

MR. CHAIRMAN : Now, the hon. Minister.

SHRI B. S. MURTHY : I beg to move :

“That the Bill, as amended, be passed”.

SHRI SRINIBAS MISRA : The position is this. He has to seek the permission of the Chair to move that the Bill be passed on the same day. He can move it the next day, but to move today that the Bill be passed, he has to seek the permission of the Chair.

SHRI B. S. MURTHY : I have been called upon by the Chair to move it, and so, I have moved it.

16.11 hrs.

[Mr Deputy-Speaker in the Chair]

MR. DEPUTY-SPEAKER : What is the hon. Member's point ?

SHRI SRINIBAS MISRA : All the clauses have been passed, some with amendments. The rule says that if the clauses are adopted with amendments, the motion that the Bill as amended be passed cannot be moved the same day unless the Speaker permits. So, he should ask for permission. But he has not asked for such permission ; he has only moved the motion.

SHRI VIDYA CHARAN SHUKLA : May I say that this is a very unusual kind of point of order ? The Chair calls upon the Minister concerned and then he moves it.

SHRI SRINIBAS MISRA : He has to seek the permission of the Chair. It is only after permission has been granted that he can move.

SHRI VIDYA CHARAN SHUKLA : When the Chair calls upon the Minister to move the motion, it means that he has permitted him.

SHRI SRINIBAS MISRA : There is no question of assuming it. He must formally ask for permission. It must be on record that permission has been asked

for and has been granted and then only he can move it.

SHRI VIDYA CHARAN SHUKLA : There is nothing like that.

SHRI SRINIBAS MISRA : Let him seek permission.

MR. DEPUTY-SPEAKER : The hon. Member must also look to the practice that we follow. I have seen the rules. If there is an amendment made of a serious nature which really goes beyond the general framework of the Bill, then that permission clause has some meaning. As far as I have seen, the amendments which have been made are formal one. So, I do not think that permission need be sought.

SHRI SRINIBAS MISRA : But that is the rule. Anyway, if the Chair wants that the rules should not be enforced, that is another matter...But rule 93 is always there.

MR. DEPUTY-SPEAKER : The practice that we have been following here must also be kept in mind.

The question is :

“That the Bill, as amended, be passed”.

*The motion was adopted.*

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16 12 hrs.

CENTRAL LAWS (EXTENSION TO JAMMU AND KASHMIR BILL—Contd.

*Schedule—Contd.*

MR. DEPUTY-SPEAKER : Now, we shall take up the clause-by-clause consideration of the Central Laws (Extension to Jammu and Kashmir) Bill.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : Yesterday, when I was moving the official amendment, Shri Srinibas Misra raised certain points of order. According to him, the three Bills or three Acts which were sought to be extended to the territory of Jammu and

[Shri Vidya Charan Shukla]

Kashmir required some financial memorandum.

We had examined this matter in consultation with the Law Ministry and other concerned Ministries before we came before this House. I had submitted for your consideration yesterday that no financial memorandum would be required. I have got the Acts here with me, and I have already shown the Acts to you, and I still maintain that there is no financial memorandum required because there is not going to be any additional financial expenditure involved in the extension of these measures to that territory. I have already given the details to show why no expenditure is involved and, therefore, why no financial memorandum is required.

I would mention briefly that these Bills or Acts are administered by the Home Ministry where not even one assistant is required to do the work ; all these enactments when they are extended will not involve any expenditure.

There is one more thing I would like to mention for your consideration. Whenever hon. Members raise such kinds of points of order here, I would like to request you to see that they should tell the Chair and tell the House how a financial memorandum is required ; it is no use making a light fun of the rules of procedure of this House and mentioning something in a lighthearted manner and trying to block Bills without having regard to the seriousness of the matter by saying that a financial memorandum is required. They must also prove how a financial memorandum is required. If somebody says that a financial memorandum is required and I say that it does not require a financial memorandum, then you cannot settle the question on that basis ; you have to go into the details and see whether such a memorandum is required.

I would, therefore, request that no such irresponsible points of order should be raised here in this House. This has happened twice in this House that latter on the Chair has found that no financial memorandum is required with the result that the time of the House was unnecessarily wasted on such points of order. So, before any such point of order is enter-

tained, I would plead with you that the hon. Member who raises such a point of order should be requested to provide the information to the Speaker and to the House about how a financial memorandum is required, and without his satisfying the Chair or making out a *prima facie* case, no such point of order should be entertained. That is my humble submission.

**SHRI SRINIBAS MISRA (Cuttack) :**  
The hon. Minister perhaps seems to think that the whole wisdom of this world rests on his shoulders.

**SHRI VIDYA CHARAN SHUKLA :**  
All with him.

**SHRI SRINIBAS MISRA :** It appears he thinks like that. Under a right given to me, I raised the point of order which was upheld by the Chair for the time being. Now he says that the onus will be on me to prove how a financial memorandum is necessary. I would request you to ask him to go through the record. It was not raised in connection with the financial memorandum alone. He was required to furnish a certificate concerning the recommendation of the President under art. 117 (3).

Regarding Acts which are sought to be extended to Jammu and Kashmir, he himself has given the details of expenditure in connection with the extension of the Mines Act, the Apprentices Act and the Companies Act. For the other Acts sought to be extended, he should have said that there is no expenditure involved. Who will believe that when the extension of the Companies Act involves expenditure, the extension of the Notaries Act and other Acts will not ?

**SHRI VIDYA CHARAN SHUKLA :**  
It will not.

**SHRI SRINIBAS MISRA :** Is he willing to tell the house how much is being spent now and how much will be spent after this Act is extended ? Simply making a statement that it does not involve any expenditure will not do. It is my sad experience after being here for a year that they make some statement and

after some time want to break it. They have done so. There have been instances. If you will ask me, I can cite 100 instances. Then they want to wriggle out of it by any means (*Interruption*). The other day Shri Chavan said something in the Committee and here he went back on it.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : Only one instance.

SHRI SRINIBAS MISRA : I will cite tomorrow 100. I undertake to do it.

SHRI VIDYA CHARAN SHUKLA : Cite only 10.

SHRI SRINIBAS MISRA : All right.

Let the hon. Minister look through the action taken reports of the various Committees of this House and he will find plenty there, what to speak of other things.

Whenever this point was raised, it was expected that the Minister would come up with a statement that it would not involve any financial expenditure. That would have saved all the trouble. But simply saying, 'All right make three here, make three there' without examining whether it will require any expenditure is not the way to go about this matter. Members of this House are not gullible people so as to believe that the extension of these three or four Acts will not involve any expenditure.

This time on his assurance you may rule that no financial memorandum is necessary, but he should think ten times before taking up such an attitude when points of order are raised. Because I can say that he will come up later with some amendment which will be opposed on this ground alone. But then he will say 'That is past and now, we have to do it.'

SHRI VIDYA CHARAN SHUKLA : Never, never.

SHRI SRINIBAS MISRA : He is in the habit of doing it.

I will go further. Does it involve any expenditure? The Financial Memorandum says :

"Clause 2 of the Bill read with the Schedule to the Bill seeks to extend to the State of Jammu and Kashmir the

Central Acts mentioned in the Schedule. The extension of some of the Acts mentioned in the Schedule, indicated below, will involve expenditure from the Consolidated Fund of India. The financial implications of the extension of the said Acts are set out below" :

"The Mines Act, 1952."

"The Chief Inspector of Mines will be responsible for the enforcement of the Act in the State of Jammu and Kashmir also".

It will involve extra expenditure because the Chief Inspector is stationed here already. He is being paid from the Consolidated Fund of India.

Because, his activities will extend to the State of Jammu and Kashmir, and therefore, further expenditure will be involved. It will be the same thing when you extend the Notaries Act, the Auditors' Act and so on which are sought to be extended to Jammu and Kashmir.

MR. DEPUTY-SPEAKER : After you raised that point, he said yesterday that he would get it examined. Now he has got it examined and when the Minister categorically states on the floor of the House, we must take it in ; we must take him at his word.

SHRI SRINIBAS MISRA : He should not have taken too much of wisdom on his head !

MR. DEPUTY-SPEAKER : You should not use such words-

SHRI SRINIBAS MISRA : Then what does he mean by asking that I should substantiate my point and it should not be lightly raised ?

SHRI VIDYA CHARAN SHUKLA : I would like the hon. Member to go through the three or four Acts which are sought to be extended. I do not think that the hon. Member has even seen those Acts and has tried to know what is the implication.

SHRI SRINIBAS MISRA : I have seen, read and practised them. Perhaps the hon. Minister has not read them.

**SHRI VIDYA CHARAN SHUKLA :** As per your direction yesterday, I again went through the entire thing and satisfied myself about the point I made yesterday, that no expenditure is involved is correct. That is why I have told you that this is the position and we stand by that position.

**SHRI DINKER DESAI (Kanara) :** We are raising points of order in a responsible way. It is very wrong on the part of the Minister to say that we are raising irresponsible points of order. It is for the Chair to decide whether a point of order is responsible or not. And it is not for the Minister to say it.

**SHRI E. K. NAYANAR :** The Minister must withdraw that word.

**SHRI TENNETI VISWANATHAM :** The point was raised by an hon. Member here and you were good enough to agree, and the Minister said he would look into it and today he has come and said that his officer have again informed him that no further expenditure is involved, and therefore, no further financial memorandum is necessary. It would have been sufficient for him to say so far. Some of us are older than he is. And all of a sudden, he says, I would ask Members not to be irresponsible." It is perfectly within his right to say that the Member was wrong, and that "I can give you an assurance that no further expenditure is involved." To that extent, he is perfectly within his right. But he went further and said, "I would ask him not to be irresponsible" and all that. We have been in the legislature for a very long time, and he should not treat us so lightly and use the word "irresponsible" in the way in which he has used it. I shall not use any particular adjective, but only say he should not have used the word "irresponsible" in the way in which he has used it.

**SHRI VIKRAM CHAND MAHAJAN :** The hon. Member has raised the point about the Act for which there should be financial memoranda attached. One of the Acts is the Notaries Act. I do not know if the hon. Member is aware as to what the Notaries Act is meant for. I will give an example. I take the Notaries Act. A Notary puts a simple stamp on

a particular paper. He is an independent man who is not in the Government service at all. A person who goes to him and asks that the paper should be stamped has to pay him. The hon. Member who has been saying that there should be a financial memorandum accompanying these Bills should also know what is the purpose and the object of a particular Act. If I go and ask the Notary Public to stamp my paper, I will pay for it. The Government pays nothing. On the contrary, the Notary Public has to pay to the Government and pay the Government for getting a licence. Therefore, it is an income-earning Bill, rather than a Bill which involves any expenditure.

I will cite another example. Take the Companies Act. There are certain companies which exist in Jammu and Kashmir, and there is a Registrar of Companies. The only difference now would be that the Indian Companies Act would apply to Jammu and Kashmir, and those very Officers would be functioning through the extension of this Bill to Jammu and Kashmir and would be carrying on the activities according to the Bill which is now applicable to the rest of India. Therefore, my submission is that even in this Bill there is no expenditure involved. And so the Minister's statement is correct when he says that no financial memorandum is necessary.

**SHRI SRINIBAS MISRA :** He is contradicting the Minister.

**MR. DEPUTY-SPEAKER :** He has not read it.

**SHRI UMANATH (Paddukkottai) :** What the Minister has said applies to him? That is the best example. Now, I take strong exception to what the Minister has said on the question of irresponsibility, because, the hon. Member raised the point of order yesterday, and now today, the Minister says it is irresponsible. That means, according to the Minister, it was such a flimsy thing that it deserved to be called irresponsible. I would put it the other way. If the point of order was so flimsy, why did he say yesterday that he will consider this and again come to this House today?

**SHRI VIDYA CHARAN SHUKLA :** Because the Deputy-Speaker said so.

**SHRI UMANATH :** You felt the seriousness of the point of order and you ruled that it should be considered. He must have that much of respect for the chair. Then, when you direct him to consider it, if he was so certain that not a single pie of expenditure would be involved, he should have held to his ground and told you that there was no necessity for him to reconsider it. But he did not do so. That shows he had his doubts. Today after consulting his officers, he should have just come and told the House that in response to the Chair's direction, he had it examined and he was convinced that no expenditure would be involved. Going beyond that and saying "irresponsible" is very unfair. It should not be tolerated. You are disciplining us. You must discipline him also.

**MR. DEPUTY-SPEAKER :** This was a very unhappy expression. Some hon. Members taken little care to scrutinise the legislative measures that come before the House. Even assuring sometimes they raise it without giving sufficient thought, the word "irresponsible" in not a happy expression in that connection. This is the third time. When it was raised the first time, the Law Minister had to come forward with a financial memorandum, though he was saying on the floor of the House that no financial implications are involved.

Next time when it was raised, the Minister of State in the Ministry of Finance, Mr. Pant was good enough to say that he would come before the House the next day and make his submission.

Regarding certain points, members go by surmise. They have no administrative machinery under their control and the full implications, financial and otherwise, are not likely to be known to them. In such a situation, if it is raised on a flimsy ground, I can understand. But when the question of finance is concerned, this House would be failing in its duty if it were just to bypass the question about which it has to be very vigilant. My impression was yesterday the minister thought it best to satisfy himself again on this point. Therefore he has written to me and I am thoroughly satisfied. He has done his

best and he has found that no financial implications are there. Otherwise on the floor of the House, he would have made a categorical statement.

As I said, this is the third time that these matters about financial memorandum are being raised. Such unhappy expressions should be avoided. When a legislative business is before the House, it is not in the heat of the moment that it is done. It is well considered thing. The hon. Member may sometimes commit a mistake. He might miscalculate and imagine certain certain expenditure sometimes. But so long as he is not frivolous, he must be taken seriously. If anything is raised just to black the discussion on a Bill, then certainly the Chair will have to be more circumspect and vigilant.

Now, the hon. minister has categorically stated after examination that no financial implications are there.

**SHRI SRINIBAS MISRA :** Sir, I am addressing the Chair. When there is a provision in the Rules that a point of order can be raised by any hon. Member when a question of procedure is involved and the Chair, in the second stage, if it thinks that there is a *prima facie* case may allow that point of order to be discussed, are we to understand that a Minister can say that no frivolous point of order should be raised? Yesterday the Chair held that there was a point of order and I was allowed to raise it. After some observations were made the Minister undertook to examine it. Whether it be a responsible Minister or an irresponsible Minister, can he come and challenge the right of hon. Members of this House to raise a point of order and say that points of order should not be raised frivolously? Is he the custodian of the conscience of this House? It is for the Chair to decide whether there is a *prima facie* case or it is a frivolous point of order.

**MR. DEPUTY-SPEAKER :** I have already stated that it is a very unfortunate expression. I presume he never meant it.

**SHRI SRINIBAS MISRA :** He should be responsible enough to withdraw it and should not confirm his irresponsibility by sticking to it.

SHRI E. K. NAYANAR (Palghat) : Those who are convinced will withdraw. Even after your observations he says it was correct.

MR. DEPUTY-SPEAKER : I said it is not a happy expression to use in relation to hon. Members of this House.

SHRI UMANATH : We should treat his remarks with contempt.

MR. DEPUTY-SPEAKER : Yesterday we were on the Schedule and certain amendments were moved (Nos. 12 to 18). I shall put them to the vote of the House.

The question is :

Page 4,—

after line 30, insert—

‘The Chartered Accountants Act, 1949 (38 of 1949)

Section 1—In sub-section (2), omit “except the State of Jammu and Kashmir.” (12)

Page 5,—

after line 12, insert—

‘The Notaries Act, 1952 (53 of 1952)

Section, 1—In sub-section (2), omit “except the State of Jammu and Kashmir”;

Section 2.—(a) omit clause (a) ;

(b) in the proviso to clause (d)—

(i) for “either under”,

substitute—

“under”

(ii) omit “or by the Master of Faculties in England.” ;

(iii) for “any part of India”,

substitute—

“any part of India ;

Provided further that in relation to the State of Jammu and Kashmir the said period of two years shall be computed from the date on which this Act comes into force in that State;”

Section 9.—In sub-section (2), insert—

“Provided that in relation to the State of Jammu and Kashmir the said period of two years shall be computed from the date on which this Act comes into force in that State.” (13)

Page 5, line 25,—

for “1967” substitute “1968” (14)

Page 5, line 32,—

for “1967” substitute “1968” (15)

Page 5, line 40,—

for “1967” substitute “1968” (16)

Page 5,—

after line, 40, insert —

‘The Cost and Works Accountants Act, 1959 (23 of 1959)

Section 1.—In sub-section (2), omit “except the State of Jammu and Kashmir.” (17)

Page 6, line 15,—

for “1967” substitute “1968” (18)

The motion was adopted.

MR. DEPUTY-SPEAKER : The question is :

“That the Schedule, as amended, stand part of the Bill.”

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1.—(Short title and Commencement).

MR. DEPUTY-SPEAKER : There is one amendment to clause 1.

Amendment made :

Page 1, line 4,—

for “1967” substitute “1968” (11)

(Shri Vidya Charan Shukla)

MR. DEPUTY-SPEAKER : The question is :

“That Clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

#### Enacting Formula

MR. DEPUTY-SPEAKER : There is an amendment to the Enacting Formula also,

*Amendment made :*

Page 1, line 1,—

for "Eighteenth" substitute "Nineteenth".

(10)

(Shri Vidya Charan Shukla)

MR. DEPUTY-SPEAKER : The question is :

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

*The Title was added to the Bill.*

SHRI VIDYA CHARAN SHUKLA : I beg to move :

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill, as amended, be passed."

*The motion was adopted.*

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16.03 hrs.

#### ESTATE DUTY (AMENDMENT) BILL

THE MINISTER OF STATE IN THE  
MINISTRY OF FINANCE (SHRI K. C.  
PANT) : Sir, I beg to move :

"That the Bill further to amend the Estate Duty Act, 1953, be taken into consideration."

Sir, this short Bill has the limited purpose of securing that the amendments made to Estate Duty Act by Parliament during the period of emergency continue to operate in respect of estate duty on agricultural lands situated in the States after the expiry of six months from the date of revocation of the proclamation of emergency. As hon. Members are aware the power to legislate for levy of estate duty in respect of agricultural land vests in the States. Parliament is authorised to legislate for levy of estate duty in respect of agricultural land only after the legislatures of two or more States have passed resolutions for

this purpose under article 252 (1) of the Constitution. The Estate Duty Act of 1953 was enacted after such resolutions were passed by the legislatures of Bombay, Madhya Pradesh and some other States.

Thereafter, the Act was adopted by certain other States by Resolutions passed by the respective Legislatures, and the Act at present applies to agricultural land in all the States except the States of West Bengal and Jammu and Kashmir.

Any amendment to the Estate Duty Act in relation to agricultural land can likewise be made by Parliament only after following the procedure adopted in respect of the parent Act, that is to say, after resolutions under article 252(1) are passed by two or more State Legislatures, authorising Parliament to make such amendments.

However, while a proclamation of emergency is in operation, Parliament is authorised under article 250 of the Constitution to legislate even in respect of matters which are ordinarily outside its legislative power. Accordingly, several amendments to the Estate Duty Act were made by Parliament by various enactments during the period of the emergency without resolutions under article 252(1) of the Constitution being passed by the Legislatures of States. These amendments, which naturally provide certain exemptions and concessions and increases the rate of estate duty apply, as also the estate duty in respect of agricultural land, in States other than West Bengal and Jammu and Kashmir. These amendments will, however, cease to have effect in relation to agricultural land on the expiration of six months after the termination of the emergency, that is to say, on July 9, 1968 and the pre-emergency law will be restored in respect of such land unless these amendments are continued through appropriate legislation by Parliament.

16 38 hrs.

[Shri R. D. Bhandare in the Chair]

I have circulated for information of hon. Members a note setting forth the gist of the important amendments made to the Estate Duty Act by Parliament during the period of emergency.

Some time back it was suggested to the