

second reading of the Bill is really to consider if the principle of the Bill is sound, and I see that it is acceptable to everybody except the Members I have named and for the rest, it will be for the whole of the Select Committee to consider each matter in detail.

**Babu Ramnarayan Singh** (Hazari-bagh West): May I know one thing? Unless retrospective effect is given to this measure, how can it be permitted to obtain throughout the country?

**Mr. Deputy-Speaker:** He said some measure of uniformity. All that the hon. Minister claims is that in future he will get some measure of uniformity, not full. Is it not so?

**Shri C. D. Deshmukh:** Yes, Sir.

**Dr. Lanka Sundaram:** May I have a word? I was told when I was away....

**Shri C. D. Deshmukh:** As soon as I saw the hon. Member appear again, I realised that he had come.

**Dr. Lanka Sundaram:** I thought he would care to answer the point that I raised.

**Shri R. K. Chandhury** (Gauhati): I would like to know what the Minister said about meat and fish. Are they included in the schedule or not?

**Mr. Deputy-Speaker:** They are essential in some parts of the country, and not in some other parts. The hon. Member only wants to know whether meat and fish are not essential goods.

**Shri C. D. Deshmukh:** I said many of the existing Acts have already excluded meat and fish, or fish and meat.

**Mr. Deputy-Speaker:** A number of hon. Members have sent chits to say that they want to speak. The Bill is going to the Select Committee. Certainly the Select Committee will look into all their suggestions. This other practice is also being adopted. Any hon. Member who wishes can attend the meeting of the Select Committee and give his suggestions, though, no doubt, he has no right to vote.

**Babu Ramnarayan Singh:** What about *Gur* and Sugar?

**Mr. Deputy-Speaker:** The hon. Member may kindly refer to the schedule.

**Shri R. K. Chandhury:** A question of principle is involved in this. It is that non-vegetarian food has been entirely excluded from the schedule.

**Mr. Deputy-Speaker:** In deference to the hon. Member's wishes and in anticipation thereof, both of them have

been excluded long ago. The question is:

"That the Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community, be referred to a Select Committee consisting of Shrimati B. Khongmen, Dr. Ram Subhag Singh, Shri Tulsidas Kilachand, Acharya Shriman Narayan Agarwal, Shri P. T. Chacko, Shri B. Das, Shri Gurmukh Singh Musafir, Col. B. H. Zaidi, Shri S. V. L. Narasimham, Shri S. V. Ramaswamy, Shri G. D. Somani, Shrimati Sucheta Kripalani, Shri Rajaram Giridharlal Dubey, Shri Keshava Deva Malaviya, Shri Arun Chandra Guha, Shri Liladhar Joshi, Shri Balwant Sinha, Mehta. Shri Dev Kanta Borooah, Shri Sarangadhar Das, Shri Mahavir Tyagi, Shri M. V. Krishnappa, Dr. Shaukatulla Shah Ansari, Shri N. R. M. Swamy and the Mover, with instructions to report by the 18th July, 1952."

The motion was adopted.

#### CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

**The Minister of Law and Minority Affairs** (Shri Biswas): I beg to move:

"That the Bill further to amend the Code of Civil Procedure 1908, be taken into consideration."

The Bill in question is a very simple one which relates to the question of the execution of decrees of foreign Courts in India on a reciprocal basis. There is already a provision for this in Section 44-A of the Code of Civil Procedure. But that was passed at a time when the reciprocity was between India on the one hand and the United Kingdom on the other and other countries within His Majesty's dominions. That is how Section 44-A stood. Now that India has attained independence, it was thought that this reciprocity should be extended not merely to the United Kingdom and other countries within the Commonwealth, but also to other foreign countries that are willing to come to reciprocal arrangements with us. That is the simple object of this Amending Bill. In Section 44-A of the Civil Procedure Code as it now stands, it is provided, that:

"Where a certified copy of a decree of any of the superior

[Shri Biswas]

courts of the United Kingdom or any reciprocating territory has been filed in a District Court, the decree may be executed in the States as if it had been passed by the District Court."

As regards reciprocating territory, in Explanation 2 of sub-section (3) of section 44-A it is provided that:

"Reciprocating territory means any country, or territory, situated in any part of His Majesty's Dominions, which the Central Government may from time to time by notification in the Official Gazette, declare to be reciprocating territory for the purposes of this Section."

And then, with regard to "superior courts", it is mentioned:

"Superior courts, with reference to any such territory, means such courts as may be specified in the said specification."

It will therefore be seen that this Section is at present limited in its application to superior courts of the United Kingdom and superior courts of the countries or territories situated in any part of His Majesty's dominions, which may be notified by the Central Government. The present amending Bill proposes to substitute the words in the explanation 'situated in any part of His Majesty's Dominions', by the words 'Outside India', so that the amended explanation will read thus:

"Reciprocating territory means any country or territory outside India other than the United Kingdom."

The words 'United Kingdom' which are to be found in sub-section 1 of section 44-A are retained. I notice that a number of amendments have been tabled for the purpose of deleting those words from sub-section 1, and making a general provision for all foreign countries outside India, without any specific mention of the United Kingdom. That of course, does not make any difference in the position. So far as the ultimate result is concerned, it will be seen that foreign countries will include the United Kingdom as well as other countries outside the United Kingdom.

The only reason why the words were still retained in sub-section 1 in its present form is this. This Section 44-A was, I believe, introduced somewhere in the year 1937. It was a reci-

procal measure which was enacted in view of the Foreign Judgments (Reciprocal Enforcement) Act, 1933—23 and 24, George V—Chapter 13—which was enacted by the British Parliament in the year 1933. That Act provided that:

"His Majesty, if he is satisfied that in the event of the benefits conferred by this part (i.e. Part 1) of this Act being extended to judgments given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior courts of the United Kingdom, may by Order in Council, direct that this Part of this Act shall extend to that foreign country."

There was specific provision in the Act itself that so far as His Majesty's dominions outside the United Kingdom, Protectorates and Mandated Territories were concerned, His Majesty might apply by Order in Council the provisions of this Part and extend the benefits of this Act to those countries and territories. That being so, India thought that it should make a reciprocal law. That was the reason why Section 44-A was introduced. Now, if that is deleted, it will only mean that a fresh notification will have to be issued by the Central Government declaring that the United Kingdom will be regarded as a reciprocating territory.

Shri S. S. More (Sholapur): One of them.

Shri Biswas: The result will be that this will lead to further correspondence between the two countries. It may even lead to a suspicion that there was something behind it. There will in any case be a time lag between the enactment of this legislation and the issue of a notification after a lot of correspondence. In other words there will be a hiatus for nothing which will not be covered. Therefore, there is no substantial reason except one of sentiment for making this change as suggested in the amendment, because whether you accept the amendment or not, the result will ultimately be the same. But the actual difficulty will be, as I have said, that as regards the United Kingdom, there will be some time which will necessarily lapse before a notification can be issued by the Central Government.

Shri S. S. More: But why?

**Shri Biswas:** As a matter of fact, there has to be correspondence. You will find, when you come to deal with the Notaries Bill, that the Master of Faculties who now grants the faculty for the appointment of notaries in India, was informed beforehand that it was proposed to put an end to this arrangement. It was only after that was done, the present legislation was brought forward. If we now wish to remove the words 'United Kingdom' from the provisions of Section 44-A of the Code of Civil Procedure, we should, I think, notify them that this is being done, and that ultimately it is proposed to include them as a "reciprocating territory" by way of a notification under the provisions of the Amended Act.

That has not yet been done. Rightly or wrongly, that has not been done and, therefore, if you now suddenly delete these words from Section 44-A and relegate the United Kingdom to the same position as any other reciprocating territory, then there will certainly be an interval of time when the thing will remain 'in vacuo', so to say. In order to avoid that result, and not for the purpose of placating the United Kingdom or for any similar purpose, those words have been retained. The line of least resistance has been followed in drafting this Bill. Let the Section remain as it is, and you delete the reference to any countries or territories situated within His Majesty's Dominions from Explanation 2.

**Shri S. S. More:** May I make a suggestion, Sir? Can Government think of postponing the consideration of the Bill pending their correspondence with the United Kingdom and getting over all the preliminaries so that notification is given after that as early as possible?

**Shri Biswas:** There is no objection to that, Sir. If that commends itself to the House, that can be done. As a matter of fact, I say this because the way in which the Notaries Bill question was dealt with and the very handsome reply which came from them, shows that we ought to follow a similar procedure, and not suddenly put an end to the existing arrangement. If the House agrees, the matter may stand over till the next session; in the meantime, correspondence may be carried on giving notice to the United Kingdom of our intentions. We are anxious that any action that we may take may not be unnecessarily open to any misinterpretation.

**Mr. Deputy-Speaker:** Am I to understand that the hon. Minister himself would like to have this postponed?

**Shri Biswas:** If the House agrees, I have no objection to postpone it till the next session.

**The Minister of State for Finance (Shri Tyagi):** Why, there is not much objection. As I see friends on the other side say that this will add to.....

**Shri A. M. Thomas (Ernakulam):** Is there not the question of execution of decrees by other foreign courts? Why should we delay matters like this?

**Shri Tyagi:** The matter is so small. The point raised is so small, as my friends will see. On that point, why should the measures stay?

**Shri Biswas:** My reason is this. I find that quite a large number of amendments to the same effect have been tabled, and if there is any sentiment on that question, I would much rather respect that sentiment.

**Mr. Deputy-Speaker:** The hon. Minister has raised a point. There is of course a number of amendments tabled. All hon. Members who have tabled amendments want to make it clear that there ought to be an end to discrimination between one territory and another territory. Now, the United Kingdom before 1947 had a special privilege. Of course, it is also a reciprocating territory. But here onesidedly it has been included, and there in England only put in the category of reciprocating territories. It may be possible for the United Kingdom to withdraw, but all the same by virtue of the statute we will be obliged to show these concessions. Why should it happen? Now, the hon. Minister has said there is no urgency. The old law continues and in the meantime we can negotiate with the United Kingdom...

**Shri Biswas:** There is only one country, Sir, Switzerland, from which we received an enquiry as to whether any decree a Swiss court could be enforced. That is the only one we have received; we have received no other representation from any other country.

**Shri Tyagi:** We have to compare two situations. One is that people might think as to why one country has been specially treated. It was being specially treated all the time. This is one question. But I think the more serious question is, why we should continue the discrimination against other countries and go on giving preferential treatment to England.

**Mr. Deputy-Speaker:** The other side are saying exactly the same thing. They want to bring out the treatment given to the United Kingdom in line with other reciprocating countries. They want to do away with the discrimination.

**Shri Nand Lal Sharma (Sikar):** There should be complete independence from the British.

**Shri Kazmi (Sultanpur Distt.—North cum Faizabad Distt.—South-West):** May I just submit a point, Sir? So far as I understand, there are mutual arrangements already with the United Kingdom. But from the Act itself, it does not appear that there are any mutual arrangements, and therefore this is a distinctive treatment to the United Kingdom by making an exception. Will it not be proper, if the Minister thinks fit, that it may be made clear.....“except the United Kingdom with whom we have got reciprocal arrangements already”—something to indicate that this exception is being made not because of the status or position of the United Kingdom, but because we have already got mutual arrangements with the United Kingdom. Then there will be no difficulty whatsoever.

**Shri Nand Lal Sharma:** There could be mutual arrangements with other countries also.

**Mr. Deputy-Speaker:** I want a clarification by the hon. Minister. If the words “United Kingdom” are there and are not included in the category of reciprocating States, will it not be open to the United Kingdom by its own legislation to terminate the arrangement made, and then we will have to come to this Parliament to modify this Bill? We cannot terminate notwithstanding the fact that the United Kingdom may terminate.

**Shri Biswas:** I did not make myself understood. What I said was that it would make no difference whether we accepted these amendments or not. There is no discrimination at all in favour of or against the United Kingdom. But the question is, the United Kingdom is now specifically mentioned. That was for historical reasons. The amending Bill which is now before you retains the specific reference to the United Kingdom and only deletes references to other countries. The other countries mentioned there were countries within the Commonwealth. Now, we are deleting

the words “within the Commonwealth”. Reciprocating territory will include any foreign country outside India who will enter into reciprocal arrangements with India. But so far as the United Kingdom is concerned, the matter will be left as it is. Now, what is suggested by the amendments is that the United Kingdom need not be specifically mentioned. Let the United Kingdom come within the definition of reciprocating countries. That makes no difference, except this that if we pass this Bill that automatically repeals 44-A as it stands, and therefore, some correspondence will have to ensue between the United Kingdom and his country before effect can be given and notification can be issued in order to declare that the United Kingdom will be one of the reciprocating territories under the amended Act, and so on. And, therefore, my hon. friend over there made that suggestion that we might wait, and in the meantime we might notify the United Kingdom so as not to cause any interruption in the existing legal arrangements between the two countries, which would be the result of accepting the amendments which had been tabled.

**Shri N. C. Chatterjee (Hooghly):** Sir, this should be a mere matter of procedure. There must be no reason for a special reference to the United Kingdom in the Act because you cannot keep the United Kingdom on a separate pedestal. There cannot be any question of special treatment for the United Kingdom, and there is no intention to discriminate against England according to our amendments either. We want to rope in all other countries within this reciprocal arrangements. If the hon. Minister thinks that there is no urgency, then it can stand over.

**Shri Biswa:** Sir, it was simply in deference to the suggestion which was made by my hon. friend over there that I said I was quite willing to let it stand over. If the House agrees to it, we have no objection. We are of course prepared to go through the Bill with the amendments, and if the amendments are accepted by the House, we will accept them.

**Shri M. S. Gurupadaswami (Mysore):** Sir, why should there be any correspondence before passing the Bill?

**Shri Biswas:** So that there may be no hiatus.

**Mr. Deputy-Speaker:** I am not aware of any procedure whereby I can ascertain the views of the House in this matter. There is some expression

of opinion, there are a number of amendments tabled, and the hon. Minister must make up his mind whether he would like it to stand over unless there is some urgency in which case...

**Shri Biswas:** There is no urgency.

**Mr. Deputy-Speaker:** Is it the desire of the House that this should be postponed?

**Several Hon. Members:** Yes.

**Mr. Deputy-Speaker:** The House agrees to postpone decision on this to the next session. In the meanwhile, the necessary steps will be taken.

#### MAINTENANCE ORDERS ENFORCEMENT (AMENDMENT) BILL

**The Minister of Law and Minority Affairs (Shri Biswas):** I beg to move:

"That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, be taken into consideration."

This Bill has been brought before you on very much the same grounds as the previous Bill which has now been adjourned. The difference is this. I will not ask for an adjournment of the present Bill, because here there is no separate mention of any specific country. This provision is in general terms. The Maintenance Orders Act which is now in force provides for enforcement in India of maintenance orders made in other countries and for enforcement in other countries of maintenance orders passed in India, on a reciprocal basis. Now, in the Act as it stands, the countries with which reciprocal arrangements may be made are countries lying within the Commonwealth—His Majesty's Dominions and Protectorates. We want to extend that definition so as to include all countries outside India. Instead of the existing section 3, we say:

"If the Central Government is satisfied that legal provision exists in any country or territory outside India for the enforcement within that country or territory of maintenance orders made by courts in India, the Central Government may, by notification in the Official Gazette, declare that this Act applies in respect of that country or territory and thereupon it shall apply accordingly."

The only amendment of any significance which has been received is that for the words "Central Government" the words "Union Government" be substituted. That, Sir, overlooks the General Clauses Act, because in the General Clauses Act the words "Central Government" are defined to mean the President and so forth, and the words "Union Government" are not to be found there. We have followed the terminology of the General Clauses Act. Therefore, I do not see any point in the suggested change from "Central Government" to "Union Government".

There is another amendment. I shall deal with it when it comes up. But we say in one clause:

"'reciprocating territory' means any country or territory outside India in respect of which this Act for the time being applies by virtue of a declaration under section 3."

We have added "by virtue of a declaration under section 3"; because that is bound to be so. If you want to delete these words, delete them; but there is no use deleting them, because this Act may apply to such territory only by virtue of a declaration. That is a statement of fact.

**Mr. Deputy-Speaker:** What about the amendment seeking to exclude Pakistan?

**Shri Biswas:** I do not know what point there is in it. As a matter of fact it rests with the Central Government to issue the notification. If you do not want to enter into reciprocal arrangements with Pakistan, it will always be open to you not to do so; you need not say "except Pakistan" in the Act. It is always possible for India to exclude Pakistan if the situation demands. That is another matter. That power is already there.

Another amendment seeks to insert the words "express or implied" in line 23:

"If the Central Government is satisfied that legal provision exists in any country....."

The mover wants it to read:

".....any legal provision express or implied".

This is a matter for the Central Government to decide; therefore, why put in these words there? That will only lead to unnecessary controversies and leave it open to the courts also to go into the question. The matter is left entirely in the hands of the Central Government. The amendment is wholly unnecessary. That is my submission.