Some Hon. Members: Yes.

Mr. Deputy-Speaker: The amendments are withdrawn by leave.

Amendments Nos. 4 to 16 were, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9, Clause 1, the Enacting Formula and the Title were added to the Bill.

Dr. D. S. Raju: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

15.16 hrs.

DELHI (DELEGATION OF POWERS) BILL

The Deputy Minister in the Ministry of Home Affairs (Shri L. N. Mishra): Sir, I beg to move*.

"That the Bill to provide for the delegation of certain powers vested in the Administrator of the Union Territory of Delhi, be taken into consideration."

This is a simple Bill which seeks to delegate certain appellate and revenue powers exercised by the Chief Commissioner to other authorities such as the Chief Secretary and the District Judge. The Chief Commissioner exercises these powers in a number of cases including the five mentioned in the schedule to the annexures, namely, Punjab Land Revenue Act, U.P. Land Revenue Act, The Bengal Sales Tax Act—all these three Acts as extended to Delhi—Delhi Land Revenue Act and Slum Areas (Improvement and Clearance) Act.

The Chief Commissioner has on an average to hear about 400 such appeals and revisions in a year. As the Chief Commissioner has other administrative duties to perform, he does not have sufficient time to attend to these appeals and revisions, with the result that disposal of these appeals get delayed.

It has, therefore, been thought necessary to delegate the powers to other officers so that they might lighten the burden of the Chief Commissioner.

Under the Land Revenue enactments, the Chief Commissioner exercises certain appellate powers over the orders of the Deputy Commissioner and therefore, the Chief Secretary is sought to be authorised with these appellate powers.

In regard to the Bengal Sales Tax Act, he exercises appellate powers over the orders of the Commissioner of Sales Tax. It has been decided on principle to set up a Sales Tax Appellate Tribunal in Delhi, consisting of the District Judge. That will need separate legislation. Meanwhile the authority is being delegated to the Disrtict Judge to hear appeals from the orders of the Sales Tax Commissioner.

As regard the Slum Areas (Improvement and Clearance) Act, the Chief Commissioner exercises appellate powers over the orders of the "competent authority" staying execution of decrees of eviction passed by the Civil Court. So far as Delhi is concerned this authority is exercised by the Commissioner of Delhi Municipal Corporation. While exercising

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*Moved with the recommendation of the President.

these powers, namely, staying of decrees of eviction from civil courts, the competent authority is mainly guided by the fact whether such eviction would cause harassment or severe hardship to the slum tenants. Thus he functions here more in the nature of an administrative authority than a purely judicial authority.

In the Slum Areas (Improvement and Clearance) Amendment Bill which is also before the Parliament and being sponsored by the Ministry of Works and Housing, it was provided that these powers should be exercised by the District Judge according to the Joint Select Committee's report on that amending Bill.

This matter was discussed in the last meeting of the Delhi Advisory Committee of the Home Minister and it was unanimously decided that these powers of staying eviction should not vest in a judicial officer, but with an administrative authority because the judicial officer would be handicapped by the judgment passed by the higher civil courts. Accordingly the matter was discussed with the Works and Housing Ministry and the Minister, Works and Housing agreed to have the provisions in their Bill also amended so that instead of the "District Judge" the "Chief Secretary" would be the appellate authority. The question was raised whether parallel provisions are necessary both in the Delhi Delegation of Powers Bill and the Slum Clearance (Amending) Bill. The delegation in the latter Bill is also prospective and so cannot cover appeals now pending with the Chief Commissioner, Delhi. In our Bill, the Chief Commissioner is empowered (a) to transfer all pending Bills to the Chief Secretary and (b) where he considers it necessary to withdraw any case from the file of the Chief Secretary and dispose it of himself.

We have also provided that these appellate powers may also be exercised by any other officer notified by the Delhi Government, if considered necessary.

Shri Gauri Shankar Kakkar (Fatehpur) Mr. Deputy-Speaker, Sir, it is really a very short Bill, but I fail to understand one thing. In the Statement of Objects and Reasons it is mentioned that the Chief Commissioner has been over-burdened with work and he has to dispose of 400 appeals or revisions in a year. That would mean, just to lighten the work of the Chief Commissioner this provision has been made.

I have got my objection to this Bill on two grounds. If the Chief Commissioner is over-worked, how can it be expected that the Chief Secretary has time to dispose of these appeals. At least in the Delhi Territory, under the Government of India, there should be a sincere attempt to separate the judiciary from the executive. How can the Chief Secretary be termed or called in an official manner an officer entertaining appeals and revisions? It has been provided in the Schedule that the Chief Secretary has the delegated power of the Chief Commissioner. Only in one case I find that the District Judge has been given the delegated power of the Chief Commissioner. Therefore, my first objection is that on the very basis given in the Statement of Objects and Reasons, that the Chief Commissioner cannot afford to dispose of at the rate of 400 appeals in a year because he has to look to other things also, the position of the Chief Secretary is much more over-burdened with work than the Chief Commissioner. How can he be expected to be able to do justice in the disposal of these appeals and revisions? Of course, as I said, it is a very small provision, but it is a fundamental duty that once for all, when the policy of the Government has been that there should be separation of judiciary from the executive, a judicial officer is provided.

I fail to understand why in this Bill under 3(1) it has been said:

> "Any power, authority or jurisdiction or any duty which the Administrator may exercise or discharge by or under the provisions

[Shri Gauri Shankar Kakkar]

of any enactment mentioned in column 1 of the Schedule may be exercised or discharged also—

(a) by any officer or authority mentioned in relation thereto in column 2 of the said Schedule;"

I think this clause should not have been there. Sub-clause (b) says:

"by such other officer or authority as may be specified in this behalf by the Central Government by notification in the Official Gazette."

I welcome this. Once the powers are delegated, I find no reason why they should go to the Chief Secretary. There should be an officer, as is mentioned in sub-clause (b).

Again, in the Financial Memorandum it is said that if the work is being pursued by the Chief Secretary and the District Judge there would not be any additional financial burden and it would be there only in case a new officer is appointed.

In the end I have only to submit that at least the Government of India, while making such measures, should once for all make a definite provision that there is a separate judiciary and a separate executive and the appellate or revisional powers are entrusted with such officers who are really judicial officers in name, in designation and in work as well. How can a Chief Secretary be termed as a judicial officer? If at all the Chief Commissioner is over-burdened with work and if at all any measure is required to delegate powers, it should be delegated to an officer appointed by the Central Government as provided under 3(b). I have very serious objection to this delegation of powers to the Chief Secretary as provided in the Schedule.

With these words Sir, I oppose the Bill in its present form.

Shri U. M. Trivedi (Mandsaur): Mr. Deputy-Speaker, Sir, this piece of legislation, on the face of it, appears to be innocuous, but in the end it will prove to be very mischievous. I find in clause (2) the word "District Judge" means the District Judge, Delhi, and includes an Additional District Judge Delhi. Why has the Government not thought it fit to delegate these powers of the Administrator to the District Judge by providing for it in the Schedule and has burdened the Chief Secretary with the powers of appellate court?

15.28 hrs.

[SHRI SONAVANE *in the Chair*]

Sir, I have gone through the Punjab Land Revenue Act, the United Provinces Land Revenue Act, the Bengal Finance Act, The Delhi Land Revenue Act and the Slum Areas Act, In each case judicial functions will have to be exercised. In none of these cases it can be said that those judicial functions of determining impartially the particular provisions should be vested in merely an executive authority.

If you look at the provisions of the Punjab Land Revenue Act, under section 13 it provides:

"(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final."

Under section 16 it says:

"(1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue Officer subordinate to him.

(2) The Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer under his control."

In both these cases, under sections 13 and 16, I find that judicial determination has got to be made.

Similarly, in the United Provinces Land Revenue Act it is said:

> "(1) Appeals shall lie under this Act as follows:—
>
> (b) to the Commissioner from orders passed by Assistant Collector or Tahsildar;"

In the Bengal Finance Act also similar provisions exist. Under Chapter VI of the Delhi Land Revenue Act also it is said that an appeal shall lie to the Chief Commissioner from orders passed by the Deputy Commissioner, Additional Collector, Settlement Officer or Record Officer. It is the appeals which are put here. If appeals are to be heard, I fail to understand why a judicial determination is not to be made and only an executive determination is to be made. Are we ourselves, sitting here as the august body and making laws for the whole of India, to suggest that we have no faith in the judicial determination to be made by our judicial officers, who have got some protection in regard to their appointment under the Constitution itself? The district judges are protected and even their appointments are suggested in the Constitution. Also, ultimately many of the district judges rise to the Bench and become judges of High Courts. Are we here to suggest that we cannot put faith in them or are we funked of their judicial outlook? Is it suggested by the government that these judicial officers will cause trouble to the government? I should say that better take that risk and give a chance to the poor man who has got to make an appeal of getting it judiciously and honestly determined. Why do we keep a man in the hands of the executive where we have seen that, however good an executive officer may be, he always looks to the government for the favours that he is likely to get. If he is dependent for his future career upon the good wishes of the government and not upon the merit that he possesses, certainly justice cannot be done by him. Therefore, when there is an opportunity, when we are making this law, when the doors are quite open today, when clause (2) provides that you could delegate this power to the district judge or an additional district judge, why not create a new post of district judge or additional district judge having the same powers in the territory of Delhi and invest him with powers or delegate to him powers which you want to delegate to the Chief Secretary under this Bill? If in one instance you can delegate the power to the district judge or additional district judge, why cannot that be done in the case of the other four laws?

Therefore, I say it is high time that the Government makes up its mind, rises high above, puts faith in the district judge, puts faith in the judiciary. People have already got some faith in the judiciary. Let the people be satisfied with the hope that government also reposes faith in the judiciary. Let the judiciary determine the right between government and a private person. No harm would be done by this. On the contrary, you will rise high in the eye of the public. It will be to your advantage if you repose confidence in the judiciary. They are not very much different except they are so trained, they are so detached in outlook that they are able to do justice between the mighty and the low. Let that principle be accepted and if at all delegation is necessary, let that delegation be to the district judge rather than to the Chief Secretary.

Shri L. N. Mishra: Mr. Chairman, Shri Trivedi raised the question of separation of the judiciary from the executive. I think this Bill has nothing to do with that question, which is a broader question. Here the question is limited to delegating some powers on behalf of the Chief Commissioner to the district judges and the Chief Secretary. As I have said

[Shri L. N. Mishra]

earlier, this has mainly to do with revenue matters, and revenue matters are dealt with by revenue collectors. Therefore, the Chief Secretary has been put as the appellate authority.

As regards sales tax appellate tribunal, there is a district judge. Then, regarding the delegation of power by the Chief Commissioner to the Chief Secretary, I may inform the hon. Members that there is already a provision to delegate the powers to other authorities as and when necessary. Therefore, there should not be any fear on that account also.

Shrimati Renu Chakravartty (Barrackpore): But he has not replied to one point. The Administrator can even withdraw and dispose of by himself any appeal in revision. That is to say, he can do almost anything. He may delegate his powers to anybody he likes and he may withdraw them when he likes.

Shri K. C. Sharma (Sardhana): It is implied.

Shrimati Renu Chakravartty: He can do anything, whether it is slum clearance or any other subject. He becomes all in all.

Shri L. N. Mishra: Even at the moment he is all in all. This Bill provides for the delegation of powers to other authorities. At the moment, the Chief Commissioner has got much bigger powers in the sense he cannot delegate any power. Now, after this Bill is passed, he will be delegating his powers to some other authority also. There should not be any apprehension on that score.

श्री ओंकारलाल बेरवा (कोटा) : श्रीमन्, हाउस में क्वोरम नहीं है । पहले क्वोरम होना चाहिए ।

Mr. Chairman: The bell is being rung....Now there is quorum. The question is:

"That the Bill to provide for the delegation of certain powers vested in the Administrator of the Union territory of Delhi be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is:

"That clauses 2 and 3 and the Schedule stand part of the Bill".

The motion was adopted.

Clauses 2 and 3 and the Schedule were added to the Bill.

Clause 1.— (*Short title and extent*)

Shri L. N. Mishra: I beg to move:

Page 1, line 4,—

for "1963" *substitute* 1964" (2).

Mr. Chairman: The question is:

Page 1, line 4,—

for "1963" *substitute* "1964".

The motion was adopted.

Mr. Chairman: 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

Amendment made:

Page 1, line 1,—

for "Fourteenth" *substitute* "Fifteenth" (1).

(Shri L. N. Mishra).

Mr. Chairman: 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 L. N. Mishra: Sir, I move:

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

Mr. Chairman: The question is:

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

The motion was adopted.

15.42 hrs.

DRUGS AND COSMETICS (AMENDMENT) BILL

Mr. Chairman: Dr. Sushila Nayar.

The Deputy Minister in the Ministry of Health (Dr. D. S. Raju): Mr. Chairman, Sir . . .

Shri U. M. Trivedi (Mandsaur): On a point of order, Sir. How is this Bill being moved for consideration? There is no certificate attached to it. This requires a certificate from the President. Where is that certificate?

Mr. Chairman: A certificate has been issued by the President and it has been embodied in Bulletin—Part II dated Saturday, the 2nd May. It reads:—

"Copy of letter No. F. 1-10|63-D, dated the 29th April, 1964 from Dr. Sushila Nayar, Minister of Health to the Secretary, Lok Sabha.

The President having been informed of the subject matter of the Drugs and Cosmetics (Amendment) Bill, 1964, as passed by the Rajya Sabha recommends under article 117(3) of the Constitution the consideration of the said Bill in the Lok Sabha."

Shri U. M. Trivedi: I would like to know why this certificate was not attached to the Bill itself. Under the rules it requires to be attached to the Bill. Why was it not attached?

Shri Sinhasan Singh (Gorakhpur): I wish to raise another point of order. My point of order is not about the President's recommendation for the consideration of the Bill, but my point of order is about the Bill's introduction and passage in the Rajya Sabha. Under article 117(1) read with articles 109 and 110, this Bill, which is here as passed by Rajya Sabha, should not have been introduced there. Article 109, clause (1) specifically lays down:—

"A Money Bill shall not be introduced in the Council of States."

Therefore there is no question of their considering and passing it. Article 109, clause (1) definitely lays down that Money Bills shall not be introduced there, but it has been introduced there. So, my basic objection is that this Bill which is a Money Bill could not have been introduced in the Rajya Sabha and could not have been passed there.

Shri U. M. Trivedi: That is all right. This is not a Money Bill. But was there a certificate for the Council of States under article 117(3) and why was the certificate not attached to the Bill itself?

15.45 hrs.

[MR. SPEAKER *in the Chair*]

Shri Sinhasan Singh: Sir, I was raising my point of order and the question that I have raised is, perhaps, being explained to you. There are certain Bills which relate to money matters and this Bill, the Drugs and Cosmetics (Amendment) Bill, 1964, as passed by Rajya Sabha, which is here could not have been introduced there in view of article 117(1), read with articles 109 and 110, of the Constitution. Article 109(1) reads:

"A Money Bill shall not be introduced in the Council of States."

What is a Money Bill? A long definition of a Money Bill is given in article 110. It goes on to enumerate several kinds of Bills which will be construed to be Money Bills. In the present Bill clause 5 and other clauses relate to the appointment of the Board of Directors and inspectors