

Mr. Deputy-Speaker: I shall now put amendment No. 1 to the vote of the House.

The amendment was put and negatived.

Mr. Deputy-Speaker: I shall now put amendment No. 2 to the vote of the House.

The amendment was put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

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

Shri A. M. Thomas: I move:

"That the Bill be passed".

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed".

Dr. M. S. Aney (Nagpur): What is the approximate cost that may be incurred initially in building warehouses?

Shri A. M. Thomas: The total construction, as I have said, is only 46,600 ton capacity out of the 184,726 tons capacity that we have got.

Shri Priya Gupta: What is the total rent paid up-to-date for hiding warehouses *vis-a-vis* the floor space and volume?

Shri A. M. Thomas: I am not in a position to give the information now.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

14.24 hrs.

CUSTOMS AND CENTRAL EXCISES (AMENDMENT) BILL

The Deputy Minister in the Ministry of Finance (Shri B. R. Bhagat): I beg to move:

"That the Bill to amend the Customs Act, 1962 and further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

The purpose of this Bill is simple. At present, Customs duty is leviable on goods imported or exported by the Central Government. Similarly, Central Excise duty is also leviable on goods produced or manufactured by the Central Government. However, goods which are imported or exported, or produced or manufactured, by a State Government, are exempt from Customs or Central Excise duties, as the case may be, unless they are used for the purposes of a trade or business. This Bill proposes to provide for the levy of Customs and Central Excise duties on goods on a uniform basis irrespective of whether they belong to the Central Government or a State Government.

The exemption in favour of State Government is of quite recent origin. Prior to 1951, goods imported or exported, or produced or manufactured, by a State Government were liable to duty. However, in 1951 a provision was made for charging to duty only goods used for the purposes of a trade or business. This was done on a limited interpretation of Article 289 of the Constitution, which provides that the property of a State (except such goods as are used for purposes of a trade or business) shall be exempt from Union taxation. This was done in order to remain outside the scope of any possible controversy.

Our experience during the last few years has been that apart from loss of revenue these exemptions in favour

*Moved with the recommendation of the President.

of the States have led to several difficulties and anomalies. In these days the Government, whether at the Centre or the States, has, in pursuance of various policies, to undertake many functions which involve manufacturing operations and the sale of articles for a price. In some cases these projects function side by side with private ones, and perhaps in competition with them. We have for instance State schemes for the supply of milk, or for printing presses or for educational institutions. Or we have State schemes for giving useful occupation to convicts in jails, in the course of which they manufacture excisable articles such as cotton fabrics; there are also State schemes for giving training in manufacturing boots and shoes. These are all schemes which can be, and in fact have been claimed to be part of the Governmental functions of a State Government, and, therefore, not a trade or business within the meaning of Article 289. We have so far been allowing exemption from duty in favour of State Government for all such schemes. But this is an anomalous position, when it is considered that similar private sector undertakings have to pay duty. As the number of public sector undertakings increases, the anomaly will become still more marked. Then again, as I mentioned earlier, Central Government goods in similar circumstances, are liable to duty. It has been our considered view that this is necessary for the purposes of proper costing and accounting and particularly where there may be a question of comparison, or even competition, with similar private sector undertakings. It is certainly anomalous that the Central Government should levy duty on its own goods but not on those of the State Governments.

It is not desirable to allow this anomalous position to continue and it is, therefore, proposed to withdraw this exemption for State Government goods. After considering the proposal in all its implications, the Government of India were of the view that in fact

this exemption is not covered by the provision in the Constitution and need not have been allowed. Article 289 of the Constitution provides that the property of a State shall be exempt from Union taxation. Customs and Central Excise duties are, however, not taxes on property within the meaning of Article 289. When this view was put to the State Governments, some of them disagreed. In order that the legal and constitutional position might be placed beyond doubt, a special reference was made by the President to the Supreme Court under Article 143 of the Constitution, with a copy of a draft amending Bill. After hearing arguments on both sides, the Supreme Court gave it as its opinion that the provisions of Article 289 do not preclude the Union from imposing Customs and Central Excise duties on the property of State Governments used for purposes other than trade or business, and that the proposed amendments would not be inconsistent with the provisions of Article 289.

These in brief are the reasons why the present Bill has been brought forward. The Bill has been so worded as to make it clear that both the Central Government and the State Governments shall be liable to pay Customs or Central Excise duties. I shall like to add, however, that the passing of the Bill would not place any great financial burden on the State Governments. The amount of customs duty foregone in the year 1962-63 as a result of the existing exemption was only about Rs. 20 lakhs, as compared with a total customs revenue of Rs. 246 crores during that year. Similarly, the amount of Central excise duty foregone was only about Rs. 3 lakhs, as against a total revenue of Rs. 589 crores. These figures will show clearly that, while the legislation is necessary as a matter of principle, the State Governments would not be put to any appreciable burden as a result. I may also add that the Bill does not make everything imported or exported or produced or manufactured, by a State Government, liable to duty.

[Shri B. R. Bhagat]

Where any article is free of duty under the Customs or Central Excise tariff, or enjoys a general exemption from duty, the State Governments will also naturally get the benefit of such exemptions. For example, under the existing general exemptions under the Tariff or other relevant notification, arms, ammunition and military stores imported by State Governments scientific equipment and apparatus imported by approved educational and research institutions, dried skim milk, anti-plague serum, manures and fertilisers, agricultural implements, works of art such as statues and pictures intended to be placed in public museums, and many other articles, if imported by State Governments, will not become chargeable to duty as a result of this Bill. Similarly, where there is any exemption, full or partial, from excisable duty in respect of any class of excisable goods, the goods produced by a State Government shall also be equally eligible for the exemption, if the conditions if any, regulating the exemptions are satisfied.

I do not think, Sir, that there is much more for me to add. I have already explained that the Bill is necessary for removing a number of anomalies, that it is in keeping with the Constitution, and that it will have hardly any effect on the finances of the State Governments. I trust the House will have no difficulty in agreeing to its passage.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to amend the Customs Act, 1962 and further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

Shri S. S. More (Poona): May I know whether the Supreme Court's opinion has been circulated, because it would be very useful?

Mr. Deputy-Speaker: There is no amendment before the House.

Shri Kashi Ram Gupta: He may speak next day.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

TWENTY-THIRD REPORT

Shri Muthiah (Tirunelveli): I beg to move:

"That this House agrees with the Twenty-third Report of the Committee on private Members' Bills and Resolutions presented to the House on the 21st August, 1963"

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Twenty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 21st August, 1963."

The motion was adopted.

14:33 hrs.

RESOLUTION RE: NATIONALISATION OF BANKS

Mr. Deputy-Speaker: The House will now take up further discussion the following Resolution moved by Shri-mati Subhadra Joshi on the 29th March, 1963:—

"In view of the emergency created by the Chinese aggression, this House is of opinion that banks should be nationalised in order to mobilise the national resources."

Shri Warior (Trichur): How much time is allotted to this resolution?

Mr. Deputy-Speaker: Two hours and four minutes are left.

Shri Warior: The time may be extended.