

[Shri Karmarkar]

I do not want to dilate further, but I do hope that by the time that we come forward with a comprehensive law, as my hon. colleague pointed out, shortly, I hope my hon. friend would not only have studied this report with care, but also the particular Bill that we shall be bringing, because ultimately by a study of the Bill is of very great help to this House as well as to Government. We appointed the Committee, to which my hon. friend referred, with a view to review the whole law. The Patent Law was first formulated in 1836. From then on that law has been amended just to suit the Government of those days. We appointed that Committee to bring the law into line with the existing circumstances. We appreciate very much the labours of that Committee. There is a very precious report and I am very happy to say that Government have been able to agree with a large number of their recommendations. We thought that time was of the essence so far as food, medicines and surgical and curative devices are concerned and we did not want to wait for the more exhaustive measure. Therefore we have brought this amending Bill because it has an importance of its own. As my hon. colleague has said, we hope to introduce in this House during this session, before the session closes, a fully exhaustive Bill in this regard.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Patents and Designs Act, 1911, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause. As there are no amendments I propose to put all the clauses together.

The question is:

"That clauses 1 to 5 stand part of the Bill."

The motion was adopted.

Clauses 1 to 5 were added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri Karmarkar: I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

MYSORE HIGH COURT (EXTENSION OF JURISDICTION TO COORG) BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

This is a very small matter as hon. Members would have seen from the Statement of Objects and Reasons. Coorg is a very small State. Formerly, up to the year 1948 it used to have a Judicial Commissioner who was the final court of appeal for that State. In 1948 it was found that this was rather an inconvenient arrangement and that there might be a better provision for the disposal of final appeals, both civil and criminal; and therefore an order was promulgated conferring this appellate jurisdiction on the Madras High Court in place of the Judicial Commissioner, Coorg. Now for four years this arrangement has continued. It is very satisfactory from every point of view but one, namely of distance. Hon. Members will be aware that in order to go to Madras from Coorg you have first to go to Mysore, from Mysore to Bangalore, and then from Bangalore to Madras. This involves considerable expense to the litigants, and also inconvenience. The point therefore was raised that this inconvenience might be done away with by conferring the appellate jurisdiction on the Mysore High Court in place of the Madras High Court. This has been concurred in, and both the Governments are agreeable. This Bill intends to give effect to that arrangement.

The substance of the Bill really is that in every Act, in place of the word 'Madras' you have to read the word 'Mysore'. There is the ancillary provision that decrees and orders so far pronounced by the Madras High Court shall, after the passing of this Bill, be enforceable as if they had been passed by the Mysore High Court. And in the Schedule the House will find certain enactments passed by the Central Legislature where original jurisdiction has been conferred upon High Courts in relation to every part of India, and for Coorg that original jurisdiction has been conferred on Madras. Now in place of 'Madras' it is proposed to substitute the word 'Mysore'.

I do not want to take up the time of the House any further. It is really a formal matter and should arouse no controversy.

Mr. Speaker: Motion moved:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

Shri Madiah Gowda (Bangalore South): Sir, I rise to support this Bill. The State of Coorg and that of Mysore are very identical in very many matters—not merely in their aims and aspirations but also in their manners and customs and culture and tradition. Coorg is just in the western boundaries of Mysore and is very close to Mysore in all respects. The language of Coorg is the same as that of Mysore, namely Kannada. But I hear that none of the Judges of the High Court of Madras know Kannada—of course I speak subject to correction. If it is so it is rather justifiable that the High Court of Mysore should exercise jurisdiction over the judicial affairs of Coorg. Regarding the distance, Bangalore is only about 150 miles from Coorg, whereas Madras is nearly 400 miles. Not only will litigation be cheap in Mysore, but the distance is rather prohibitive for the people of Coorg to go to Madras and have their judicial affairs settled. There is a good road connection between the State of Coorg and Mysore. Unfortunately, there is no railway connection. In Coorg, so far the people of that State have not seen a railway line. I hope by the agitation of the Governments both of Coorg and Mysore and the people of those States Coorg will have a railway line as early as possible.

[**MR. DEPUTY-SPEAKER** in the Chair]

One other factor which has to be taken into consideration in this connection is that the Mysore State Service is held by a number of Coorgis, in civil, military and judicial departments, for a very long time. The present Chief Justice of Mysore is a Coorgi and is known for his judicial calibre and integrity. For all these reasons, Sir, I consider that the step taken by the Ministry of Home Affairs is in the right direction and it helps the people of Coorg to come nearer to Mysore as they are always held to be dearer to them.

4 P.M.

One other point I wish to submit in this connection. I heartily congratulate the people of Coorg for their wisdom and foresight in having agreed to come under the jurisdiction of a High Court in the matter of their judicial affairs. This was in the year 1948. This is no doubt a very wise move. Even now I hear very many Part C States are under the appellate jurisdiction of Judicial Commissioners. It is

only Coorg State that was very wisely thought of in the year 1948. I hope Government will take suitable action to see that all other Part C States also come under the jurisdiction of some High Court in the neighbouring Part A or Part B States. With these observations I heartily support this Bill.

Shri S. V. Ramaswamy (Salem): I rise to support this Bill. I shall move some amendments with a view to improving the Bill because I find there are some lacunae in it. Some amendments are very minor. The definition "proceeding in relation to Coorg" in clause 2, part (c) is one. In lines 25 and 26 it is "proceedings in relation to Coorg". At four or five different places singular is used. All the words may be plural. That is the purpose of one of the amendments. The other amendment is one of importance in clause 4. There are cases where a judgment may be written but not delivered. I would like to bring to your notice that there is the following entry in the Civil Procedure Code, Order 20, Rule 2:

"A Judge may deliver a judgment written but not pronounced by his predecessor."

But, Sir, if you kindly look into the Criminal Procedure Code, there is no provision analogous to Order 20, Rule 2. There is only Sec. 367, a provision analogous to Rule 3 namely the delivery of judgment and the signing and dating. What I submit is that if there is a case where a judgment is written by the Judge or Judges of a High Court but not delivered a proviso like this may be provided where Order 20, Rule 2 may be applied. In criminal cases too the Appellate Criminal Bench of the High Court of Mysore may simply deliver the judgment written by the High Court of Madras.

Next, Sir, in clause 5 I seek to introduce the word "judgment" after the word "any" to read as follows:

"Any judgment, decree or order".

And in line 32, for the word "an" read "a judgment, decree or".

In line 33 also for the word "an" I am seeking to read thus:

"a judgment, decree or".

You will see, Sir, that a judgment may be delivered but a decree may not be drafted. There may be a lapse of time. If after the delivery of a judgment the appointed day is exceeded, then what happens to the decree or decretal order. In order to provide for such a contingency, I am submitting Sir that the word "judgment" or "decree" may also be added so that in the actual working there may be no difficulty. It is for

[Shri S. V. Ramaswamy]

this reason that I propose to move these amendments and I hope the Government will not find it difficult to accept them.

Shri Raghuramiah (Tenali): Sir, I do not think that there is really any need for most of the amendments suggested by my friend. In the first place he has suggested that substitution of the word "proceedings" for "proceeding". It is a very novel thing in the interpretation of laws to suggest that where the word "proceeding" is defined it will not include "proceedings". Just now we have been referring to 'patents'. Supposing the word "patent" is defined. Does my hon. friend mean to suggest that, it is incapable of being applied to the plural "patents"? I would advise my hon. friend to read any book on interpretation of laws.

Mr. Deputy-Speaker: I am afraid the hon. Member has misunderstood it. All proceedings will be transferred. What is there in proceeding being singular. There is no conflict. It is not only one proceeding that is defined. That has to be transferred. A proceeding is defined and all proceedings pending in one court are transferred to another court. Why should there be singular and plural in that? Plural is there where it is necessary. Singular is defined. I do not think there is any need for a new amendment.

Shri Raghuramiah: The next point is about judgments made and not delivered. This refers to proceedings in the High Court of Madras. I have myself practised there for some time and I know a High Court judgment is complete only when it is delivered. Therefore the case of a judgment prepared at home and not at all delivered does not arise. This amendment also is therefore hardly necessary.

There is of course one other amendment which my friend has referred to. That relates to clause 5 "Effect or orders of Madras High Court". In the opening sentence reference is made to any decree or order but subsequently throughout that clause only the word "order" is referred to. Since an order may not be a decretal order I would suggest the addition of the word "decree" alongside "order" wherever the word "order" occurs in that clause. It might also be helpful if we specify 'judgment' alongside "order", the idea being that any judgment, decree or order in any proceeding relating to Coorg made before the appointing date, shall have effect not only as a judgment, decree or order as the case may be of the Madras High Court, but also

as if it were a judgment decree or order of the Mysore High Court. It is, I agree, a purely verbal amendment but I think it will be advisable to have it, to avoid complications.

Shri N. Somana (Coorg): On behalf of the people of Coorg it is my duty to express my gratitude to the hon. Minister for Home Affairs for having brought this Bill before this House. Sir, it will not be out of place for me if I say that the people of Coorg have desired for a long time for the extension of the jurisdiction of the High Court of Mysore over Coorg and for nearly ten years discussions were going on in the Coorg Legislative Council about this matter. It was then found that Mysore being a Native State as it was so-called then, there was a technical difficulty. It was on that ground that in 1948 it was agreed that for the present the Madras High Court should be the High Court for Coorg. Now that, fortunately, the Mysore High Court is placed on the same level as the Madras High Court, and the laws in force there are the same as in other parts of India, we find there will be no legal difficulty in constituting the Mysore High Court as the High Court for Coorg. The hon. Minister for Home Affairs has stated clearly how it is more advantageous for the people of Coorg to have the Mysore High Court as the High Court for Coorg. I would also like to mention about the cost of litigation which the hon. Member, Shri Madiiah Gowda referred to. As a matter of fact, the litigant public of Coorg were finding it extremely difficult so far as language was concerned, because, every document that had to go to the Madras High Court had to be translated into English. Very often we found difficulty in getting a correct translation and the translation was also found to be very costly, though, as the hon. Minister for Home Affairs stated, we found the arrangement with the Madras High Court very satisfactory in all other aspects.

Shri Velayudhan (Quilon cum, Mavelikkara—Reserved—Sch. Castes): In Mysore do they know your language?

Shri N. Somana: They do. The arrangement now proposed under the Bill would facilitate easy litigation. There is one more advantage. It is also possible for the advocates from Coorg to go to Mysore and Bangalore and appear in their own cases. As it is now, advocates from Coorg cannot go and practise in the High Court of Madras. Even in that way, it would be helpful to the litigant public and to the advocates practising in Coorg. We have found from experience that, so far as advocate's fee and printing charges

are concerned the Mysore High Court is decidedly much cheaper than the Madras High Court. All these factors being taken into consideration, this is a very welcome measure and we are, as I said, really thankful to the hon. Home Minister for having introduced this Bill.

There is one small matter which I think I should bring to the notice of the hon. Minister for Home Affairs. There is an Act known as the Coorg Courts Act, passed in 1948, by the Coorg Legislature, in which it is stated that so far as the Coorg courts are concerned, Madras is the High Court. It is necessary that a consequential amendment of that Act should be made. I request the hon. Minister to issue the necessary directions to the Coorg Government to make the necessary consequential amendment in that Act of 1948. Otherwise, an inconsistency may arise.

So far as the amendments proposed by the hon. Member Mr. Ramaswamy are concerned, I think they have been sufficiently answered. I agree with Shri Raghuramaiah that no amendments are necessary. As regards the difficulty which Mr. Ramaswamy felt about the delivery of judgement, I certainly endorse the view that has been expressed by Mr. Raghuramaiah that in all cases where judgments are written and signed, they are delivered without any delay. Judgments are signed and delivered on the same day and that even if any such contingency were to arise, there will be no difficulty because there are provisions of the Civil Procedure Code and Criminal Procedure Code to cover such cases and I learn on authority that the same procedure applies in the State of Mysore also. I should think that in actual working there would be absolutely no difficulty. I also agree with Mr. Raghuramaiah that so far as clause 5 is concerned, it is not very explicit and the amendment that he suggested, of including judgment in that clause, may also be taken into consideration. It is only a verbal change and I think the hon. Minister will kindly agree to the amendment. That would not really affect the substance of the clause.

With these words, I once again welcome this measure. So far as I have seen, there is no opposition to this measure and I hope the House will adopt this measure unanimously and thus relieve a difficulty which was being faced by the public of Coorg in general.

Mr. Deputy-Speaker: The hon. Minister.

Shri S. V. Ramaswamy: May I just.....

Mr. Deputy-Speaker: He may speak when I come to the amendments.

Dr. Katju: Sir, I am happy to hear this general approval of the Bill. I should like to make one point quite clear that the Bill just indicates what is intended by it, and it has no other significance, namely, it has been brought forward for the purpose of removing an obvious inconvenience, namely, going to a very distant place like Madras and securing justice to the litigants of Coorg nearer home. There is no other significance about this or any other issue which might be raised.

Then, my hon. friend raised very interesting questions namely that the principle of this Bill might well be applied to the other Part C States. I have great sympathy for that suggestion. I am very glad to see that it has already attracted attention and the matter is receiving consideration by the people of those States and by their Chief Ministers. I do hope that we might be able to make some further progress in that direction. Because, with my experience at the Bar, I can say with some confidence that it is desirable that the final appellate court in every State should be at least a Division Bench, should consist at least of two Judges, and should be of the highest eminence as we can possibly provide.

I am further indebted to my hon. friend on my right here for the very meticulous care that he has bestowed upon the phraseology of this Bill. We expect such a meticulous examination from every Member of the House. I can assure you that we feel indebted because that is the way for careful examination of the language of the Bill so that no mistake might creep in. Many of these amendments are verbal and I dare say will not be moved. As to some others, speaking for myself, I do not think there is any real ground for apprehending any trouble at any stage. The language is fairly clear. But, in order to please my hon. friends on both sides, I shall have no objection to the addition of the words 'Judgment' and 'decree' in clause 5 by way of abundant caution. So far as the apprehension is concerned that there might be judgments unsigned, it is really speaking again from experience of High Courts for many years, rather imaginary. Furthermore, there is one other practical consideration to which I appeal. We are passing this Bill, I hope, this afternoon. It will have to go to the other House and will take another fortnight for its final passage. That will, I hope, give adequate notice to the authorities in the Madras High

[Dr. Katju]

Court to see that any pending case is finally disposed of so that there might not arise any inconvenience in regard to pending litigation. I do not think that it is desirable that we should encumber the Bill passed by this Parliament with such a fleeting provision as was pointed out. There is no such thing as an undelivered judgment. As soon as a judgment is delivered, it is forthwith signed and sealed, and it does not take more than 24 hours for finalising the judgment.

I have nothing more to add, Sir.

Mr. Deputy-Speaker: I will now put the motion to the vote of the House. The question is:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

The motion was adopted.

Clauses 2 and 3

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

Clause 2. Mr. Ramaswamy need not move his amendment. I do not think it is necessary.

Shri S. V. Ramaswamy: It is only verbal alteration, Sir, to make it plural.

Mr. Deputy-Speaker: Plural is not necessary.

Shri S. V. Ramaswamy: Then it is plural in line 25.

Mr. Deputy-Speaker: There is a difference. It is not only one proceeding that is to be transferred. It relates not to one suit. All proceedings whether appeals or original suits, or anything of that kind, will be transferred. Singular in the one case, and plural in the other case are appropriate.

Shri S. V. Ramaswamy: It is all right. With regard to the proviso.....

Mr. Deputy-Speaker: I am coming to the proviso. Amendments to clauses 2 and 3 are not moved.

The question is:

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

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 4.—(Transfer of pending proceedings to Mysore High Court)

Shri S. V. Ramaswamy: It is not as if the judgment is not written and subsequently delivered. Rule 20 provides for such a contingency. However, in view of the assurance given, I am not moving the amendment.

Mr. Deputy-Speaker: I am asking the hon. Minister if there are not cases which have come to his notice where a case is heard by a Judge, and before he pronounces the judgment he is transferred. His successor in office delivers the judgment on his behalf.

Shri S. V. Ramaswamy: That is exactly my point.

Mr. Deputy-Speaker: What Mr. Ramaswamy feels is that similar cases might arise here. A judgment may not be ready, but the proceedings might have been closed. It is unnecessary to make the whole proceedings open once again before the Mysore High Court. The judgment might not be written. After this order is passed, judgment will be written and sent. Then the other Court can deliver the judgment.

Dr. Katju: That is provided for in the Civil Procedure Code. Furthermore, I do not think there will be any difficulty. They will wind up all the proceedings in 15 days.

Mr. Deputy-Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5.—(Effect of orders of Madras High Court)

Dr. Katju: There is some mistake in the order of lines there.

Mr. Deputy-Speaker: We need not worry ourselves. Mr. Ramaswamy.

Shri S. V. Ramaswamy: I beg to move:

In page 1, line 30, after "Any", insert "judgment".

Mr. Deputy-Speaker: How does it read? I am not able to follow. There are two "any"s there. I shall put "judgment" after the second.

Shri S. V. Ramaswamy: No, Sir. After the first which begins with capital 'A'.

Mr. Deputy-Speaker: The question is:

In page 1, line 30, after "Any", insert "judgment".

The motion was adopted.

Shri S. V. Ramaswamy: I beg to move:

In page 1, line 32, for "an" substitute "a judgment, decree or".

Mr. Deputy-Speaker: The question is:

In page 1, line 32, for "an" substitute "a judgment, decree or".

The motion was adopted.

Shri S. V. Ramaswamy: I beg to move:

In page 1, line 33, for "an" substitute "a judgment, decree or".

Mr. Deputy-Speaker: The question is:

In page 1, line 33, for "an" substitute "a judgment, decree or".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6, 7 and the Schedule were added to the Bill.

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

Dr. Katju: I beg to move:

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

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

RESOLUTION RE LEVY OF EXPORT DUTY ON MERCURY

The Minister of Commerce (Shri Karmarkar): I beg to move:

"In pursuance of sub-section (2) of section 4A of the Indian Tariff Act, 1934 (XXXII of 1934), the House of the People hereby approves of the notification of the Government of India in the Ministry of Commerce and Industry No. 35-T(1)/52, dated the 8th October, 1952, by which an export duty of Rs. 300 per flask of 75 lbs. was levied on mercury with effect from the date of the said notification."

I need not detain the House for long, as already a note has been circulated to the Members on this Resolution.

The position briefly is this. In November, 1950 the import of mercury was placed on the open general licence, and the immediate effect was large scale imports of mercury. In 1949-50 the amount of mercury imported was 1,793 flasks, in 1950-51 it jumped up to 37,660 flasks, in 1951-52 it was very much less and was 59 flasks. Our consumption is estimated to be of the order of 4,000 to 5,000 flasks only a year. Accordingly there is still a large quantity of mercury in this country for which there is no immediate use. Repeated representations were made with a view to earning some precious foreign exchange to allow exports of this large imported quantity of mercury to some reasonable extent. Now we find on a rough computation, our requirements having been properly considered, that we can easily export about 10,000 flasks at the present moment. So we announced a quota of 10,000 flasks for export; applications for the export of about 5,000 flasks have already been received, and they are being vetted at the present moment. In the meantime, the average landed price of mercury when it was imported varied from Rs. 391 to Rs. 268 per flask; whereas the latest quotation in the markets in the country is Rs. 397 per flask, the quotation, for forward delivery in the United States of America is \$ 187 or Rs. 850 per flask approximately. In the circumstances, Government thought it proper that an export duty of Rs. 300 per flask should be levied, and this has been done by means of the notification referred to above, with a view to mopping off the large difference between internal and external prices. Now in accordance with sub-section (2) of section 4A of the Indian Tariff Act, 1934, we have now come before the House for its approval of the said notification that has already been issued. I have nothing more to add, Sir.

Mr. Deputy-Speaker: Resolution moved:

"In pursuance of sub-section (2) of section 4A of the Indian Tariff Act, 1934 (XXXII of 1934), the House of the People hereby approves of the notification of the Government of India in the Ministry of Commerce and Industry No. 35-T(1)/52, dated the 8th October, 1952, by which an export duty of Rs. 300 per flask of 75 lbs. was levied on mercury with effect from the date of the said notification."

Shri A. C. Guha (Santipur): May I ask for a little clarification? The hon. Minister stated that our stock is 37,000 flasks approximately, while our annual requirement is about 4,000 to 5,000 flasks, and so we could export about 10,000 flasks. The present