I am only talking about the propriety of it. Can such a piece of legislation be passed by Parliament at all? It is absolutely out of order. How can you have this?

AN HON. MEMBER: It is misplaced.

SHRI P. RAMAMURTI: How does it come here? What has the Reserve Bank got to do with this, I do not understand.

MR. SPEAKER: As you say, it may be obnoxious; it may be wrong; or it may not be worthy of this Parliament, but you have the right to oppose the Bill when the time comes. But I do not think you have made any point that on some constitutional grounds the Bill cannot be introduced and all that.

SHRI P. RAMAMURTI: It is a mockery of Parliamentary discussion itself. I seek your protection, the protection of the Speaker on this matter.

MR. SPEAKER: You may throw it out if you want.

SHRI P. RAMAMURTI: Sir, my point is, you as the custodian of the House, as the custodian of Parliamentary discussion, have got to do certain things. I am requesting you to exercise your discretion, whether the Deputy Prime Minister can be allowed to make a mockery of this Parliament.

SHRI MORARJI DESAI: It is not tagged on to the section which the hon. Member pointed out and to which he says it does not apply. The amending Bill says: "After Part IIA of the principal Act, the following Part shall be inserted," namely, "Part IIB." It is not attached to that section. This is Part IIB.

SHRI P. RAMAMURTI: Of the same section, 36.

SHRI MORARJI DESAI: Not in the same section. We have given a different part altogether. This is section 36AD; it has a different nomenclature: a different number given to it. It is not the same number; it is not part of the same thing.

SHRI SRINIBAS MISRA: I have a point of order. The question is this. We can take away, or this House has the power by legislation to take away somebody's property. This House has the power, under the Constitution, to direct somebody to use the property in any manner directed by this House, in any manner the House may by law direct. But the Constitution does not give the authority to this House to say to a person, "You give up your property. We will manage it". I am not opposing it as such but I am referring to it that it will be unconstitutional when passed.

MR. SPEAKER: Do you want to say what the courts are likely to say about the Act?

SHRI SRINIBAS MISRA: No, Sir. Are we to pass a law which will become unconstitutional?

MR. SPEAKER: There may be difference of opinion. I do not think I can take a decision on that. I am not competent to say what decision the courts would take. It is for the House to decide whether it is bad, against the constitutional provisions and is likely to be thrown out. The Speaker should not arrogate to himself the power to decide it. Because you have put him in the Chair he cannot arrogate to himself the power to say that this is against the Constitution. If 502 members cannot decide that this is against the Constitution, you should not put that responsibility on one man who is sitting in the Chair. If you think it is against the Constitution or is likely to be thrown out by courts, let the House discuss it and take a decision. Don't put that responsibility on the Speaker.

धी-धी लिखते : अध्यक्ष महोदय, जिस कमेटी की रिपोर्ट पर अब हम बहस करने जा रहे हैं, मेरी राय में वह रिपोर्ट ही नहीं क्योंकि जिस स्थिति में और जिस शक्ति में रिपोर्ट आनी चाहिए थी वह आई ही नहीं है। कैसे, यह मैं अभी साबित करना चाहता हूँ। कल ही इस बात की ओर मेरा ध्यान गया है और कल से ही मैं यह मांग कर रहा था।

मैंने दूसरे साधियों के साथ जो मिनट आफ डिसेंट विरोध पत्र दिया था उसे नहीं छपा गया है। मेरे मिनट आफ डिसेंट में यह हिस्सा था :

(iv) Moreover, there is a great danger of the Banks falling under Congress Party Control under the new dispensation without being liberated from the influence of Big Business in any way. This is borne out by the fact that several Congressmen have been appointed directors, viz., Messrs Utov Parikh and G. B. Nawalkar (Bank of Baroda); Tribuwanadas Patel (Central Bank); Shantilal Shah, M. P., Kantilal Ghia, M.L.A. S. N. Desai and Raghunath Singh (Union Bank); Jashbhai Patel (Bank of India), and Maganbhai Patel (Bank of India).

दूसरा पैराग्राफ यह है :

"(v) The Thacker affair has also established beyond doubt the collusion between Big Business, Bureaucracy and Ministers. It is established that the Minister for Industrial Development and his senior civil servants had given their consent to Prof. Thacker's accepting directorship of a leading Commercial Bank and but for the opposition of Mr. Mohan Kumaramangalam and Dr. Panjape and vigilance of Parliament, the deal would have gone through and the inquiry into one aspect of

monopoly sabotaged. It is, therefore, necessary to give directions which will ensure that Chairman and Boards of Directors of the Banks do not become subservient to the ruling party."

इसके बारे में हम लोगों ने बहस उठाई थी। श्री दांडेकर और श्री इन्द्रजीत गुप्त को याद होगा। इस बारे में चार लोगों ने जो मिनट आफ डिसेंट दिया था उसमें से दो अनुच्छेद काट दिये गये हैं। इसलिये जो रिपोर्ट हमारे सामने विचारार्थ आई है उसको हम रिपोर्ट नहीं कह सकते हैं। अगर यह गलती है तो उस गलती को सुधार कर नई रिपोर्ट आये, उसके बाद श्री मोरारजी इसका प्रस्ताव रखें। इसके बारे में मैं आपका निर्णय चाहता हूँ। मैंने सारे नियमों को और आपके निर्देशों को पढ़ा है, अगर कोई असंसदीय और अशिष्ट या इस तरह की बात होनी तो उसको आप काट सकते थे और सो भी पहले मुझसे कहना चाहिये था। अगर मुझको कहा जाता तो शायद मैं ही पहले उसको उसमें से निकाल देता। लेकिन इसमें कोई अशिष्ट नहीं है, असंसदीय नहीं है, अशोभनीय नहीं है, कोई गाली गलौज नहीं है। अगर हमने अपना दृष्टिकोण रखा है नुकताचीनी की है और वैसा करते समय हो सकता है कि तीखे शब्दों का हमने प्रयोग किया हो। लेकिन जहाँ तक शब्दों का सम्बन्ध है आपने अभी देख लिया है कि सन्त मोरारजी ने कैसे शब्दों का प्रयोग किया है। हर एक की रचि होनी है, हर एक आदमी की अपनी अपनी शैली होनी है। लेकिन जब उसमें अशोभनीय अशिष्ट और असंसदीय कुछ नहीं था तो हम लोगों की बातों को काटने का उनको कोई अधिकार नहीं था। इस वास्ते यह रिपोर्ट ही नहीं है और इस वास्ते इस पर आधारित जो प्रस्ताव आया है उसको विचारार्थ स्वीकार करने से आप इन्कार कर दीजिये। यह बिल्कुल आउट आफ आर्डर है, नियमों के विरुद्ध है।

13 hrs.

MR. SPEAKER: Later on, when we meet after lunch, we shall hear the Chairman of the Committee.

SHRI S. M. BANERJEE: Sir, there is no rule under which he can be asked to clarify the position. A similar situation arose when an amendment came regarding an earlier Bill and it was pleaded by some hon. Members that the Chairman has got a right to delete anything. But then it was said that he can only delete with the permission of the Member concerned. Here an important portion has been deleted.

MR. SPEAKER: The point raised by Shri Limaye is an important one. That should be discussed as to whether the Chairman has a right to delete something or not.

श्री रवि राय : बड़ी विचित्र बात है कि प्राप को खबर ही नहीं है ।

MR. SPEAKER: The question is whether he has the right to delete something. It is a separate question and it should be discussed by the members of the Rules Committee or somewhere else.

श्री मधु लिमये : जब क फैसला नहीं आता है यह स्पष्ट ही नहीं है, इस को प्राप चर्चा के लिए न लीजिएगा ।

MR. SPEAKER: This is the first time that I hear about this. If the hon. Member had written to me earlier I could have taken a decision earlier. I think that is a bigger question not pertaining to this Bill alone. The point to be decided is whether the Chairman of a Committee can delete some portions of a minute of dissent. That is a separate question which can be discussed and a decision taken.

SHRI S. M. BANERJEE: Sir, I want your guidance on this. I want to quote from the minute of dissent sent in by Shri Madhu Limaye and also Shri Indrajit Gupta. I am aware that while they submitted their minute of dissent a particular paragraph was there. But now I find that that paragraph is not in the printed report. It has been omitted intentionally or unintentionally. But how can the report be complete when that particular point raised by some Members is not there? How can we discuss an incomplete report?

SHRI P. RAMAMURTI: Sir, the Parliament appointed a Select Committee to consider a Bill. When Parliament is again discussing the Bill as it has emerged from the Select Committee Parliament is entitled to know what points were raised in the Committee and how the Members had reacted to the provisions of the Bill. If the Chairman of the Committee, without having a right to do so, delete certain views expressed by certain hon. Members, how is this Parliament to know what has been the opinion of various Members? Therefore, this report is incomplete. This is not a proper report. Sir, I request you to hold it back, let us have the full report, allow us to go through it and apply our mind and then we can take it up here and consider it. Otherwise, Sir, there need not be a Select Committee at all.

MR. SPEAKER: I wish I had known about this one or two days earlier. Then a decision could have been taken by now. Anyway, let us hear the Chairman of the Committee when we meet after lunch. Let us adjourn for lunch now and meet again at 2.00.

13.05 hrs.

The Lok Sabha then adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at five minutes past Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair].

**BANKING LAWS (AMENDMENT)
BILL—contd.**

MR. DEPUTY-SPEAKER: Shri Dhillon.

SHRI S. M. BANERJEE: Sir, before he makes a statement, I wish to say something on this point of order so that he may reply to that also.

MR. DEPUTY-SPEAKER: Already he has stated his case.

SHRI S. M. BANERJEE: I was on my legs, when the House adjourned for lunch.

SHRI THIRUMALA RAO (Kakinada): May I make a submission? When the Speaker adjourned the House for lunch, the Chairman of the Select Committee, Mr. Dhillon, was called upon to make a statement and the Speaker said that he would make it at 2 O'Clock when the House re-assembled I suggest he should have priority before Mr. Banerjee takes the floor.

SHRI S. M. BANERJEE: I rise on a point of order.

MR. DEPUTY-SPEAKER: So far as the Minute of Dissent is concerned, you are not a signatory to it.

SHRI S. M. BANERJEE: I am not a signatory to it. But once a point of order has been raised, once an issue has been raised, in the House, it is the property of the House. My Party Member, Mr. Indrajit Gupta, is a signatory to it. Kindly hear me.

MR. DEPUTY-SPEAKER: Please resume your seat. When Mr. Madhu Limaye raised this matter and it was brought to the notice of the House, the Speaker said that the Chairman of

the Select Committee would be heard . . . (Interruptions) If I need your help, I will take it.

SHRI S. M. BANERJEE: Kindly hear me for a minute. The first signatory is Mr. Madhulimaye and the second signatory is Mr. Indrajit Gupta who belongs to my Party, the C.P.I. Unfortunately, Mr. Indrajit Gupta has gone to attend the meeting of the National Council which is being held in Delhi. Otherwise, he would have expressed his views. I have been asked to express the viewpoint of my Party, specially the viewpoint of Mr. Indrajit Gupta.

SHRI SAMBASIVAM (Nagapathnam): A point of order cannot be raised by other persons.

MR. DEPUTY-SPEAKER: The matter is before the House. How can I shut him out?

SHRI S. M. BANERJEE: Anyone can speak now.

May I invite your kind attention to Rule 303(6)? It says:

"(6) If in the opinion of the Speaker a minute of dissent contains words, phrases or expressions which are unparliamentary or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent."

We are proceeding on an assumption that this particular portion of the Minute of Dissent which was given by Mr. Madhu Limaye and my hon. colleague Mr. Indrajit Gupta and others contained something which, according to the Rules, was unparliamentary or otherwise inappropriate, which the Chairman, in the case of the Select Committee or the Speaker, in the case of the House, thought it best to expunge.

Then, I would invite your kind attention to the Directions by the Speaker. Direction 91(1) says:

"If in the opinion of the Chairman, a minute of dissent contains

words, phrases or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minutes of dissent."

Now, that particular portion has been read and very ably explained by my hon. friend Mr. Madhu Limaye. That portion—the English language as I know—did not contain any sentence or words which could be construed as unparliamentary or otherwise inappropriate or something like that. So, my submission is only this namely that we would like to hear from the chairman of the Select Committee, Shri G. S. Dhillon, for whom I have the greatest regard, the circumstances under which he expunged that particular portion without information to the Member or Members concerned. Did he rely on Rule 303 (6) and direction 91(1) of the Directions by the Speaker, or were there other considerations which led him to believe that that portion was not fit to remain in the minute of dissent? Before you give your ruling, I would like to hear him on this point.

SHRI G. S. DHILLON (Taran Taran): The minute of dissent submitted by my hon. friends who were members of the Committee ran into 15 paragraphs. I found that paragraphs 4 and 5 were not at all relevant to the main issue. They were rather full of insinuations and certain reflections. In one paragraph they had tried to drag into the minute a certain political party and a number of persons who could never have been given any opportunity either in the Select Committee or anywhere else. The reference relating to the Thacker report was absolutely out of context and completely irrelevant. Under the authority given to the Speaker under rule 303 and under Direction 91 of the Directions by the Speaker, I held the opinion that out of the 15 paragraphs which might run into a report much bigger perhaps than the report of the Select Committee itself . . .

SHRI S. M. BANERJEE: So what?

SHRI G. S. DHILLON: So, I thought that it was quite irrelevant and contained insinuations and not at all appropriate to the issue. That was within my discretion and I held that opinion. I consulted the office and again looked into the matter, and after a good deal of deliberation I arrived at this conclusion that this was not relevant to the issue.

As regards my hon. friend's point that it ought to have been conveyed to the Members concerned, I am very sorry I did not do so. I had met a number of them, but I was throughout under the impression that the practice as it has gone on in this office for years is that no hon. Member has been informed at any time about the decisions taken by the chairman in regard to the minutes of dissent . . .

SHRI S. M. BANERJEE: In that case, the minute of dissent should have been written by the chairman himself why should he ask the Members to write it?

MR. DEPUTY-SPEAKER: Order, order. This is not fair. He is only saying objectively what had happened.

SHRI G. S. DHILLON: I do not know, and I was never shown any instance regarding that. Otherwise they are all my good and dear friends, and if it had been within my knowledge that the chairman should also explain to the Members the reasons why he exercises his discretion in a particular way, certainly I would have welcomed any of them and explained to them the position.

श्री जार्ज फर्नेन्डो (बम्बई दक्षिण):
अध्यक्ष महोदय, मैं आप से खुलासा चाहता हूँ आपके बयान के ऊपर। दिल्ली साहब ने जो अपना बयान दिया उस में यह यह कह रहे हैं, उन का कहना है कि उन्होंने इस चीज को हटा दिया

MR. DEPUTY-SPEAKER: Shri George Fernanades may please resume his seat.

If I have to permit anybody to speak now, then I should permit first Shri Datta'raya Kunte who had got up first. But what I would suggest is that let the hon. Member listen first to what I have to say about it, and then if he has any doubts later on, I would permit.

श्री जार्ज फॉर्नेडीज : आप 303 (6) देखिये.... (स्वयं) उनको अधिकार ही ही है, स्पीकर को अधिकार है। अगर किसी भी चीज को हटाना हो तो स्पीकर को अधिकार है।

MR. DEPUTY-SPEAKER: First, let hon. Members listen to me. I have heard the chairman of the Select Committee. The usual practice which I have followed is that when anything is to be deleted, we usually consult the Member concerned and point out that such and such a thing is inappropriate or such and such a thing is not called for. I have observed this because in one of the committees I had to correct a minute of dissent. I sent for the Members and then corrected it.

In this particular case, except for this, the Chairman of the Select Committee has acted quite correctly, and there is no question about it.

Since the matter has been brought before the House, I think that in all fairness, because I have gone through the relevant rule and also the Direction, that these two paragraphs need to be restored. I consider it that they would be taken as restored and correction would be issued.

SHRI S. M. BANERJEE: It should be reprinted. We do not know what the paragraph is.

MR. DEPUTY-SPEAKER: Shri Madhu Limaye has read it out already. If necessary, I would ask him to read it out again.

SHRI S. M. BANERJEE: It should be circulated.

MR. DEPUTY-SPEAKER: I have already said that it will be circulated.

श्री मधु लिमये : आप जरा मेरी बात सुनिए। जो लोग उपस्थित नहीं है वह क्या करेंगे?

SHRI P. RAMAMURTI: After having given that decision you should hear me. You should not behave in a dictatorial way.

MR. DEPUTY-SPEAKER: After my ruling there can be no debate on it.

SHRI P. RAMAMURTI: I am not debating on it. I just want to make a submission.

MR. DEPUTY-SPEAKER: I shall not hear anything on the ruling. I have given my final ruling that the paragraphs will be restored.

श्री पुरुषोत्तम लिमये : वह ठीक है। दूसरा प्वाइंट आप आर्डर है।

MR. DEPUTY-SPEAKER: All other points of order were overruled.

SHRI P. RAMAMURTI: I have got a new point of order.

MR. DEPUTY-SPEAKER: The Speaker has already said that if on any particular clause there is any point of order we shall consider it at that time. But point of order of a general nature regarding the structure of the Bill was overruled.

श्री मधु लिमये : आप के निर्णय ही में छे उत्पन्न हो रहा है। यह दूसरा प्वाइंट आप आर्डर है। आप जरा सुनिये नो।

श्री जार्ज फॉर्नेडीज : उसको बेलीज नहीं कर रहे हैं दूसरा प्वाइंट आप आर्डर है, आप जरा सुनें नो मालूम हो जायेगा।

MR. DEPUTY-SPEAKER: I have restored the paragraphs. What more does the hon. Member want?

SHRI P. RAMAMURTI: We are not challenging the ruling. We are thankful to you for that.

श्री श्री : उसके बाद ही यह प्वाइंट ऑफ ऑर्डर उठता है आप की रूनिंग को मान कर। आप जरा सुन लीजिये।

श्री जार्ज फर्ने डेविस: आपने जो फैसला दिया बहुत ही बढ़िया दिया। बहुत अच्छा फैसला दिया। हम उसका स्वगत करते हैं।

अब मेरा 305 को लेकर व्यवस्था का प्रश्न है। वह इस प्रकार है :

"The Secretary shall cause every report of a Select Committee to be printed, and a copy of the report shall be made available for the use of every member of the House. The report, and the Bill, as reported by the Select Committee, shall be published in the Gazette."

अब आप ने बहुत ही अच्छा फैसला यहाँ पर दिया। जो अन्याय हुआ है उसको दूर कर के हमें न्याय दिया। अब अगर यह विषय कि यहाँ पर बहस के लिये आना है तो हम आवश्यक है कि 305 नियम के अन्तर्गत हाउस ऑफ मिनट ऑफ डिसेंट के साथ, पारलामेंट, जो दो पैराग्राफ हटाए गये थे, उस पैराग्राफ के साथ छापा जाये और तमाम सदस्य को भी बाँटा जाये और गजट के अन्दर भी इसको छपा कर लाया जाये। अगर यह चीज नहीं होती है तो इस विधेयक पर बहस नहीं यहाँ पर बिलकुल ही असम्भव हो जाती है क्योंकि यह नियम का पूरा

पूरा उल्लंघन हो जायेगा। गलत ढंग से हटाए हुए पैराग्राफ का आज इस सदन के सामने बहस के लिये नहीं है। वह क्या है, यह जिनको हमने वह मिनट ऑफ डिसेंट लिखा था उनको छोड़कर और भी सदस्य कोई भी नहीं जानते। इसलिये जब तक वह दो पैराग्राफ जैसा कि 305 में लिखा है कि सेक्रेटरी उनको छापेंगे और तमाम सदस्यों को देंगे :

"The report and the Bill as reported by the Select Committee shall be published in the Gazette."

यह जो भी नियम 305 में लिखा है वह पूरा होने तक इस बिल पर बहस नहीं हो सकती है।

SHRI P. RAMAMURTI: I am very thankful to you for restoring those two paragraphs. When Parliament refers a particular Bill to a Select Committee and when provision has been made that the report shall be printed and circulated to the Members, what is the intention behind it? The intention is that the Bill could not originally be considered in such detail by Parliament as a whole and therefore we have remitted it to a Select Committee where a detailed discussion could take place. Every member of the House must know fully what exactly has been the opinion of every member of the Select Committee in order that he may bring to bear his points in the discussion in Parliament when the Bill is taken into consideration after it has come out of the Select Committee. Then only proper discussion could take place. It is quite likely that Mr. Dandekar, for example, after knowing fully what exactly has been the minute of dissent of Mr. Limaye and others, might change his opinion or at least he might think of it. Therefore, you must give an opportunity to every member to understand fully what has been the minute of dissent.

[Shri P. Ramamurti]

By asking Mr. Limaye to read out and all that, we are reducing the entire proceedings of the Select Committee to a farce. If you say that, then you need not print it at all, everything could be read out. So, nothing is going to be lost. After all, this could be printed in the night; you circulate it tomorrow, give us a few hours so that we can understand the whole thing, and on Monday you can take it up. By this, nothing is going to be lost. Why are you hurrying up like this? Having restored it, you must take it to its logical conclusion. Why are you stopping in the mid-way? You take it to its logical conclusion. Now only half an hour is left. Why should we hurry about it? Take it on Monday.

MR. DEPUTY-SPEAKER: Your argument, is very clever. But it should not be a question of time; it is a question of principle. You have enunciated a principle. If I accept it, after restoration, I will act on it; if I do not accept, I am perfectly within my rights to call Mr. Dandekar to make his submission for a few minutes.

SHRI H. N. MUKERJEE: We all appreciate highly the principled stand which you have taken by directing restoration of those paragraphs. We would like you to persist in that principled attitude because procedure has a certain sanctity in this Parliamentary set-up, whether we like it or not, it is a different matter—some of us do not like it. In the Parliamentary set-up, procedure is extremely important. We do have to have fool-proof legislation; we do have to behave so that the Deputy Prime Minister of our country does not find himself in the soup. We have, therefore, to order parliamentary proceedings in a fashion that no loopholes are left unplugged if our ingenuity is available in time.

Now what has happened? Largely on account of your direction, this House is now confronted with the position that something else is going to be added to the note of dissent that

we have there. This House presumably proceeds on the basis of certain documentation presented before it. That documentation is going to be altered in certain regard. It may not mean a lot of difference, but, on principle, it is something which is very important. Therefore, since procedure is important, you have to take a more principled stand and see to it that the discussion is postponed half an hour or so. Heavens will not fall down if it is postponed by half an hour.

SHRI RANGA (Srikakulam): I do not wish to take much time. I am in agreement with my hon. friends in what they have said. The report of the Select Committee, as has been presented here, is incomplete. The whole of it should have been presented altogether at one and the same time. But it was not so. It took all the trouble and patience of this House and the persistence of my hon. friends to draw our attention to something that is supposed to have been written. He read it out. I thought I heard it. But I cannot trust myself to think that I have heard it fully and digested it properly also. Here is also rule 305 to which attention has been drawn. Therefore, I personally feel that it would be best if you give us time. Let it be printed and circulated tomorrow. Then we shall take it up tomorrow or at any other time that may be fixed by you or by the Minister of Parliamentary Affairs.

SHRI G. S. DHILLON: I am rather very much enlightened by your ruling. If it had only been suggested that some amendment should be introduced in the Directions that the Speaker could at any time in the House overrule the discretion of the Chairman of a Committee, then it would have been much better, rather than bring it as a bolt from the blue (Interruptions). You have given your ruling, and I think, when you have done so, it is a natural corollary that you have landed yourself in other procedural complications and you cannot get out of them. You must uphold their point of order.

MR. DEPUTY-SPEAKER: I will read out the particular Direction, under what direction I have acted.

SHRI G. S. DHILLON: I was advised by your office that I have got full discretion and there is no practice to intimate anything to the members.

SHRI S. M. BANERJEE: This is very bad. It is casting aspersions on you.

SHRI G. S. DHILLON: I am not controverting or contesting anything.

MR. DEPUTY-SPEAKER: He is under a misconception.

This is Direction 91(2):

"Notwithstanding anything contained in (1) above, the Speaker shall have the power to order expunctions in like circumstances or to review all decisions regarding expunction from minutes of dissent and his decision shall be final".

So far as these objections are concerned, these two paragraphs are restored not for giving an opportunity to the members concerned; otherwise, the question of persuading others to modify their opinion and so on would have come. I have restored them. These two paragraphs are not relevant to the clauses or anything contained therein in the amended Bill. It is an opinion expressed. Therefore, I do not think that restoration and circulation of these paragraphs will in any manner affect the course of the debate.

SHRI N. SREEKANTAN NAIR (Kuilon): How do you know it is not relevant? You do not know.

SHRI SHIEO NARAIN (Basti): Is this the way to speak to the Chair?

SHRI MORARJI DESAI: After your ruling, there is no alternative except to adjourn the debate to Monday.

MR. DEPUTY-SPEAKER: I do not agree.

SHRI TENNETI VISWANATHAM (Visakhapatnam): May I suggest that we proceed to the next item of business?

MR. DEPUTY-SPEAKER: They are mere expressions of a political opinion.

SHRI SURENDRANATH DWIVEDI: I want to have a clarification. Whether it is political or not, these two paragraphs which had been omitted have been restored. I want to ask whether that also forms part of the Select Committee's Report or not. If it is part of the Report, that must be before us before we proceed with the discussion. It is not that you can pass on like that.

SHRI N. DANDEKER (Jamnagar): May I make a submission? I am going to speak in support of the proposition that has been submitted to you, namely, that this Select Committee's Report perhaps is not complete. It is on that document that we are debating the Deputy Prime Minister's Motion that the Select Committee's Report be taken into consideration.

I would like to add that a word on merit about that note. In fact, on one particular aspect of these paragraphs, I had a discussion with Shri Madhu Limay. I thought he was including it in his minute of dissent; therefore, I did not make a reference to it in my note of dissent, because I do regard as of some importance, one particular point, political influence. It is of the utmost importance; I attach a good deal of importance to it and as I said, since he was going to include it in his minute, I did not refer to it in mine, because I do not like overlapping. I do not wish to discuss that paragraph now, but I do suggest it is important. The Motion before us is that the Report of the Select Committee be taken into consideration. The Select Committee's Report is, unfortunately, not complete.

MR. DEPUTY-SPEAKER: After restoration and circulation?

SHRI N. DANDEKER: Every member has got to have it; every member has got to apply his mind to it. I believe the Deputy Prime Minister has also very kindly and properly agreed that this Report is not complete without those paragraphs.

SHRI TENETI VISWANATHAM: In the circumstances, I move that we proceed to the next item.

MR. DEPUTY-SPEAKER: If it is the sense of the House . . . (*Interruptions.*)

SHRI MORARJI DESAI: No, Sir; you have to decide.

MR. DEPUTY-SPEAKER: I still hold that because these two paragraphs are restored and circulated, that will not in any manner affect the debate . . . (*Interruptions.*)

We proceed to the next item.

14.31 hrs.

PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT BILL

THE MINISTER OF WORKS, HOUSING AND SUPPLY (SHRI JAGANATH RAO): I move:

"That the Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, as passed by Raja Sabha, be taken into consideration."

The Public Premises (Eviction of Unauthorised Occupants) Act, 1958, was enacted to provide for speedy machinery for the eviction of unauthorised occupants from public premises and recovery of arrears of rent and damages for unauthorised occupation of such premises. The Act empowers the competent authority called the 'Estate Officer' to evict any person in unauthorised occupation of public premises. The Act stipulates that after a show cause notice and after giving the unauthorised occupant a reasonable opportunity of being heard, the estate officer may make an order of eviction for reasons to be recorded therein. Directing that the public premises shall be vacated by all unauthorised occupants. In the event of non-compliance with the eviction order within 30 days, the

estate officer or any other duly authorised officer may evict that person from, and take possession of, the public premises. The Act also provides for recovery of rent and damages as arrears of land revenue.

Similar provisions exist in the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1958 prevailing in Punjab and Haryana.

In April, 1967, the Supreme Court declared section 5 of the Punjab Public Premises and Land (Eviction of Rent Recovery) Act void on the ground that it conferred an additional remedy over and above the usual remedy by way of suit. The Supreme Court held that provision of two alternative remedies to the Government and leaving it to the unguided discretion of the Collector to resort to one or the other and to pick and choose among those in occupation of public premises was discriminatory and therefore it violated article 14 of the Constitution.

As the objects and procedures prescribed by the Central Act, which we propose to amend are similar to those of the Punjab Act, we felt that there was risk of the Central Act also being struck down by the Supreme Court, if challenged. We, therefore, thought it necessary that a suitable amendment should be made in the Central Act so that the ordinary remedy by way of civil suit may be taken away.

The Act also empowers the Central Government to recover rent and damages in respect of the public premises as arrears of land revenue. We propose to amend the Act to provide that in the matter of eviction as well as recovery of arrears of rent and damages in respect of public premises, only the procedure prescribed in the Act shall apply. No Civil Court shall have the jurisdiction to entertain any suit or proceeding in respect of the eviction of any unauthorised occupant of public premises or recovery of the arrears of rent and damages.