

by private persons of pieces of metal for use as money. The Act, as it stands at present, does not apply to those territories which, prior to the reorganisation of States in 1956, comprised Part B States. This is because the Act as originally passed in 1889 was applicable only to the whole of what was then British India and did not cover those Indian States which later on merged with Independent India as Part B States. The justification for excluding former Indian States from the jurisdiction of this Act was that some of them had their own coinage. Such justification does not exist any longer with the federal financial integration of all former Indian States and their final integration in the Indian Union. There is now only one coin issuing authority in the whole of India, namely, the Central Government. It is, therefore, necessary to make the Act applicable to the whole of India uniformly. This Act was not extended to the Part B States and to Jammu and Kashmir at the time when various other Central Acts, etc., were so extended owing to oversight. The Bill is therefore designed to rectify this omission by suitably amending the extension clause of the Act, namely, sub-section (2) of section 1 and by carrying out certain further verbal changes in section 2 and section 6 of the Act necessitated by the aforesaid amendment.

The provisions of the Bill are, as I said, non-controversial and I trust that the House will not have any difficulty in accepting this Bill. With these words, I move.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Metal Tokens Act, 1889 be taken into consideration."

Well, nobody has risen to speak. The question is:

"That the Bill further to amend the Metal Tokens Act, 1889 be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

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

Shri B. R. Bhagat: I move:

"That the Bill be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

14.05 hrs.

PETROLEUM PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) BILL

The Deputy Minister in the Ministry of Mines and Fuel (Shri Hajar-navis): Sir, on behalf of Shri K. D. Malaviya, I beg to move:

"That the Bill to provide for the acquisition of right of user in land for laying petroleum pipelines and for matters connected therewith, be taken into consideration."

The question of laying pipelines has become important as we have been fortunate in discovering indigenous sources of oil and it is hoped that our indigenous supply would increase with further investigation being carried out. It is admitted on all hands that there is no method of transportation which is as efficient, as reliable and as economical as pipelines. We have laid some pipelines

[Shri Hajarnavis]

but so far there is no measure which enables us to acquire the mere right of user in the land. The pipelines laid so far have been laid on land which had been acquired either under the Land Acquisition Act or by purchase by private treaty. But it is not necessary that all the right in the land should be acquired in order to lay pipelines. It would be economical if we merely acquire the right of user in the land. It would certainly not be proper for us to exclude the lands which we have acquired for laying the pipelines from agricultural operations or for any other use to which it can be put. Anticipating one of the measures of the Bill, the House will be happy to know that we do not intend to acquire any land, as has been set out in clause 7(1)(c), the depth of which is less than one metre from the surface, so that the line will lie deep in the bowels of the earth.

Again, I would emphasise that we do not intend to acquire all rights which vest in the owner but merely a right of user which will mainly consist of laying the pipeline one metre below the surface of the earth and getting a right to perform such ancillary acts as are necessary to maintain, to service and to use of the pipeline.

In the first instance, this Act has been extended only to the States of West Bengal, Bihar, Uttar Pradesh and Gujarat where either a refinery is situated or oil wells are found. Then there is the definition clause which calls for some mention. The competent authority is the authority which will assess, in the first instance, the compensation to be paid, and that competent authority is to be designated by the Central Government. Then the word "corporation" has the usual

meaning. So has petroleum. Then the word "prescribed" follows:

Clause 3 is the starting point of the process of acquisition. Clause 3(1) reads as follows:

"Whenever it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from one locality to another locality pipelines may be laid by that Government or by any State Government or a corporation and that for the purpose of laying such pipelines it is necessary to acquire the right of user in any land under which such pipelines may be laid,...."

So, although land can be acquired for laying such pipelines, we will only acquire the right of user in the land under which the pipeline will go. Then follows the usual procedure with which the House is acquainted. As under the Land Acquisition Act, objections are invited and decided; the actual dimension of the right which has to be acquired is given in clause 7 where it has been said that after the right of user is vested, it will be subject to the following limitations:

"Provided that no pipeline shall be laid under—

(a) any land which, immediately before the date of the notification under sub-section (1) of section 3, was used for residential purposes."

If there was any apprehension felt anywhere in any quarter, that anyone will be deprived of his right in regard to residential accommodation, that has been provided for:

"any land on which there stands any permanent structure which was in existence immediately before the said date;"

User in Land) Bill

and

"any land which is appurtenant to a dwelling house;"

are excluded from acquisition. As I said earlier, any land which is under a depth which is less than 1 metre from the surface of the earth will not be acquired.

Clause 10 provides for compensation, which shall be determined by the competent authority in the first instance and if there is any dispute, there is a reference to the District Judge. Sub-clause (4) says:

"Where the right of user of any land has vested in the Central Government, the State Government or the corporation, the Central Government, the State Government or the corporation, as the case may be, shall in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent of the market value of that land on the date of the notification under sub-section (1) of section 3."

The House will notice that we have been generous. We are giving not merely the estimated loss or 10 per cent of the estimated loss. Under the provisions of the Land Acquisition Act, market value plus 15 per cent is payable. Here, in addition to the compensation, we are paying 10 per cent of the market value. The market value is bound to be much higher than the loss or injury caused by the right of user vesting in the Central Government, the State Government or the corporation. So, we have been generous.

It is clear that after the right of user has been acquired, the owner shall be free to use that land in any manner he chooses, subject, of course, to his not causing injury or

harm to the pipeline. This has been made clear by section 9. Sub-clause (2) says:

"The owner or occupier of the land under which any pipeline has been laid shall not do any act or permit any act to be done which will or is likely to cause any damage in any manner whatsoever to the pipeline."

So, this casts upon him a civil liability and section 15 provides the penalty if this provision is contravened.

These are the main features of the Bill, which I commend to the House for its acceptance.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the acquisition of right of user in land for laying petroleum pipelines and for matters connected therewith, be taken into consideration."

Shri Dinen Bhattacharya (Serampore): Sir, I fully agree with the purpose for which the Bill has been introduced and I support the Bill as such. While doing so, I would submit that some provisions incorporated in this Bill, if not reconsidered and changed, would cause serious harassment and hardship to those people whose land will be acquired.

Under the Land Acquisition Act, I have seen in many cases that before acquisition, the notice for acquisition is not actually received by the man whose land is acquired. The period of filing objection there also is very short, namely, 21 days. This period is too short.

The most harassing feature is in respect of payment of compensation. Both the rate of compensation and the mode of payment under this Bill are such that I would suggest to the Minister that certain changes should be made to make the Bill a perfect one. Clause 3(3) must provide that actually the man whose land is to be

[Shri Dinen Bhattacharya]

acquired must receive the notice that his land will be taken for laying petroleum pipeline or any other pipeline. A clear provision should be there to that effect.

Regarding hearing of objections, under clause 5(1), the period is only 21 days. This should be increased to 31 days. Clause 6(3) says:

"Where in respect of any land, a notification has been issued under sub-section (1) of section 3 but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of that period."

I would suggest that instead of one year, it should be made six months, because if within six months land is not taken, it necessarily will mean that the Government or the concerned authority does not require that land. So, I suggest that instead of one year, it should be six months.

Clause 10(4) provides for compensation at 10 per cent of the market value. But 'market value' is a vague term. It should be clarified here, as to how market value is to be calculated.

Mr. Deputy-Speaker: Sub-clause (5) provides for that.

Shri Dinen Bhattacharya: How is it to be calculated?

Mr. Deputy-Speaker: It is a question of fact.

Shri Dinen Bhattacharya: What are those facts? I know under the existing system, if any land is sold in an area within a particular period, the market value will be calculated on that basis. But in practice, it is very difficult. Suppose there is no sale of land in that area or village in that period. So, it should be clearly laid

down as to how the market value will be assessed.

Also, it says that 10 per cent of the market value will be paid as compensation. Under the Land Acquisition Act, it is 15 per cent, as the Minister himself said. I do not know why it should be 10 per cent here. I suggest that as in the Land Acquisition Act, here also it must be 15 per cent. Here there is no question of big lands being acquired; only small portions of land will be acquired. So, if it is paid at 15 per cent, it would not cost much.

Clause 13(2) provides that no suit or other legal proceeding shall lie against the concerned authority for damage caused by anything done in good faith. If anything is done in good faith, you cannot go to any court for any loss or damage. I do not see any reason for the incorporation of such a clause here. I would humbly suggest that it should not be incorporated here.

With these few words, I fully support the purpose of the Bill.

श्री बड़े (खारगोन) : माननीय उपाध्यक्ष महोदय, सदन के सामने जो दिप्टीलियम पाइपलाइन्ड (एक्वीजीशन आफ राइट आफ यूजर इन लैंड) बिल रखा गया है, देखने में तो वह छोटा सा लगता है, लेकिन उस में ऐसे प्रावजन्ड रखे गए हैं, जिन से काश्तकारों और साधारण जनता को काफ़ी तकलीफ़ होगी। लैंड को एक्वायर करने के लिए लैंड एक्वीजीशन एक्ट में जो प्रावीजन्ड हैं, उस को बालाए ताक रख कर शासन एक नया छोटा सा बिल सदन के सामने लाया है।

बिल के स्टेटमेंट आफ आबजेक्ट्स एंड रीजन्ड में कहा गया है :

"Although land can be acquired outright for laying such pipelines under the Land Acquisition Act,

1894, the procedure for such acquisition is long-drawn and costly."

लैंड को एक्वायर करने का प्रोसीड्यर लांग-ड्रान और कास्टली न हो, इसके लिए यह बिल लाया गया है। इस बिल की धाराओं को देखने से मालूम होता है कि शासन जनता के राइट्स को बालाए ताक रख कर, उन को नष्ट कर के, एक प्रजातंत्र में नागरिक को जो प्राइवेट राइट्स प्राप्त होते हैं, उन की हत्या कर के, इस कानून को पास कराना चाहता है। स्टेटमेंट आफ आब्जेक्ट्स एंड रीजन्ज में बड़े सुन्दर शब्दों में बताया गया है कि चूँकि पेट्रोल से सम्बन्ध रखने वाले पदार्थों का उत्पादन बहुत बढ़ने वाला है, इस लिए जनता के हित में पाइप-लाइन डालने के लिये लैंड को प्राप्त करने के उद्देश्य से यह बिल लाया गया है।

क्लाज ३ में लिखा गया है कि अगर किसी लैंड में राइट आफ यूजर को एक्वायर करने की आवश्यकता पड़ेगी, तो आफिशियल गजट में नोटिफिकेशन जारी किया जायगा। उस में यह नहीं लिखा हुआ है कि सम्बद्ध व्यक्ति पर नोटिस सर्व किया जायेगा, पर्सनल सर्विस की जायेगी।

क्लाज ५(१) में लिखा गया है :

"Any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1) of section 3, object to the laying of the pipelines under the land."

इस का अर्थ है कि काश्तकार को इक्कीस दिन की अवधि आब्जेक्शन फाइल करने के लिए दी जायेगी। मैं निवेदन करना चाहता हूँ कि आज-कल इंगलिश का प्रयोग होता है और काश्तकार को यह मालूम भी नहीं होगा कि आफिशियल गजट में नोटिफिकेशन जारी किया गया है। इस अवस्था में अगर उस की

तरफ से कोई आब्जेक्शन न आया, तो उस की जमीन ले ली जायेगी।

क्लाज ४ (ई) में लिखा है।

"Where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle."

इसका अर्थ यह है कि अगर किसी जमीन पर स्टैंडिंग क्रॉप्स होंगी, तो सरवे किया जायेगा और अगर इस संबंध में आवश्यकता पड़ी तो स्टैंडिंग क्रॉप्स का कोई भाग काट कर साफ़ किया जा सकता है। शासन की ओर से ऐसा कोई विचार प्रकट नहीं किया गया है कि अगर किसी लैंड पर स्टैंडिंग क्रॉप्स होंगी, तो वहाँ पर सरवे नहीं कराया जायेगा।

क्लाज ६ से प्रकट होता है कि पहले राइट आफ यूजर को एक्वायर करने के बारे में आफिशियल गजट में नोटिफिकेशन जारी किया जायेगा, फिर इक्कीस दिन का समय आब्जेक्शन के लिए दिया जायेगा और उस के बाद एक्वीजिशन के बारे में डिक्लेरेशन कर दिया जायेगा।

बिल की क्लॉज ७ में कहा गया है :

"Where the right of user in any land has vested in the Central Government or in any State Government or corporation."

हम लोगों का विचार यह था कि कार्पोरेशन का अर्थ एक आटानोमस बाडी है। लेकिन इस बिल में दी गई "कार्पोरेशन" की डेफिनीशन में सरकार ने अपना वास्तविक उद्देश्य छिपा कर रखा हुआ है। इस बिल में क्लॉज २ (बी) में लिखा है :

"Corporation" means any body corporate established under any Central, Provincial or State Act, and includes—

(i) a company formed and registered under the Companies Act, 1956; and

[श्री बड़े]

(ii) a company formed and registered under any law relating to companies formerly in force in any part of India."

इस से यह प्रतीत होता है कि प्राइवेट कम्पनीज को भी जमीन एक्वायर कर के दी जायेगी। अगर सरकार का उद्देश्य सिर्फ कार्पोरेशनज को जमीन देने का होता, तो इस बिल में "कार्पोरेशन" की डेफिनीशन देने की कोई आवश्यकता नहीं थी। मैं इस बात के विरुद्ध हूँ कि प्राइवेट कम्पनीज को भी इस प्राविजन में शामिल किया जाये। उपाध्यक्ष महोदय, आप को याद होगा कि जब लैंड एक्वीजीशन बिल पर विचार हो रहा था, तो इसी प्रश्न को लेकर तीव्र असंतोष प्रकट किया गया था। वही मिसचीफ़ इस बिल में रख दी गई है, जिस से लोगों को बहुत ज्यादा तकलीफ़ होने वाली है।

इस बिल में कहा गया है कि कम्पेन्सेशन "टेन परसेंट आफ़ दि मार्केट वैल्यू आफ़ दैट लैंड" के हिसाब से कैलकुलेट किया जायेगा। जहां तक मार्केट वैल्यू का सम्बन्ध है, स्टेट्स में मार्केट वैल्यू का हिसाब टूबेन्टी टाइम्ज दि लैंड रेवेन्यू की दर से लगाया जाता है। अगर लैंड रेवेन्यू पांच रुपये हो, तो मार्केट वैल्यू १०० रुपये हो जायेगी। इस का मतलब है कि "टेन परसेंट आफ़ दि मार्केट वैल्यू" सिर्फ़ दस रुपये होगी। अगर वह कम्पेन्सेशन काश्तकार को नामन्ज़ूर होगा, तो कम्पेन्सेशन की रकम डिस्ट्रिक्ट जज के द्वारा निर्धारित की जायेगी। वह मामला डिस्ट्रिक्ट जज को रेफ़र होगा और उस के फ़ैसले की कोई अपील नहीं है। मैं बताना चाहता हूँ कि लैंड एक्वीजीशन ऐक्ट के अनुसार एम्पीब्ड पार्टी कोर्ट में जा सकती है, लेकिन इस बिल में कोर्ट के दरवाजे बन्द कर दिये गये हैं। इस बिल की क्लॉज १४ में लिखा है :

"Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect

of any matter which the competent authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act."

इस क्लॉज के द्वारा इस मामले में सिविल कोर्ट की जूरिस्टिक्शन को खत्म कर दिया गया है। सिविल कोर्ट के दरवाजे बन्द कर दिये गये हैं और इस सम्बन्ध में किसी भी कोर्ट के द्वारा कोई इंजंक्शन नहीं इश्यु किया जा सकेगा। मैं निवेदन करना चाहता हूँ कि अगर लैंड एक्वीजीशन ऐक्ट में किसी पार्टी को शासन का कम्पेन्सेशन के बारे में निर्णय या आरबिट्रेशन नामन्ज़ूर हो, तो वह कोर्ट से— हाई कोर्ट से भी— इंजंक्शन ला सकता है। इस बिल के स्टेटमेंट आफ़ आबजेक्ट्स एंड रीज़न्ज में भी कहा गया है कि कम्पेन्सेशन के बारे में अपील डिस्ट्रिक्ट जज को की जा सकती है। मैं कहना चाहता हूँ कि यह तो न्याय की हत्या है। अगर किसी पार्टी को डिस्ट्रिक्ट जज का निर्णय मन्ज़ूर नहीं है, तो वह सिविल कोर्ट में नहीं जा सकता है। लैंड एक्वीजीशन ऐक्ट जैसे बड़े और एग्ज़हास्टिव कानून को अलग रख कर सरकार एक नया कानून लाती है और उस में यह व्यवस्था करती है कि प्रोसीड्यर को कास्टली और इनएक्सपीडिएन्ट न होने देने के लिए कोई पार्टी सिविल कोर्ट में नहीं जा सकती है। इस लिए यह क्लॉज १४ बिल्कुल आबजेक्टिव-नेबल है और इस को पास नहीं करना चाहिए। क्लॉज १०(६) में कहा गया है :

"The decision of the District Judge under sub-section (2) or sub-section (5) shall be final."

इस का मतलब यह है कि अगर डिस्ट्रिक्ट जज का डिसिज़न फ़ाइनल है, तो कोई कोर्ट में नही जा सकता है। यह बड़े 'फ़ाइनल' ब त्त

मिसचीवस और डॅजरस है। मैं समझता हूँ कि यही शब्द काफ़ी होता, सफ़िशन्ट होता, लेकिन शासन का समाधान इस से नहीं हुआ है और उस ने क्लॉज १४ को भी इस बिल में रख दिया है।

काश्तकार को मार्केट वैल्यू का दस परसेंट कम्पेन्सेशन देने की व्यवस्था की गई है। प्रश्न यह है कि केवल दस परसेंट क्यों रखा गया है। अगर किसी ज़मीन के बीच में से पाइप-लाइन जाती है, तो वह सारी ज़मीन उपज के लिए यूज़लेस हो जाती है। इस लिए मार्केट वैल्यू के हिसाब से पूरी ज़मीन का मूल्य दिया जाये।

स्टेटमेंट आफ़ आब्जेक्ट्स एंड रीज़न्स में लिखा है :

".....in the case of these pipelines it is considered sufficient to acquire the mere right of user in the land for laying and maintaining the pipelines."

मैं कहना चाहता हूँ कि काश्तकार केवल टेनांट ही रहता है और उस को केवल राइट आफ़ यूज़र ही प्राप्त है। उसको कोई प्रोप्राइटी राइट प्राप्त नहीं है। तीस वर्ष बाद फिर उसको पट्टा मिलता है। इस बिल में केवल राइट आफ़ यूज़र इन दी लैंड की मार्केट वैल्यू के दस परसेंट के हिसाब से कम्पेन्सेशन देने की व्यवस्था की गई है, ज़मीन की मार्केट वैल्यू के दस परसेंट के हिसाब से नहीं। मैं कहना चाहता हूँ कि चूँकि काश्तकार की सारी ज़मीन उपज के योग्य नहीं रहेगी, इसलिए उसको पूरी ज़मीन की मार्केट वैल्यू देनी चाहिए।

जैसाकि अभी आनरेबल मेम्बर ने कहा है, इस बारे में बड़ा झगड़ा होता है कि मार्केट वैल्यू क्या है। लैंड एक्वीज़ीशन ऐक्ट में भी बहुत झगड़ा होता है और कई साल तक झगड़ा चलता रहता है। यहाँ तक कि मामला हाई कोर्ट तक जाता है। आम तौर

पर यह देखा जाता है कि शासन कम मार्केट वैल्यू निर्धारित करता है और काश्तकार ज्यादा मांगता है। इस बिल में हाई कोर्ट और सिविल कोर्ट के दरवाजे बन्द कर दिये गये हैं। केवल डिस्ट्रिक्ट जज के पास अपील हो सकती है।

श्री लहरी सिंह (रोहतक) : डिस्ट्रिक्ट मजिस्ट्रेट।

श्री बड़े : डिस्ट्रिक्ट जज हो या डिस्ट्रिक्ट मजिस्ट्रेट, उन में कोई डिफरेंस नहीं है। एपीव्ड पार्टी कोर्ट में नहीं जा सकती है। मैं समझता हूँ कि अगर क्लॉज १४ को निकाल दिया जाये, तो साधारण जनता के हक सुरक्षित हो जायेंगे।

Shri Gauri Shankar Kakkar (Fatehpur): Mr. Deputy-Speaker, Sir, it has been suggested that in order to shorten the proceedings and make it easier this enactment has been undertaken. Otherwise there was sufficient provision in the Land Acquisition Act. But in that case it should have been seen that adequate relief is given to the person from whom land is taken.

My first objection is this. Here it is involved that the right of user is taken. The right of user in any particular land is only a sort of easementary right, and no period has been suggested. The actual ownership is not being taken; the right of user is being taken. But for that right of user no period or time has been suggested in it. Generally it so happens that whenever there is a right of user, it is an easementary right and it can be revoked by the owner or party. But here there is a specific provision that it cannot be challenged in any court. Still no period has been specified for this user of the land.

In clause 2 the competent authority has not been defined. It has been suggested that 'competent authority' means any person or authority authorised by the Central Government, by notification in the Official Gazette, to

[Shri Gauri Shanker Kakkar]

perform the functions of the competent authority under this Act. My objection is that there should be a specific mention of what officer will act as the competent authority. For that purpose I would suggest that it should not be less than a sub-divisional officer at least at the district level.

Then, much has been said about market value. Really, the word 'market value' is a very vague term. Especially, if a particular bit of land is taken which is growing crop, in that case the tenant is definitely a loser if only the market value is assessed. My suggestion is, if you are closing the powers of the court and making it an easier process, then the compensation should be assessed on the basis of the annual produce over that particular land which is taken, in the cases where cultivation is being done. And for the purpose of the annual assessment of the produce of that particular land, I would suggest that a period of thirty or forty years be taken, and the person should be paid a rate of compensation based on the annual produce calculated in those forty years. That can give some relief. In certain cases market value is a very negligible sum, and it will not be able to give relief to those cultivators who are actually raising crops over that land which is taken, as compared to the other lands which are waste lands and where no crop is raised. So it would be equitable and it would be more justified if in the case of compensation it is calculated according to the annual crop being raised over that particular area which is being taken for the use of the pipeline.

Again, I have an objection to this definition of the word 'corporation' Clause 2(b) says that 'corporation' means any body corporate established under any Central, Provincial or State Act, and includes (i) a company formed and registered under the Companies Act, 1956, and (ii) a company formed and registered under any law

relating to companies formerly in force in any part of India. I have to submit that if the provisions were confined to the Central Government and the State Government, there would not have been any sort of apprehension. But now when the same privileges are being given to a private company, I apprehend that there will be certain mischief also coming into play. So it was talked out in this House that a private company should not be given any sort of right to take any land which is under cultivation from the tenant, because the *bona fides* in the case of a private company are never clear and there are chances of foul play. So I submit that this clause be deleted, and let it be kept only in the case of the Central Government and State Governments.

Then again, as has been suggested, I do agree that unless personal notices are served on the actual persons from whom the land is required to be taken, mere notification in the Gazette will not do any justice. There will be thousands of cases cropping up where they will have no information actually, and still they will be losing their valuable right. So there should be a mandatory provision that any person whose land is being taken has to be served with personal notice and only then the objection should be invited. Therefore, this clause should be added that in addition to the notification in the Gazette, personal notices will also be issued to those persons from whom the land is required to be taken.

Again, it will create certain difficulties in those areas where consolidation of holdings has been undertaken. It is not necessary that the pipe-line will pass from the corner of certain *chak* or holding; it may pass from the middle of that *chak*. In that case there will be certain pieces cut off from the patch which has been given. In that respect I would submit that in such areas where consolidation of holdings has been finished or undertaken it should be taken into con-

sideration that those *chaks* should not be brought into pieces when these pipelines are laid. For that it would be very easy if the particular amalgamated area which belongs to a particular tenant is kept into consideration. All these things will facilitate and go to safeguard the interests of the tenants.

In the end I would submit that if the Government wishes to make it an easier process, then in the same manner the facilities and amenities should also be looked into. And if, as I have suggested, the assessment of compensation is calculated on the basis of the annual yield of the crop and if all these other things are done, then the actual tenant or the actual landlord will find it convenient. Otherwise he will stand to lose most by this enactment which has been suggested.

Shri Sonavane (Pandharpur): I rise to support this Bill which was necessary and essential for speedy acquisition of land for laying pipelines. I agree with the hon. Minister that the acquisition of land under the Land Acquisition Act was cumbersome, prolonged and it would hamper the work of laying the pipelines. Therefore, Government has taken recourse to bringing this enactment.

While supporting the Bill I have to place some views of mine before the hon. Minister for his consideration. No doubt I have not given any amendment, but when my views are before him he may consider amendment of the relevant provisions in the Bill as he deems fit.

First of all, no idea is given in this Bill as to the depth up to which a pipeline will be laid. If the depth is known...

Shri Hajaravis: It will not be less than one metre.

Shri Sonavane: A metre means three feet or so. So, the pipeline three feet underground may not affect the ploughing operations of a peasant and he can make use of his land for

certain purposes, that is, for sowing, cutting etc. When the pipeline is laid, a strip of land of a width of, say, 10, 12 or 15 feet, would be used but not the whole of the land. The whole of the land would not be necessary or affected. But the provision in this Bill is:—

“Any person interested in the land may within twenty-one days from the date of the notification under sub-section (1) of section 3, object to the laying of the pipelines under the land.”

Now, “under the land” means the whole land and not the strip of land.

Shri Hajaravis: No, only the strip of land.

Shri Sonavane: But the Bill does not specifically say that. Therefore, the land would be the whole of the land under the holding or in the possession of the man under whose land the pipeline would go. I think, some specific provision to that effect is essential; otherwise, ‘land’ would refer to the whole land through which the pipeline would go. So, one of my suggestions is that a specific reference should be made in the notification to the strip of land or to the portion or area, that is, gunthas or acres or whatever it is, that would be required and it should not be kept vague by saying only ‘land’.

Another point that I want to suggest is this. Usually the notifications come to light, or are placed in the hands of the public, generally ten or twelve days after the date of notification and it becomes difficult for a person who is interested in or is affected by the notification to hurry up with his objection. Then, generally, the illiterate and ignorant peasants who would be affected by this would not know of the provisions of the notification by which they would be affected. Therefore my suggestion would be that wide publicity should be given to the notification in the local or vernacular papers so that those

[Shri Sonavane]

persons who would be affected would get the knowledge that their land would be affected and that, if there is any objection, they should send written objections to the authorities concerned. Therefore, I put forth this suggestion that this acquisition of land and the land to be affected should be given wide publicity in local papers.

The hon. Deputy Minister, who is piloting this Bill, says that a strip of land only would be affected. If the strip of land is affected, I would agree that that would be a reasonable thing. But there is no reference to it. It is said that no planting of trees, construction of any buildings etc. should be undertaken or done by the holder of the land. If the strip is earmarked and specifically stated in the notification, it would be all right, but if it is kept vague by saying 'land', the peasant who is holding an area larger than the strip of land required would be prevented from digging a well in the whole of his land or from having irrigation, planting of trees etc. The right of the user is all right, particularly for the strip of the land. After laying down the pipelines, the work of the Act would be over and the peasant can carry on the operations of sowing, ploughing etc. without affecting the pipeline. But it is only 'land' which is mentioned and there is no specific mention of the strip of land unless the Gazette specifically mentions the strip of land; I think, then only the right of the user, compensation whatever is to be paid etc. would be reasonable and the peasant under whose land the pipeline would go would not be put to hardship or to a disadvantage.

The last point that I would mention is this. This refers only to the acquisition of land. Clause 3, line 15, says:

"it is necessary to acquire the right of user in any land under which such pipelines may be laid".

This only refers to the acquisition of land. What about the buildings on such lands? The alignment of the pipelines would not necessarily go through vacant land. I cannot say if the pipeline is to be laid through vacant land. At some time it will take a curve; sometimes it will take a bend and all that thing. Then, the flow of petrol, crude oil or petrol products would be hampered.

Shri Hajarnavis: Will the hon. Member refer to clause 7?

Shri Sonavane: I will complete this point and then the hon. Minister can reply.

There is no intention that this pipeline should be in a zigzag way. If it is to be straight, certainly some buildings or houses would be affected. I feel, this point also should be taken note of and the hon. Minister may refer to this.

Shri Hajarnavis: Sir, I am grateful to hon. Members for the very kind and wide support they have given to this measure. We will certainly take into consideration the very valuable suggestions which have fallen from hon. Members. In particular I find myself completely in sympathy with the suggestion made almost unanimously by all hon. Members, beginning with Shri Bhattacharya and ending with my hon. friend, Shri Sonavane, that it would be essential to give a personal notice to the person through whose land the pipeline is proposed to be laid. I believe though there is no amendment, it would be possible for us to frame a rule under the first part of clause 17(1). I thought, it was covered by clause 17(2) (a) also. But the terms of clause 17(1) which permit us to frame rules to carry out the Act would enable us to frame a rule by which the competent authority would be enjoined to issue a notice in proper form to all the persons whose names are recorded

in the public records. It would not be possible for us to find out who the true owner is or in whom the title is legally vested because that would set us upon an enquiry which we would not be able to conduct, but all the persons whose names are recorded in the public records or the revenue records should be given a notice, say, a usual notice according to whatever the procedure is under the revenue law of the State, or a registered notice. That, I think, is essential and I would assure hon. Members that when the rules are framed, we will keep this in our mind.

Then, the question came of defining market value. My own experience is, the moment we begin to define, we create doubts where none exists. Market value is a simple plain concept. The whole concept of compensation is that it ought to compensate. That is to say, if a man is deprived of a thing or property, he ought as far as possible and as far as money can compensate, to be put in the same position in which he would be if he had retained the property. Land has been acquired for a public purpose for many many years now. A great body of case law has grown both in India and in the U.K. and the U.S.A. wherever the principle of acquiring private property for public purpose after paying compensation is accepted. The criterion is the market value. Wherever the criterion of market value is departed from, the intention is to give less than the market value. Market value is a clear concept. It may be, in a given case, it would be difficult to ascertain it. That is not a question of principle. That is a question of getting evidence in a particular case because there have been no sales. The Judge must decide as best as he can. The party whose property is being acquired will certainly be able to lead evidence to convince the Judge and the Judge would certainly hear that evidence, consider that evidence as to what the proper compensation would be. My submission to the House is that the concept of compensation is that it must compensate. Even in the decisions of the Supreme Court, there

are observations which you will find that the basic concept of compensation is that it must put the person who has been deprived of some thing in such a position that he is not an economic loser because he has lost the property, and for that purpose, he must be paid the amount that he would have got if he had sold the property in the market.

About the other point. I will not repeat what I said earlier. As I said, the right of user is very much less than full ownership. It will be a fraction of the total rights. What is being paid to the person is less than their market value. We are paying 10 per cent of the market value of the land. We are paying on a much more wider basis. That being so, if we had paid 15 per cent of the market value, it would have been something very much more than what the Land Acquisition Act pays. In land acquisition, you acquire ownership. We pay 15 per cent of the market value, as solatium. Here we pay 10 per cent of the market value which is very much more than the loss.

I would refer to Shri Bade's objections who, if I may say so, carried on the loyal task of opposition in opposing. If any trees are removed or standing crops are removed, whether under clause 4 or under any other, they are compensated for. We have taken scrupulous care to see that a person whose property is now being acquired for a public purpose does not suffer on that account. Secondly we have said that temporary severance of the land under which the pipeline has been laid shall be taken into consideration. Thirdly, any injury to any other property whether movable or immovable or the earnings of such persons caused in any other manner shall also be taken into consideration. Having given the market value, we have gone further and said that these three things also ought to be taken into consideration.

In the first instance, we have given the power to a competent authority.

[Shri Hajarnavis]

We know that his power shall be exercised by the authority on our behalf. He acquires property. Therefore we know what he acquires but we have got to pay compensation. Since we are administering a public fund, since money has to come from the public exchequer, we will try to see, it is in our interests to see that a senior officer, experienced officer, who knows the revenue laws, who knows the land laws, who knows the land values is appointed. Therefore, any apprehension in this behalf expressed in the House that we will entrust this power to any inexperienced man, is something which is entirely without basis. After all, we have got to pay the money. We will try to see that as far as possible the dispute is settled and that the man is paid properly. If there is any grievance in this behalf, it goes to the District Judge who is an experienced judicial officer.

Much was made of the fact that we have not provided for further appeals, and that his decision would become final. That decision, of course, becomes final. That does not prevent an application in Revision under section 115 of the Code of Civil Procedure. Apart from that, there is article 226 of the Constitution.

One consideration which I would place before the House would be, if rights of appeal are given as against the Government, it is not a right; but it is a liability. The Government have a large legal staff to advise them. They have got funds. They can take the litigation from court to court till the other party is tried out. Let us see what would be the amount of compensation payable. I will answer Shri Sonavane's point later on. I thought I had answered him in my opening speech. I will come to that later on. A right of user in small strip of land is acquired. If that is so, what would be the amount of compensation? Would it be a large sum over the dispute of

which litigant can afford to go to the High Court? The cost would be much more than that. Therefore, it is in his own interest that the decision becomes final at a lower level. If rights of appeal are provided, both parties can exercise it. The Government is much more equipped to carry the dispute from court to court. I for one would be loath to file an appeal for a small sum against a citizen because he does not have the means to engage lawyers and incur expenses against the Government. Therefore, when we stated in the Statement of Objects and Reasons that this procedure is not costly and that this is also a short procedure, we meant it.

Coming to Shri Sonavane, he read the first part. He should have given enough significance to phrase I am reading. In section 3 the words are:

"that for the purpose of laying such pipelines it is necessary to acquire the right of user in any land under which such pipelines may be laid . . ."

Section 3 permits land to be acquired which will qualify the description any land under which such pipelines may be laid. That land alone can be acquired. Under the power given by the Constitution to the Government land can be acquired . . .

Shri Sonavane: Why not read this section along with clause 7? Then, the meaning will be clear.

Shri Hajarnavis: It is so clear to me as it stands. I do not have to read section 7. Under the Constitution, no property of a private person can be acquired unless it is for a public purpose. So that, the moment any attempt is made to acquire property for a purpose which is not a public purpose, that authority is not being properly used and it is liable to be impugned in courts of law. It is not necessary for us to say that public purpose should be indicated here. It is in the Constitution. We are all subject to the Constitution. If any autho-

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rity tries to acquire property for a purpose which may not satisfy the court that it is a public purpose, the exercise of that authority will be restrained by the courts. That is my submission.

With these words, I hope this Bill will be taken into consideration.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the acquisition of right of user in land for laying petroleum pipelines and for matters connected therewith, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We shall now take up the clauses.

First, we shall take up clause 2. There is an amendment to this clause, standing in the name of Shri Ranga, Shri Yashpal Singh, Shri Himmat-sinhji, Shri Narasimha Reddy, and Shri Narendra Singh Mahida. None of those Members is present there.

There are no amendments to clause 3 to 8. So, I shall put clauses 2 to 8 to vote.

The question is:

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

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

Mr. Deputy-Speaker: There are some amendments to clauses 9, 10 and 13 also in the names of the same hon. Members, none of whom is present here. So, I shall put clauses 9 to 16 to the vote of the House.

The question is:

"That clauses 9 to 16 stand part of the Bill".

The motion was adopted.

Clauses 9 to 16 were added to the Bill.

Clause 17—(Power to make rules)

Shri Siddananajappa (Hassan): I beg to move:

Page 8, lines 31 and 32, for 'the session in which it is so laid or the

successive sessions aforesaid' substitute: 'the session immediately following the session in which the aforesaid period of thirty days is completed'. (1)

My amendment relates to sub-clause (3) of clause 17. This sub-clause contemplates two periods of time. One is the period for which the rules should be laid before each House of Parliament and the other is the period which should be allowed to each House of Parliament to modify the rules. My amendment relates to the latter part of the question, that is, the period which should be allowed to each House of Parliament to amend or to modify the rules.

There was some difference of opinion on this question between Government and the Committee on Subordinate Legislation. After some correspondence, the Law Ministry was able to draft a model clause, and that model provision is incorporated on page 8 of the Seventh Report of the Committee on Subordinate Legislation of this House. I shall read out only the relevant portion of that clause:

"the session in which it is so laid or the session immediately following."

Under this model clause, even though the period of thirty days for which the rules should be laid before each House of Parliament expires in the session in which it is so laid, it is open to each House of Parliament to modify the rules before the expiry of the session immediately following. After the drafting of this model clause by the Law Ministry, that clause was being incorporated in all the subsequent legislations. But, now, in the present Bill I find that there is a slight deviation, and it is not open to either House of Parliament to modify the rule during the session immediately following, if the period of thirty days expires in the session in which it is so laid. So, it is a curtailment of the period al-

[Shri Siddananajappa]

lowed under the model clause to each House of Parliament to modify the rules.

Therefore I have tabled this amendment, which is more in conformity with the model clause accepted by the Law Ministry, and I hope that the Deputy Minister will accept it.

Mr. Deputy-Speaker: The amendment is now before the House. Is the hon. Deputy Minister accepting it?

Shri Hajarnavis: I am not accepting it.

Mr. Deputy-Speaker: Is the hon. Member pressing his amendment?

Shri Siddananajappa: No, I am not pressing it.

Mr. Deputy-Speaker: Has the hon. Member leave of the House to withdraw his amendment?

Several Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That clause 17 stand part of the Bill".

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18 was added to the Bill.

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

Shri Hajarnavis: I beg to move:

"That the Bill be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

15.25 hrs.

***DEMANDS FOR SUPPLEMENTARY GRANTS (GENERAL)**

Mr. Deputy-Speaker: We shall now take up Supplementary Demands.

*Moved with the recommendation of the President.

DEMAND NO. 9—DEFENCE SERVICES, EFFECTIVE—ARMY

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 67,00,00,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1963, in respect of 'Defence Services, Effective—Army'."

DEMAND NO. 11—DEFENCE SERVICES, EFFECTIVE—AIR FORCE

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 8,00,00,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1963, in respect of 'Defence Services, Effective—Air Force'."

DEMAND NO. 25—UNION EXCISE DUTIES

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 40,00,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1963, in respect of 'Union Excise Duties'."

DEMAND NO. 26—TAXES ON INCOME INCLUDING CORPORATION TAX ETC.

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 39,50,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1963, in respect of 'Taxes on Income including Corporation Tax etc.'"