

[Shri Nath Pai]

That was amendment No. 1, the first to clause 2.

Mr. Deputy-Speaker: What is the significance of 'we'?

Shri Nath Pai: Members of the Party.

Shrimati Alva: Shri Sadhan Gupta's observation does not even lend itself to a reply. I have made myself very clear that when they acquire independence within the Commonwealth, we pursue a uniform policy. We give them this reciprocity arrangement for citizenship. The Federation of Malaya has acquired independence as Ghana and Singapore. So we included Malaya in this list. I do not think his insinuation as to how Malaya is going to act or has acted politically elsewhere concerns us here in this Bill. I oppose the amendment.

Mr. Deputy-Speaker: I shall now put amendment No. 2 to vote. The question is:

Page 1,—omit lines 9 and 10.

The motion was negatived.

Mr. Deputy Speaker: The question is:

"That clause 2 stands part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

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

Shrimati Alva: Sir, I move that the Bill be passed.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

MINES AND MINERALS (REGULATION AND DEVELOPMENT) BILL

Mr. Deputy-Speaker: Let us now take up the next item.

The Minister of Mines and Oil (Shri K. D. Malaviya): Mr. Deputy-Speaker, I beg to move* that the Bill to provide for the regulation of mines and the development of minerals under the control of the Union, as reported by the Joint Committee, be taken into consideration.

I do not wish to take much time of the House at this stage because I am sure hon. Members would like to say a lot of things about this Bill. There is a long list of amendments. The general principles underlying this Bill were discussed at the time of the reference of the Bill to a Joint Committee of both the Houses. The tenor of the debate then convinced me that there is general support for this Bill.

Since the Bill was referred to the Joint Committee, the clauses contained in the Bill received further consideration as a result of the deliberations of the Joint Committee which gave a lot of time, for which I am grateful to the hon. Members. They modified certain important clauses of the draft and the Bill as it now emerges from the Joint Committee is an improvement in certain respects upon the previous draft.

I would not like to go in detail about all the changes that have been incorporated in the Bill by the Joint Committee. But, clause 9 as it is before the House shows that the Members felt very strongly that the rates of royalty in the Second Schedule should also apply to minerals of holders of mine leases before the commencement of this Act including those granted before the

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25th day of this Act including those October, 1949. This is a far-reaching change which the Committee insisted and we have accepted this. It is for the House now to give its consideration to this change.

The Joint Committee gave also careful thought to clause 16 as now renumbered and came to the conclusion that a mandatory provision should be made to the effect that a mining lease granted prior to the 25th of October, 1949 should be brought into conformity with the provisions of this Act and the rules framed thereunder. The Committee, however, felt, that the Central Government should have powers in exceptional cases in public interest to permit the holder of a mining lease to hold the lease for an area in excess of that prescribed under the rules and this recommendation of the Committee is now embodied in sub-clause (1) of clause 16.

There are a few more changes on which there have been some amendments which have to be considered by the House and I need not take much time except to say in conclusion that this Bill now empowers the Government, under the changed circumstances, to regulate and develop the mining industry of the country and substantially taking interest in the public sector to develop mines which have been classified in Schedule A here.

I need not assure the House, because the Bill has specifically clarified the issues, that the mining industry—private sector—is not being disturbed so far as a large number of minerals are concerned. It is only where public interests demand it as well as the future pattern of our own society, we have classified certain minerals where Government have tried, through this Bill, to take control of the mining industry.

Except for that and for taking this opportunity, as I said last time at

the introduction of the Bill, to introduce certain consequential changes, many of the old principles have been retained in this Bill also and I think the Bill as it has emerged from the Joint Committee will now serve the purpose which has been adumbrated in the objects mentioned in the Bill.

Sir, I move.

Mr. Deputy-Speaker: Motion moved:

“That the Bill to provide for the regulation of mines and the development of minerals under the control of the Union, as reported by the Joint Committee be taken into consideration.”

Shri Nanshir Bhasucha (East Khandesh): Sir, I wanted to raise certain points of order on the last occasion when the Bill was committed to the Joint Committee and you then suggested that this might be deferred. Now, I want to raise some points of order regarding clauses 6, 13(2)(g), 15, 16(2)(c), 18 and 32. Shall I raise them now?

Mr. Deputy-Speaker: When the clauses are taken up he may raise them.

Shri Panigrahi (Puri): Mr. Deputy-Speaker, while welcoming this Bill generally, I venture to say that it embodies the hopes and the confusion as well that is working in the minds of its framers. I feel that this confusion is due to the mixed pattern of outlook which has developed without a clear definition.

The whole Bill, in many of its provisions has been burdened with this conflict in outlook. The conflict is as to how far the State can exercise its control over the development of the rich natural resources of the country, as an important source of foreign exchange earnings.

Mr. Deputy-Speaker: We have not taken a decision or formed an opinion as to how much time we should devote to the general discussion and

[Mr. Deputy-Speaker]

how much to the clause by clause discussion.

Shri Naushir Bharucha: I think the general discussion should be for 2½ hours and an hour might be given for clauses and third reading. There are three hours.

Mr. Deputy-Speaker: There are about 40 amendments I suppose some more time should be given for the clauses. Would it not be better to divide it half and half?

Shri Wartor (Trichur): That all depends on the number of speakers on the list.

Shri Rane (Buldana): Today we are lagging behind by one hour and a half and the Damodar Valley Bill should be finished today.

Mr. Deputy-Speaker: The Government is of the view that the Damodar Valley Bill should be pushed through today and we are lagging behind by one hour and a half. Shri Rane says that the deficiency should be made up in this Bill.

Shri T. B. Vittal Rao (Khammam): What is the urgency about that Bill, Sir?

Mr. Deputy-Speaker: Let us now proceed with this. Let us take that question when we take up that Bill. This much we can do that on the last day we might be brief and clear in our observations.

Shri T. B. Vittal Rao: Sir, in that case, I submit, on the last day the Government should not bring Bills of a controversial nature.

Mr. Deputy-Speaker: That is a big question and that has been dealt with several times.

Shri Panigrahi: While discussing the provisions of this Bill, I wish to look at the Industrial Policy Resolution which was declared by the Government of India in 1956. That Industrial Policy Resolution says, in

general terms about the exploitation of the rich mineral resources, the following:

"It is urgent to reduce disparities in income and wealth which exist today, to prevent private monopolies and concentration of economic power in different fields in the hands of a small number of individuals."

I find from the provisions of this Bill that it has not done justice to this declared objective of the Industrial Policy Resolution. An important source of foreign exchange earning, we know the part played by the mineral output and the mineral export of our country. It has played a significant role in the past and it is going to play a still more significant role in the coming years. The Planning Commission has fixed a quota of two million tons of iron ore export by 1960-61; it has also fixed a target of six million tons of steel ingots to be produced in our country. So far as export and our indigenous requirements are concerned the targets set before us is a big amount.

In view of all these, such a Bill is necessary to regulate and control the interest of our country so far as our mineral resources are concerned. How far are we going to achieve this objective? We have decided that the keynote of India's mineral policy should be the conservation and economic working of the mineral deposits. It means maximum exploitation without wastage either in mining or processing of the minerals, in meeting our requirements export as well as indigenous consumption.

Certain restrictions have been imposed on private lease-holders by certain clauses but subsequent provisions have been made which nullify those provisions. I was looking to the production figure of iron ores in the year 1956. The two important iron ore producing areas are Bihar and Orissa. The production has

declined by 73,000 tons in Bihar and 1,12,000 tons in Orissa. Who are the mine owners? They are in the private sector.

I was looking into the causes as to why the production has fallen. It has been mentioned that the production has gone down in the mines owned and operated by private mine owners. There are certain iron mines in Orissa, for instance in the Barabill mining area. The Sirajuddin Company, the Bird Company and the Tata Iron and Steel Company possess the iron mines. When they find the market price is not profitable, they switch over to the production of manganese ores and close the iron mines. It is only on account of that the production has gone down.

So far as chromite is concerned, let us see the output. In 1955, 87 per cent of the entire output in the country has been mined in Orissa. In 1956 the output has fallen by 36,663 tons compared to the previous year. This fall has occurred in the mine owned and operated by Sirajuddin and Company and Tata Iron and Steel Company. There was this loss of production in Bowla mines in the district of Keonjhar. There was also loss of production in the chromite mines of Sukunda at Cuttack district. It is owned by the Tata Iron and Steel Company.

What are we going to do? There is no provision in this Bill which can regulate these individual mine owners when they do not increase the production or do not help us in achieving the targets which we have set up in the Second Plan.

I now come to the question of royalties. It has been again and again discussed by the State Government. I would like to submit before the hon. Minister that so far as Orissa State is concerned, the State Government is making petitions after petitions to the Government of India to reconsider the rate of royalty. The other day the hon. Minister has said that the low rate has been fixed with a view to

ensure markets for export of iron and manganese. Do the facts justify this sort of reasoning on the part of the Minister?

The total value of the various ores extracted in 1954 in Orissa was Rs 9,60,15,347. As against this, the royalty the Orissa Government got was Rs 16,37,115. When the total value came to more than nine crores, the royalty is only sixteen lakhs and odd. In these three years, 1953, 1954 and 1955, after paying royalty and other duties, the industry made a net profit of Rs 7,85,166 in iron ores only and Rs 3,83,59,150 in manganese ore. From this we know how the State Government is deprived of its due share of the rich mineral resources.

I hope the hon. Minister would take into consideration this thing. Surely, now-a-days, in almost all sectors, the Central Government has exercised control. Every State is asked to finance some projects from its own resources during the Second Plan. Minerals provide a major source of income to States like Orissa, Bihar, Bengal and Kerala and perhaps some other States. I do not object to there being some kind of uniformity and co-ordination. But, at the same time I venture to suggest that in the name of uniformity and co-ordination, the Central Government should not try to deprive the States of their legitimate rights so far as the development of mines and their regulation are concerned.

14 hrs.

I find that throughout this Bill an attempt has been made to assign a secondary place to the States, so far as their rights of giving lease or their rights of regulating the mines are concerned.

It has been said in proviso (b) of clause (9) relating to the rate of royalty.

"Provided that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of four years."

[Shri Panigrahi]

What does it mean? Why is the Central Government, after first fixing a certain rate of royalty again taking that power in its hands by saying: "enhance the rate of royalty in respect of any mineral more than once during any period of four years"? It is really something confusing. Is it because every fifth year there are general elections in the country? I would like the hon. Minister to clear this point and see whether this provision is really necessary. So far as the authority of the Central Government is concerned, we have fixed the rate of royalty. Therefore, I do not find any necessity for adding on this proviso here.

Then I would like to refer to clause 31. I would like the hon. Minister to tell us what was the necessity, after taking all the powers of revision that is required for the Government of India, to take relaxation powers so far as rules are concerned in special cases under this clause 31. Well, if there is any clause which gives some right, the subsequent clauses and provisions have been made to nullify the main clause.

I would again like the hon. Minister to refer to clause 18 relating to the development of minerals. Under this almost all provisions have been made for the development of mineral ores and mines, but I think one fundamental provision which is vitally connected with the development of mines and minerals, provision for the welfare of labour, is not there. Of course, the hon. Minister will come forward and say that there is the Ministry of Labour to look after the welfare of the labourers engaged in the mining industry. But when you are providing some six or seven provisions under this clause 18, I think there should be at least some compulsory provision so that the lease-holders and mine-owners who take on lease the mineral bearing areas may at least provide the minimum facilities and standard of living for the labourers who are

engaged in producing these ores in our country.

Now I come to the provision relating to beneficiation. That is the most important thing which this Bill has taken into consideration. I am glad that that provision is there. But so far as this beneficiation is concerned, I would like to point out that we must give more emphasis to this point. I can only cite one instance relating to my State. 30 per cent of the manganese ores produced in our State of Orissa are really of high grade quality and 70 per cent are of low grade. If we really want to utilise to the maximum possible extent our natural resources then, surely, I would submit to the hon. Minister, we must give more emphasis to this fact and necessary provision should be made for beneficiation of low grade ores, so that we can export more and get more foreign exchange.

Then there is clause 13. In this clause almost all provisions have been made giving power to the Central Government to make rules in respect of minerals, but nowhere the State Government comes into the picture. In sub-clause (8) of clause 8 it has been provided:

"Notwithstanding anything contained in sub-section (2), if the Central Government is of opinion that in the interests of mineral development it is necessary so to do, it may, for reasons to be recorded, authorise the renewal of a mining lease for a further period...."

I would like to submit to the hon. Minister that before authorising any mining leases the State Government should be consulted. I suggest this because the States naturally feel very much discontented due to the encroachment into their rights so far as these minerals are concerned.

Again, in sub-clause (3) of clause 9 it is provided:

"The Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification"

I would again submit that it must be in consultation with the State Government. When this official declaration is to be made in the Gazette it must be done in consultation with the State Government. I do not say that the State Government is going to oppose the Central Government, but at least the State Government should not feel that the Central Government is riding always and in all spheres over its head.

Now I would draw the attention of the hon. Minister to the provision under clause 6 on page 4. There it has been said:

"Provided that if the Central Government is of opinion that in the interests of mineral development it is necessary so to do, it may, for reasons to be recorded, permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the aforesaid maximum."

Sr, in previous clauses we have already fixed the maximum as ten square miles in some cases. Then where is the necessity for having this proviso to permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the maximum fixed? I think this should also be considered by the hon. Minister. He should tell us what was the necessity of having this provision in this clause. And, what should be the excess? There should be some limit. The hon. Minister should tell us whether the excess should be 10 square miles or 20 square miles or whatever it may

be. I think he should give us a clear picture in this matter.

I would submit that so far as mineral development is concerned we must look to the mining leases of the individual mine owners. There are mine-owners who possess mining rights in certain States and if they do not get any profit from those mines, they prefer to close them down and they work their mines in other States. So, there must be some provision in the Bill to safeguard against this, because we have taken a great responsibility for increasing our mineral exports during the second Plan period. To fulfil the target, it is necessary that we must take all possible safeguards and measures so that we will be able to achieve the production target which we have fixed.

I submit that there are a number of small individual mine-owners in my State and also in other States. These mine-owners work them and operate their mines as they like. I can only cite one instance in the district of Keonjhar in the Barabani mining area. There was a certain mine-owner who was first working an iron mine called Uliburu. He worked it for one or two months and then found that it was not profitable for him. So he closed it and preferred to work a manganese mine because manganese is profitable. But how can we fulfil our quota or target of mineral export, or iron export, if these individual mine-owners, who have no sufficient capital to work out and sufficient capital to invest, are enabled somehow to get a mining lease and then do not work properly? That should be also looked into so that we may be able to safeguard against these malpractices.

Lastly, I would submit to the hon. Minister to take into consideration the question of extending the control of the Government of India to the legitimate sphere of the State Governments. So far as Orissa Government is concerned, I would like again to submit to the Minister that we have got—of course I am not speaking on behalf of the Orissa Government—

[Shri Panigrahi]

legitimate discontent against these conditions of royalty which are being fixed here. I hope the hon. Minister will take into consideration this question of fixing up royalty also.

With these words, I resume my seat.

Shri Mahanty (Dhenkanal): Mr. Deputy-Speaker, Sir, my thanks are due to the hon. Minister for having introduced this legislation in this House. He will kindly recollect during the last five years on more than one occasion I had urged upon him to do something effectively about the regulation and development of our mines. I am happy now that he has come to this House with a comprehensive legislation in regard to the regulation and development of the mines.

This Bill has some welcome features as far as it goes, and I will be failing in my duty if I do not record my appreciation of those features. Nonetheless, I am opposed to the Bill inasmuch as the very scheme which he has formulated is something repugnant to the concept of the autonomy of the States. To me, a State Rightist, the underlying issue, is not an issue between the private sector and the public sector. We are at one with the hon. Minister inasmuch as the scope of operation of the private sector in mines and minerals will be gradually diminished, but this issue in its reality is an issue between the ever-increasing power-hunger of the leviathan represented by the Centre and the atomised States.

On a previous occasion, I had the misfortune to equate the State Governments with "bloated district boards," when we were discussing the sales-tax measure. You will kindly recollect that the Government of India elbowed out the States and rented up a legitimate sector of State taxation, namely, the sales-tax, and the States, for a mess of pottage, had sold their autonomy which was conferred on them by the Constitution.

Now, you will find in this Bill what has been done further. Under item 23 of List II of the Seventh Schedule to the Constitution, the Indian Constitution confers full and unfettered rights on the State Governments for the regulation and development of minerals subject to the limitations imposed by item 54 of List I. In item 54 of the Union list, you will find the very same words have been used, namely, the words which have been used in item 23 of List II, namely, regulation and development of mines. What does that mean? That means the States have their full and unfettered authority so far as the regulation and development of mines are concerned in their own respective sphere or in their own States, and that the Union or the Centre also has full and unfettered right regarding the regulation and development of mines so far as its own domain or jurisdiction is concerned.

It is true that if any State infringes upon any law which has been passed by the Union Government to regard to the regulation and development of mines, then, the law enacted by the Centre will over-ride the enactment of the State Government. I am not sure if I am correct in my understanding of these provisions. But be that as it may: when this particular question of mines was considered by the framers of the Constitution, they had kept it in their view that the State Governments should have an unfettered right regarding the development of mines and minerals in their own respective States. Then, another thing happened. In the Constitution we did not schedule the minerals as has been done in the present Bill. The present Bill seeks to schedule some minerals which you will kindly find in Schedule No. I of the Bill. I think the number of scheduled minerals is 26. This concept of scheduling the minerals is something new, which was never thought of by the framers of the Constitution. I would like to know on what authority these minerals have been

scheduled. Is it not repugnant to item 23 of List II.

The word 'mineral' which finds place in item 23 of List II does not define or specify what it is. It is 'mineral'. But now, this Bill seeks to schedule some 26 items which are called scheduled minerals and in regard to which the Centre has unfettered rights.

Mr. Deputy-Speaker: Item 23 of List II reads:

"Regulations of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union."

Shri Mahanty: That is exactly my doubt in view of the fact that nowhere the minerals were classified. The word "minerals" has been used in item 54 of List I and item 23 of List II. I do not know from where the Centre derives the right to exclusively regulate the development of these mines. Nowhere has the Constitution conferred the exclusive right on the Centre to the extent of approving the lease, of fixing royalty, of determining the period of tenure and all that. To that extent, this Bill seeks to violate the very autonomy of the States, the limited autonomy that was conferred on the States by the Constitution.

If I said on the last occasion that the States were being reduced to district boards, this Bill is now seeking to reduce the States to "panchayats". The hon. Minister can be very benevolent and say, "we are leaving some minerals to the States to develop."

Mr. Deputy-Speaker: Can there be a level further lower down to which the States may be reduced in any other Bill?

Shri Mahanty: It will amuse you to know the extent of the benevolence of the hon. Minister. He wants to give the right to the State Governments to

work out the minerals which have been described as minor minerals, which are building-stone, gravel, ordinary clay and ordinary sand. It baffles my intelligence. Does anybody ever mine ordinary clay and ordinary sand?

In the Industrial Policy Resolution which was laid before the Houses of Parliament in Schedule A, some minerals had been enumerated which would be worked out in the public sector, namely, iron ore, coal, manganese, chrome, gypsum, silver, gold, diamond, copper, lead, zinc, tin and wolfram. After the enactment of the Constitution, in the Industrial Policy Resolution, only these 11 minerals were left to the public sector. Now this Bill in Schedule I extends its scope and increases the number of 26 and leaves the State Governments to work out boulders of ordinary clay and ordinary sand. If this is not a misfortune, I do not know what misfortune is. It may appear quite all right to those who are for centralised power. It may look quite all right to persons who consider the States to be redundant appendages to this new Leviathan that is now emerging before our eyes. But to us who consistently believe in decentralisation of power and authority, in autonomous States fully reliant on their own resources, this is quite repugnant.

There is another thing. To the Union, this has been a one-way track. They will try to reduce and deprive the States of their powers and authority, but the Centre will not undertake the responsibility that is imposed on it on this account. You will find that also clearly enunciated in this Bill. The Centre will have the unfettered right for scheduling minerals, for fixing royalty, for determining the period of tenure and even for approving the grant of lease; even for a prospecting licence, or a certificate of approval prior sanction from the Government of India is necessary. I would like to ask the hon. Minister in all humility why various provisions have been incorporated in this Bill to seek the prior approval of the Government of India.

[Shri Mahanty]

before a prospecting licence is granted, a lease is approved or a certificate of approval is issued. Why? The Government will frame certain rules and regulations and the State Governments are obliged to conform to those set of rules and regulations while considering the grant of certificate of approval for a lease etc. But even then the Centre is not satisfied. The "neo-Moghuls" think that their subadars in the States may err or go astray or probably they might not confer the leases on the favourites of the Centre. Therefore, the Centre lays down that every act that the State Government will perform will require the prior approval or sanction of the Government of India. If that is so, my proposition will be, eliminate the States. They are now worse than panchayats. If you eliminate them, at least the public exchequer will be relieved of a burden of financing all these hosts of Ministers and Deputy Ministers. In my State, they are running to about 20 in a House of 149.

Shri Basappa (Tiptur): My friend has forgotten that the royalty would go to the State

Shri Mahanty: I am coming to that. My friend, Shri Panigrahi, has already stated how the State Government is not being permitted to fix its own quantum of royalty. If the matter would have been left to us, we know how to realise it.

Then, there is another interesting thing. The Centre also wants to assume the power to go on revising the rates of royalty every four years. In this country, there is a Five Year Plan; there is also a quinquennial period when the elections are held. It gives an opportunity to the party in power to go about and claim, "This is a Congress Party Plan. The Hira-kud is being worked out, it is an achievement of the Congress Party". I do not grudge it, but certainly I will grudge it when for this quinquennial affair election funds are raised by devious means. Otherwise, what is

the meaning? I would like to know what immutability is there in these five years? Of course, I would not even remotely associate my esteemed friend with this sordid job of raising election funds; but my misfortune is that he is associated with that party.

Mr. Deputy-Speaker: Does not the hon. Member advise the hon. Minister privately sometimes?

Shri Mahanty: In all humility, I want to know from the hon. Minister what is the significance of the provision contained in sub-clause (3)(b) of clause 9, at page 5. It says:

"enhance the rate of royalty in respect of any mineral more than once during any period of four years."

Shri K. D. Malaviya: I am sure you will be satisfied.

Shri Mahanty: I am sure that this period will be coincident with the quinquennial period of political activity . . .

Shri K. D. Malaviya: This is a new virgin idea which never struck me

Shri Mahanty: I am proposing a minor amendment to substitute seven years for four years. That will be a test, of what, I will not say; you may rule it out of order, if I say it. So, what I am saying is that this Bill is violating, truncating and corroding into the small autonomy that was given to the States. Therefore, my honest appeal to that hon. Minister will be to remove the States. Let us draw straight lines. That will solve the problem of linguistic States also.

We cannot have the cake and eat it too. I will not take more time of the House. When it comes to the clause by clause consideration, I may offer my comments on the amendments which I propose to move. But, by and large, I welcome the principles of the Bill, the underlying principles of the Bill; insofar as they relate to minimising the scope of the private

sector in the field of development of mines and minerals, but I certainly object, and I do object very violently to its underlying scheme. Violence does not mean physical violence.

Mr. Deputy-Speaker: He is doing all this very humbly.

Shri Mahanty: The very scheme of the Bill violates and defies the autonomy of the States inasmuch as it seeks to corrode into the very authority of the State.

Shri Namsair Bharucha: I am afraid, I am unable to congratulate, either the hon. Minister, or the Joint Committee, on the report which they had produced. The main defects in the Bill, to which I have drawn attention in November, 1957 when the matter was referred to the Joint Committee, still continues to remain. So, I should like to ask the hon. Minister in charge of the Bill the following questions

In the first place, the Bill purports to regulate development of minerals, but in effect throttles the development. Such a cumbersome procedure is laid for the man who wants to have a prospecting licence that I do not know in how many hundreds of years we shall be able to cover the entire territory of India, so far as prospecting or tracing the minerals is concerned

It has always been my view that, as in the case of Russia and the United States, where even college students are being encouraged to roam with geiger counters and try to locate radio-active minerals without any cumbersome procedure being laid down, some such forward policy to enlist the interest of the nation in the discovery of minerals should have been laid down.

Apart from that, I do not understand exactly what is in the mind of the hon. Minister and the Government. They have classified minerals into "minor" and "specified". 26 minerals have been specified in the Appendix which are "specified" minerals. Between these two categories, the "minor" and the "specified"

the entire universe of minerals has not been exhausted. As I pointed out on the previous occasion, many of the important minerals are left out, for instance, thorium, cobalt, cadmium, antimony, bismuth, potassium, chromium, iridium, tantalum etc.

I should like to know whether the Government has any policy at all in respect of such minerals and, if so, what the law is in respect of these minerals? Surely, when we enact legislation, we must cover the entire range of minerals that are there. You may leave them to the States, I can understand that. You have left some for the States. But, with respect to the rest of them, obviously, this Government has no power and no policy.

Also, I would like to know whether this Government has got any policy with regard to mining of radio-active minerals. Not a word is mentioned here. Strangely enough, some of the radio-active minerals, which are known to the students of high schools, have been incorporated here. But, with respect to other radio-active minerals, nothing has been mentioned whatsoever. For instance, somewhere it has been mentioned about uranium ores. But uranium is not the only radio-active mineral, as the hon. Minister knows only too well.

Therefore, I should like to know the policy of this Government with regard to mining and regulation of mining of radio-active minerals.

Then we come to the most important section, namely, clause 18, which purports to lay down the policy with regard to development. If you turn to clause, you find it has been put down:

"It shall be the duty of the Central Government to take all such steps as may be necessary for the conservation and development of minerals in India, and, for that purpose, the Central Government may, by notification in the Official Gazette, make such rules as it thinks fit."

[Shri Naushir Bharucha]

Here is a law which this hon. House proposes to enact in which we expect the principles of conservation and development to be laid down. But what do we find? Not a word, not a single principle has been enunciated with regard to development or regulation of mines and minerals.

I ask this House whether this hon. House has not got any specific ideas in the matter of development of minerals, for example in the matter of creating say, a Mining Finance Corporation, for the purpose? Have we no idea of our own about regulating the export of ores or organising country-wide mineral hunt? Have we no ideas with regard to minerals other than those which have been classified as "minor" or "specific"? Have we no idea about creating a Corporation for scientific research with respect to smelting, processing and carrying out other processes in connection therewith? Have we no ideas with regard to development of refineries?

I ask: what is this type of legislation that the hon. Minister brings before this House, purporting to develop mines and minerals? Not a single principle of development has been laid down. I submit that this House cannot delegate its powers of laying down principles to the Government; nor can such regulation and development be guided by rules, which the Government might choose to bring

There is one more point to which I would like to draw the attention of the hon. Minister. The hon. Minister said that clause 9 has been amended with the object of bringing earlier mining leases in line with the provisions of this Act. There are certain mining leases, the royalties of which will be stepped up. This is supposed to be a big concession which the hon. Minister has made to the leftist elements in this House. It is not so. Because, the moment you raise up the royalties of these leaseholders, there is another clause under which they

are entitled to claim compensation. Therefore, the compensation will be equivalent to the capitalised value of the royalties that have been raised.

What is the extraordinary thing which the hon. Minister has done. The hon. Minister will appreciate the fact that if we revise the terms of the leaseholders to bring it in conformity with the provisions of this Act, we have got to pay compensation because we are taking away certain rights. Therefore, what is the benefit of having this clause, if, on the one hand, I get royalty, and on the other hand, by way of compensation, I have got to give the leaseholder an equivalent amount, either in the form of periodical payment or the capitalised value?

I, therefore, submit that so far as this Bill is concerned, it is simmering with defects. It does not regulate development. It does not even cover the entire range of minerals which should be covered. It does not lay down specifically what our policy is with respect to the most important radio-active minerals, that is, about their development and regulation. These are the questions which I pose before this House.

Mr. Deputy-Speaker: Shri J. R. Mehta

Shri Mahanty: I wonder. . . .

Mr. Deputy-Speaker: I heard the word wonder. I could not follow what the wonder was.

Shri Mahanty: I wonder if there is quorum.

Mr. Deputy-Speaker: There is no question of wonder. If the point is that there is no quorum, I would have a count taken.

There is quorum, I am told. Therefore, there was nothing to wonder.

Shri J. R. Mehta (Jodhpur): Sir, I rise to support this Bill. Perhaps, I am bound to do so as a Member of

the Joint Committee. Hon. Members will observe, if they study the Bill carefully and compare it with the original Bill, that this Bill has undergone radical modifications in the Joint Committee. I think this is a matter on which the Joint Committee.....

Shri Mahanty: May I point out, Sir, that there is no quorum in the House?

Mr. Deputy-Speaker: The bell is being rung. Now, he is more positive, I suppose.

Now, there is quorum. The hon. Member Shri J. R. Mehta may continue.

Shri J. R. Mehta: I was submitting that if the Members compared the original Bill with the Bill as it has emerged out of the Joint Committee it will be noticed that it has undergone radical changes and I feel that this is a matter on which the Ministry as well as the Joint Committee might well congratulate themselves.

Mr. Deputy-Speaker: Is he not congratulating himself when he is congratulating the Joint Committee?

Shri J. R. Mehta: I am; but I could not exclude myself because I wanted to congratulate the Joint Committee as a whole.

I think, in order to appreciate the structure of this Bill and the amendments that the Joint Committee has thought fit to make, it seems necessary to bear in mind that there are three or four basic considerations which we have to put in practice. Firstly, there is need to promote the objectives of the Industrial policy resolution of the Government of India so far as the development of minerals is concerned. Secondly, there is need to revise the old and outmoded agreements, more or less the legacy of the princely States, particularly in the matter of area and the period so as to bring them in conformity with the provisions of this Act so far as this may be necessary in the public interest. Thirdly, there is need to allow

the private sector a reasonable encouragement to develop mines and minerals, consistently with the two considerations that I have just mentioned. Fourthly, there is the need to re-adjust the powers and authority of the Centre and the States as may be necessary in the changed circumstances.

I venture to submit that from the very nature of things, an ideal legislation which will bring about a perfect reconciliation between these conflicting considerations will be difficult. My own feeling is that this Bill as it has emerged out of the Joint Committee represents an honest attempt and a fairly successful attempt to reconcile these considerations.

From the point of view of the considerations that I have mentioned, the clauses which are important are clauses 7, 8 read with clause 11 and clause 16 with its provisos. I may be permitted to make one or two passing observations in relation to these clauses because they are the key clauses so far as this Bill is concerned.

In clause 7 we have provided that in respect of the minerals enumerated in Schedule I, all prospecting licences and mining leases should hereafter require the approval of the Central Government. The present position is that all these are granted, except for a few selected minerals, by the State Governments. I think, having decided that all these minerals should be exclusively in the public sector, it is but reasonable, if there is to be uniformity of policy all over India, that the Central Government should have a say in the matter of prospecting licences and mining leases so far as the minerals included in Schedule I are concerned.

In this connection, Honble members must have noticed a grievance voiced in this House that we are unnecessarily curtailing the powers and authority of the State Governments. This is a question of opinion and I can very well appreciate hon. Members' stren-

[Shri J. R. Mehta]

ing that point of view. But, I take the liberty of inviting attention to clause 11—the number is not material—in the original Bill in which it was provided that all prospecting licences and mining leases, particularly, in which there are more than one applicant, must receive the approval of the Central Government.

Shri Naushir Bharucha: Clause 11 (2) in the old Bill.

Shri J. R. Mehta: Thank you. That was the provision. I think the Joint Committee has done well in omitting the words "with the approval of the Central Government". That means, that so far as minerals other than those specified in Schedule I are concerned, the State Governments have now been left with authority to grant mining leases in their own discretion.

Next, I would draw the attention of hon Members to clause 8, sub-clause (2). We have provided that mining leases may be renewed in the case of coal, etc, for a period not exceeding 30 years and in the case of any other minerals for one period not exceeding 20 years. What I wish hon. Members to notice is that if we look at the present legislation, it will be found that at the moment, it is optional with the lessee to get a renewal for another 20 years if he wants. This is a very radical change from the present position. So far as minerals included in Schedule I are concerned, probably, there is obviously no option but to leave the discretion with the Central Government. It may very well be argued that so far as the other minerals are concerned, why the present position should not be maintained so that mining lessees have a sense of security. I am sure that it is far from the mind of the hon Minister or those who have been responsible for this revised Bill that this discretion should be taken away so far as the minerals left out of Schedule I are concerned. But, I think it will be necessary for the hon. Minister to give an outright assurance in this House

that the present position will continue and that it will be followed in the spirit as well as in the letter.

Next, I would make one or two observations in relation to clause 16.

Mr. Deputy-Speaker: The hon. Member should be very brief now.

Shri J. R. Mehta: I will not take very much time. A couple of minutes.

In clause 16, while the substantive portion is important, the proviso is still more important. In the substantive part we have provided that all mining leases granted before 25th October, 1949 shall be brought into conformity with the provisions of this Bill and the rules made under clauses 13 and 18. This is, as I have already submitted, very necessary, because before 1949, particularly in some of the Indian States, leases were given for very large areas and for an indefinite period of time, and it is necessary in the public interest that these should be brought in line with the provisions of this Bill. But then, as I have submitted, the proviso is more important, because while we have provided that these mining leases are liable to be brought into conformity with the provisions of this Bill, the proviso ensures that there will be no rigid enforcement and that if it is not in the public interest to curtail the period and the area unnecessarily, then due regard will be paid to the interests of the present lessees also.

As I have stated, if you take a balanced view of all the considerations that are involved, I think the provisions made are reasonable. Of course, much will depend on the way in which the Bill is implemented, but I think on this point we might take it that the Ministry and all those who may be concerned with the implementation of this Act will implement it in the right spirit.

There is one general observation I would like to make, and that is this, that in the present state of the mining industry in India which is not very

well developed, Government will do well, not only the Central Government but the State Governments also, to bear in mind that monetary considerations should not have predominance over other considerations. On the other hand, I should think that it will be well in the interests of mineral development if we bear the cause of development more in mind than the question of income or the revenue that we might get from these sources.

One more sentence and I will finish.

Mr. Deputy-Speaker: He told me that he would have two minutes. He got three and now he has got another thing to say.

Shri J. R. Mehta: Half a minute will not be much I hope and I do not think there are a very large number of speakers.

Mr. Deputy-Speaker: There are many. Therefore, I am feeling nervous about it.

Shri J. R. Mehta: Just one sentence. The only observation that I have to make at the end is that it will be noticed that under this enactment we are vesting the Government with very large powers under the rule-making provision. I think that the House will agree with me that these powers will need to be exercised with the utmost circumspection and caution.

Mr. Deputy-Speaker: Shri Rajendra Singh. He will be very brief. After him I will be calling the hon. Minister. I will give a chance to the other hon. Members who have been left out in the second reading.

Shri Rajendra Singh (Chapra): In genetics the hybrid vigour is responsible for producing better strains. I thought that the upholders of mixed economy would not let down this principle of genetics and would produce better strains when it comes to enacting a piece of legislation. On that score I felt disappointed when this Bill was first brought before the House for consideration.

However, when the Joint Committee of the two august Houses of this country strode out upon the scene, I sincerely believed that it would master the scene and change the content and texture of the Bill, recast it and remake it after the heart's desire of this House, the expressed will of this House, but to be brutally outspoken, I feel painfully disappointed and frustrated.

I do not want to go to the fibrous roots of any Bill as it does not concern me very much as a believer in the socialist approach or in the socialist conception of India. What matters to me is the broad purpose, the broad significance, the broad meaning of a legislation as it applies to the social development and social set-up.

In spite of the loud professions of this House and the Ministers, and in spite of the explanatory down-pour that the hon. Minister made on the last occasion, it is obvious that this whole enactment is a surrender to the insinuations and pressures of the capitalists and bureaucrats. This Bill is sufficient indication of our lack of faith, of our infirm belief in the socialist economy and in the faith that the people have the courage, the conviction and the heart to put in all that they have to lift the country out of the morass of this backward economy.

Minerals and mines are the basic resources of a country. No society can develop unless its minerals and mines, i.e. the natural resources of the nation, are exploited in an intelligent, co-operative and corporative fashion. We have so many corporations these days for developing this sector of the economy or that sector of the economy. We have laid down also in our industrial policy as well as in the Five Year Plan that our shift shall be towards the development of the public sector, towards the gradual expansion of the public sector for the fulfilment of our object and desire.

[Shri Rajendra Singh]

So far as this Bill is concerned, which so vitally concerns the future development of this nation and the swift pace with which we want things to go forward so that our backward economy may shoot up high at no distant date. I find that the whole thing has been placed on a silver plate before the capitalists and the bureaucrats.

If it is possible for us to establish a corporation or co-operative establishments for river valley projects and for many other industrial enterprises and undertakings, would it not have been better and possible for us to have established a corporate organisation, for developing the mineral resources of this country, for tightening them up and harnessing them for the good of the country? I wonder if the Minister does not understand socialism or I do not have sufficient awareness of what socialism implies. From this point of view, I am afraid the Minister has not only let down his august Prime Minister, but he has let down the very objective which we had formulated in the not distant past. So, this is the burden of the thought that comes out from my heart. I am afraid the Minister has played a Pack-mule to the princes, and the princes are only the capitalists and bureaucrats. And I am afraid that as long as he will live, he will have to bear the burden of it. He cannot escape it.

15 hrs.

Considered from this broad angle, this Bill is a denial of our faith, and this Bill is, in fact, a Bill where a most despicable and recessionary spectacle is presented before us, and I would call upon the Minister to put this Bill somewhere where the white ants can take care of it.

Mr. Deputy-Speaker: Now, the Minister.

Shri K. D. Malaviya: I am trying to prove a contrast

Mr. Deputy-Speaker: The hon. Member told us that that was the burden of his speech, and he has relieved himself.

The Minister of Steel, Mines and Fuel (Sardar Swaran Singh): I thought that if the burden was unburdened, something more will come, but nothing came actually.

Shri K. D. Malaviya: I propose to be very brief, because there are a large number of amendments which are coming up for discussion. But as some hon. Members have raised very relevant points, I think I owe it to them to state the points very generally of course, and meet some of the points made by them. I feel that some of the points raised by them need clarification. Shri Panigrahi has made out a number of points. I wish to congratulate him for that. But there is a certain amount of confusion.

He says that because of the mixed pattern of our economy, we are confusing the issue between the public sector and the private sector, and this is likely to result in the slowing down of our mineral development programme. I do not agree with him there. The mixed pattern of our industrial policy has led in the past, and is at present also leading, to a more progressive realisation of the objectives not only from this side but also from that side. That is what I would like to submit. We are only expanding the public sector, and the basic policy and the method by which the public sector is expanded have been very well indicated in the Industrial Policy Resolution. We tried to reduce the disparity, and we are reducing the disparity.

Some time ago, a large part of the mining industry was in the hands of the private sector. Now, we have precisely divided and classified our minerals from the point of view of what is of national importance, and to that extent, the State Governments and the Central Government are taking progressively greater responsi-

bilities on them to develop the mines, to regulate them and to introduce conservation principles for a more efficient working of the mines.

Shri Panigrahi says that the regulations in order to increase production are not being provided for. I do not understand what he means by it. We have made ample provision for that purpose under the rule-making powers in clause 18, which was referred to by my hon. friend Shri Naushir Bharucha. I shall come to that point later on. This clause provides for the procedures which will result in increased production, regulation and conservation. If my hon. friend would refer to clause 18 of the Bill, I hope he will be satisfied with what is laid down there.

As regards rates, Shri Panigrahi has stated that the rates of royalties have not been increased in spite of repeated requests from the State Governments. There is a history behind it. I am sure my hon. friend Shri Panigrahi who is taking a lot of interest on behalf of the State Governments knows something about it. For the last four or five years, we have been continuously trying to increase the rates of royalty. If he looks at the schedules, he will find that we have introduced increased rates of royalty. I agree with him that left to ourselves we should increase the rates of royalty further. But the rates of royalty cannot go beyond a point, when in international competition, the price element becomes somewhat against us. And this is a factor which we cannot ignore. The moment we increase the royalties beyond a point, it will have its own repercussion on the total price factor, and we cannot ignore that. But I want to assure Shri Panigrahi that it is the policy of the Central Government and our Ministry to see to it that the revenue from royalty is increased to the utmost, consistent with the export trade of the country, so that the State Governments could derive the maximum income from their own natural resources and it will be our consistent effort to stick to this goal which I have stated just now.

My hon. friend also referred to the fact that provision should be made for labour welfare schemes in clause 18. He himself has given the reply also. It is not our purpose in this Bill to take care of provisions for labour welfare measures. They would be looked after by the sister Ministry, namely the Ministry of Labour, and I am quite sure that that Ministry is taking adequate care to ensure the provision of such welfare measures as are necessary for our miners.

I now come to the question of beneficiation. Clause 18 will indicate:

"the measures to be taken by owners for the purpose of beneficiation of ores, including the provision of suitable contrivances for such purpose;"

There is no doubt that enough attention has not been paid by the private sector to upgrade a large percentage of our ores which incidentally come out side by side with the better quality ores. It is a matter for our concern, and I am glad my hon. friend has drawn the attention of the House to this very important aspect. The policy of Government is to emphasise to the utmost this programme of beneficiation, so that all the quantities of ore that are mined at a time will be utilised for the benefit of the nation.

So far as manganese and iron ores and also coal are concerned, we are already taking steps to install beneficiation plants. This is obviously a slow process, and is connected with the availability of funds, technical personnel and a certain amount of experience. We are trying to expedite the process, and it will be our effort in the next three or four years to come to step up this programme of having a large number of beneficiation plants not only in Orissa but in other mineral areas of the country, so that most of our ores that are extracted side by side with the better quality ores are also utilised for export purposes.

[Shri K. D. Malaviya]

Shri Panigrahi also referred to the States not getting all that sort of price. I will come to that later on.

Then he made out the point that there are private industrialists who go slow on a particular mining operation when they see that there is more profit in other areas which they hold already. For instance, if a party is operating manganese and iron ore mines and also chromite mines, because chromite mining is most profitable, he goes slow with manganese and iron ore as he has not got enough money and technical personnel. It should be our effort to see that the private sector does not slow down the production on any other front which is in the interest of the nation. For instance, if we want to export a large quantity of iron ore, surely we should persuade the private sector to see to it that the production programme of iron ore goes on alongside that of chromite or gold or manganese or copper or any other. We have made provision in our rules and we shall see to it that the private sector does not slow down its production. I want to assure the House that this is very much before Government and we are quite alive to the fact that our programme must be kept up consistent with the national demand of an expanding export trade.

Now I will come to the point raised by Shri Mahanty. He has stressed only one point. He complains rather bitterly, not violently, that the autonomy of States has been challenged in the entire drafting of this Bill, and that they have been reduced to the status of perhaps revenue patwaris or something like that. I do not wish to go into the legalistic or the constitutional aspect of the entire question, but in its generality, I entirely agree with Shri Mahanty that the States should enjoy much more power than what have been anticipated and planned in this Bill. Left to myself and to my colleagues in Government, we would surely see to it—and we all should see to it—that State Governments should expeditiously be made

more responsible or should be taken as more responsible not only for issue of certificates of approval or prospecting licences or mining leases, to take charge of the entire development of their natural resources.

I want to point out to my hon. friends that whether they look to the east or the west, to America or the U.S.S.R. side, there is a tendency to centralise the control of the mining industry and the natural resources at the topmost level. It takes some time for the Central Government to transfer its powers to the federal units, whether it is in America or in the Soviet Union, so far as responsibilities and development rights of natural resources are concerned. We have still to take some time because our States are getting into stride. I am glad to report to you that some of the States have taken up this programme very earnestly and are improving their units and equipping themselves, financially and technically, to take more progressive responsibilities for doing their own mines and looking after their own mines from the point of view of conservation and regulation. We cannot share the responsibilities with the States, as has been suggested by Shri Mahanty, in the immediate future, not because we do not wish to do it, but because there is no place where we could just transfer our responsibilities. My hon. friend knows that there is a big Geological Survey of India department and the Indian Bureau of Mines, and we are now developing the mining sector with the apex here. All this takes time. We ourselves cannot say quite satisfactorily that we are as much equipped today to take charge of all the mining concerns of the country or most of them as we wish to in the short time that was available to us, that is available to us and that will be available to us, that is to say, in two or three years' time. It is quite possible that the State Governments may take more time to get themselves ready to take charge of all these responsibilities of mining, conservation and technical supervision of

their own mines. Surely, we shall not object to hand over responsibility to them progressively.

With regard to royalties to be revised every four years, the original Bill which was considered by the Joint Committee had two years. Shri Mahanty was insinuating that this four-year period was fixed to coincide with the eve of the elections. Nothing was farther from our minds, and as I said, at that time, it never occurred to us that this four-year period was being linked up with the life of this House.

Shri Mahanty: What is the rationale of it?

Shri K. D. Malaviya: We gave consideration to the question of what should be the minimum time which could give a sense of security to the private sector, so that they could invest their money and have a fairly reasonable view of their investment and production programmes. Suppose we took powers to reduce or increase the royalties every six months, it will make the position very insecure from their point of view. As long as we want a mixed pattern of economy to go on and the private sector to flourish, surely my hon. friend does not expect me to put a sense of insecurity in the mind of the private sector, when every six months they will have to ask 'Look here. Are you going to increase the royalty or are you going to decrease it? What are you going to do?'

We do not want them to feel insecure; therefore, we wanted a minimum satisfactory phase of time. Originally, we thought two years would be quite sufficient and then we could revise the pattern of rates and see what else could be done.

Shri Mahanty: That coincides with the elections.

Shri D. C. Sharma: Why have they linked the period of royalty with the life of the House? I cannot understand it.

Shri K. D. Malaviya: The majority view in the Joint Committee was that this period could very well be extended to four years and that would perhaps give the private sector a greater sense of security so that they could invest their money and go ahead with the preparation of a suitable programme at least for four years to come. We considered that the proposal was reasonable and therefore accepted it. So this period is linked up with the preparations that the private sector is expected to make and the investment it is expected to put in and the plan it is expected to have.

Shri Naushir Bharucha complains that the entire procedure laid down in the Bill is cumbersome and does not encourage an atmosphere in which the mining industry can develop satisfactorily. I do not agree with him. We have taken stock of all circumstances, our limitations and the limitations of the private sector as well, and seen to it that from that point of view our rules and regulations are very liberal. We propose to encourage all parties who wish to take up prospecting of any minerals. There is provision, both in the Bill and in the rules we are making, to see that concessions are extended to such parties who can survey and search for more minerals in the country. There will be no handicaps or difficulties placed in the way of such parties as would like to search and discover more minerals in the country.

With regard to classification of minerals, I think it is very important step towards crystallising the conditions in which our mining industry will go ahead. We have classified more and more minerals which have a bearing on export trade and earning foreign exchange and also help the development of the country, industrial progress and all that.

He is so keenly interested in radio-active minerals. My friend, Shri Bharucha, forgets that the mining of radio-active minerals is entirely within

[Shri K. D. Malaviya]

the scope of the Atomic Energy Commission. They have got their own raw material division that has full responsibility for the survey, prospecting and mining of radio-active minerals.

Shri Nanshir Bharucha: By what Act are they regulated in their exploitation of radio-active minerals?

Shri K. D. Malaviya: They have got their own rules. We have got the Schedules here.

Shri Nanshir Bharucha: I am not concerned with the Schedules. I am asking you a simple question. Under what law do they operate? How are the radio-active minerals regulated?

Shri K. D. Malaviya: Present laws. Existing laws. The Act of 1948 and the subsequent Act of 1956 regulate the mining and development and surveying of radio-active minerals. They have got rules to do the work. The work has been divided between the Atomic Energy Establishment and the Ministry of Steel, Mines and Fuel. They have now been made responsible for the survey, and development of the radio-active minerals. There is nothing in the law that prevents them from doing these things if they wish to. I want to inform my hon. friend that the programme of survey and prospecting of radio-active minerals is going on very satisfactorily for the last two or three years and we have discovered and found many more areas and the production of uranium oxide is now mounting up.

Clause 18 was referred to by him. No clause in any Bill can lay down the technical processes and such things. He thinks that more principles should be enumerated in this classification and that we should have given an idea as to how we are going to develop or conserve or regulate the mining industry. If we look at clause 18(2), we find that all these points have been referred to: opening of new mines, regulation of mining operations, regulation of the excavation or collection of minerals from any mine, benefi-

ciation and the development of mineral resources in any area and so on. I am afraid it will not be proper to lay down in greater detail as to how mines have to be regulated in this Bill. Rules will certainly be there to clarify and make the position easier so that he may be able to understand.

My hon. friend reminds me to read out the meaning of the word 'regulation' from a dictionary. I think Shri Bharucha can turn over the pages. There is nothing to prevent us from introducing all those measures we propose to take in the rules.

There is nothing more which remains for me to say. My friend, Shri Rajendra Singh, drew attention to certain basic theories. We are aspiring to come up to those ideals which were enunciated by him and we hope we are now coming near him. I think I have finished all the points dealt with by the hon. Members.

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

The question is:

"That the Bill to provide for the regulation of mines and the development of minerals under the control of the Union, as reported by the Joint Committee, be taken into consideration."

The motion was adopted.

Clause 2— (Declaration as to expediency of Union Control)

Mr. Deputy-Speaker: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 3— (Definitions)

श्री हुंकराज (कागड़ा) : उपाध्यक्ष महोदय, मैं क्लॉज 3 के सब क्लॉज ई० के मुताबिक अपना एक अमेंडमेंट हाउस के सामने पेश करता हूँ जो कि इस प्रकार है .

I beg to move:

Page 2,—

for lines 10 to 14, substitute—

“(e) ‘minor minerals’ means building stones, boulder, shingle, gravel, chalcedony pebbles used for ball mill purposes only, lime-shell kankar and limestone used for lime burning, murrum, brick-earth, Fuller’s earth, Bentonite, ordinary clay, ordinary sand other than sand used for prescribed purposes, road metal, reh-matter, slate and shell when used for building material, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral.”

इससे पहले जो माइनर मिनरल्स की डेफिनीशन फर्निसेशन क्लॉज १९४६ में दी गयी थी वह बहुत ज्यादा व्यापक थी लेकिन जो डेफिनीशन इस बिल में रखा जा रही है उसको बहुत छोटा सा कर दिया गया है और उसमें से बहुत सी चीजें निकाल दी गयी हैं और इन माइनर मिनरल्स के मुताबिक क्लॉज बनाने की पावर्स स्टेट गवर्नमेंट को दी जा रही हैं। स्टेट गवर्नमेंट की बहुत सारी पावर्स सेंट्रल गवर्नमेंट अपने हाथ में ले रही हैं। तो मैं चाहता हूँ कि माइनर मिनरल्स के मुताबिक बहुत ज्यादा बड़ाहात कर दी जाये ताकि जो पावर्स स्टेट गवर्नमेंट को है उनके पास रह जायें।

इस वक्त इन माइनर मिनरल्स को तीन क्रिस्में में लकड़ीय कर दिया गया है। एक तो वह है जो किक्चुल १ में स्पेसीफाई कर दी गयी है। एक वह है जो न माइनर है और

न स्पेसीफाई है, दोनों के दरमियान में है। वह जो बहुत सारी मिनरल्स हैं उनके मुताबिक भी कोई पावर्स स्टेट गवर्नमेंट के पास नहीं है। इनमें से बहुत सारी चीजें ऐसी हैं, जैसे लाइम स्टोन है, कंकड़ है, लाइम शैल है, जिनमें बिलेज ग्राटिजन अपनी रोखी कमाने हैं। इन में बहुत ज्यादा ग्रामीण लोग अपनी रोखी कमाने हैं। मैं चाहता हूँ कि जितनी ऐसी चीजें हैं वे स्टेट गवर्नमेंट के पास रहें ताकि वह अपने क्लॉज बना सकें और जो ग्रामीण लोग हैं वे अपनी कमाई कर सकें।

इन शब्दों के माध्य में अपने अमेंडमेंट को हाउस के सामने पेश करता हूँ।

Mr. Deputy-Speaker: The amendment is before the House.

श्री के० दे० बालवीर : मुझे अफसोस है कि मैं यह अमेंडमेंट अंगूर नहीं कर सकता। लेकिन इस बात का जवाब रखा जायेगा कि ग्रामीण लोगों को लकड़ीय न हो और अगर हो सका तो क्लॉज में देखें कि अगर इन लोगों को कोई दिक्कत है तो उसको दूर कर दिया जाये।

उपाध्यक्ष महोदय : क्या माननीय सदस्य चाहेंगे कि यह अमेंडमेंट वोट के लिये रखी जाये ?

श्री हुंकराज : जी नहीं।

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

“That clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 5.—(Restrictions on the grant of prospecting licences or mining leases)

Shri Mahanty: This clause deals with the grant of licences. Sub-clause (a) and (b) says: whoever

"(a) holds a certificate of approval in the prescribed form from the State Government;

(b) produces from the Income-tax Officer concerned an income-tax clearance certificate in the prescribed form . . ." Shall fulfil the conditions for the grant of a licence.

Sub-clause (c) reads:

"satisfies such other conditions as may be prescribed".

This is an omnibus clause and we do not know what conditions may be prescribed under the rules. It is not according to the established principles of legislation that this House should give its seal of approval to such an omnibus clause without knowing what the conditions will be. That is why I have given notice of this amendment. I expect the hon. Member to accept it. They can provide for all these things under the rules without taking recourse to this omnibus clause. I beg to move:

Page 3,—

omit line 7.

Shri Radhelal Vyas (Ujjain): Sir, I beg to move:

(i) Page 3,—

after line 11, add—

"(1A) the State Government shall have power to grant or to refuse to grant prospecting licence or mining lease in respect of any mineral specified in Part I of the First Schedule."

(ii) Page 3, line 14,—

after "specified in" insert "part II of"

Clause 5(2) says that only with the previous approval of the Central Government prospecting licences for mining leases can be granted.

Now, if you look through the First Schedule you will find that there are two items, iron ore and manganese ore. They are such minerals that in respect of them thousands of applications are received every year by the State Governments. If it is made mandatory on the part of the State Government to approach the Central Government in respect of all these applications, it would result in much delay in the disposal of the applications. I would, therefore, urge on the hon. Minister to leave it to the State Government to grant prospecting and mining leases in respect of iron ore and manganese ore. So far as these two minerals are concerned, much developmental work has been done in our country. Of course, the power of the Central Government will be there to issue instructions and all that and, therefore, no harm would be done if this suggestion is agreed to.

Consequently, I have suggested in another amendment that the Schedule should be split up into two parts, Part I and Part II and that Part I should include only iron ore and manganese ore. Those amendments will follow in due course as we proceed. I hope these two amendments will be accepted by the hon. Minister

Mr. Deputy-Speaker: The amendments are before the House.

Shri K. D. Malaviya: I am afraid, it is not possible to accept the amendments moved by my friend. I will tell my reasons for that. The sub-classification of iron ore and manganese ore into a separate group is not practicable. The authority to be left to the State Government for issue of prospecting and mining licences and

[Shri K. D. Malaviya]

leases will also not be a practicable one, because the Central Government has to co-ordinate and take into consideration all the facts of transport, communication, overall trade and export possibilities from the east or from the west. Therefore, if the State Governments are left to issue mining leases and all that to a particular party, it may be that the ore may be produced but the export trade may not develop because of lack of this or that. Therefore, it is not possible for me to accept the amendments

Shri Mahanty: What about my amendment?

Mr. Deputy-Speaker: It has the same fate.

Shri K. D. Malaviya: I am sorry, Sir, I forgot Shri Mahanty's amendment. He wants me to omit (c) of clause 5. Well, there are certain conditions which should be envisaged. Just now my friend asked me to specify some of them. Perhaps, it will not be possible to do so. As far as my experience goes there are conditions which should be satisfied if we want to issue certificates of approval to the proper parties. I assure you that it is not our intention to harrass the parties so far as the issue of certificates is concerned; we shall see to it that it is very liberally issued to parties

Mr. Deputy-Speaker: I shall now put the amendments to this clause to the vote of the House. The question is:

Page 3,—

omit line 7.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3,—

after line 11, add—

"(1A) The State Government shall have power to grant or to refuse to grant prospecting licence

or mining lease in respect of any mineral specified in Part I of the First Schedule."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3, line 14,—

After "specified in" insert "part II of".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6.— (Maximum area for which a prospecting licence or mining lease may be granted).

Mr. Deputy-Speaker: We now come to clause 6.

Shri Nanshir Eharacha: With regard to clause 6, Sir, I rise to a point of order. My point of order is this. Clause 6 says:

"No person shall acquire in any one State in respect of any mineral or prescribed group of associated minerals—

(a) one or more prospecting licences covering a total area of more than fifty square miles;"

Now, the scheme of the Act is that from the entire range of minerals the Parliament has chosen to reserve for itself those minerals which are specified in Scheduled I. Therefore, under item 23 of the State List the rest of the minerals automatically go to the State for control and regulation. If we have chosen only 26 minerals, and there are many more in the world, then how can we lay down a limit that the State shall give only a lease to the extent of 50 square miles and not more in respect of those minerals which we are not controlling. Item

23 of the State List is: "Regulation of mines and mineral development subject to the provisions of List I"—that is the Union List—"With respect to regulation and development under the control of the Union". Therefore, take minerals such as cobalt, cadmium, antimony, potassium, chromium. No provision has been made in Schedule I. Therefore, they are to be regulated under item 23 by the State. But here we say that even in respect of those minerals the State shall not give a lease of more than 50 square miles. How can we do that? When by the law we are given the right to incorporate the extent of regulation and we do not choose to incorporate those minerals in our Schedule I how can we regulate the size of the lease and prospecting licences in respect of minerals the regulation and development of which we have left to States?

The Deputy Minister of Defence (Shri Raghuramalah): Mr. Deputy-Speaker, Sir, with your permission I would like to clarify this point. I would like to invite your attention to clause 2 of the Bill which is in very wide terms. It is not confined to any particular mineral but it says:

"It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided."

It may be that certain minerals are specified and some are not, but what is purported to be done under clause 6, I submit, comes within the ambit of clause 2. Therefore, it is within the competence of the Parliament. What is being done is only regulation under item 54 of list I, of the Constitution. Therefore, this is quite in order.

Shri Mahanty: This rightly has to come under "Definitions" and not under clause 2. It has to come under 3(a) where minerals have been clearly defined. The definition there is: "minerals" includes all minerals except mineral oils". The minerals which

have been specified in the Schedule are only 26. Shri Bharucha's point is that there are minerals over and above the 26 items which have been enumerated in the Schedule and, therefore, under what right, what law, under what propriety we are now going to limit the scope of operation for those non-Scheduled minerals? Therefore, I submit, clause 2 has got no relevance whatsoever in relation to the point of order that has been raised.

Shri Raghuramalah: I would like to say that the minerals specified in the first Schedule are only for purposes of clause 5; it is not exhaustive of the minerals covered by the whole Bill. The general clause in the Bill which covers those minerals as well as other dealt with during the course of the Bill is clause 2.

Mr. Deputy-Speaker: So far as that question of clause 6 being *ultra vires* of the Constitution is concerned, I made it clear the other day also though it was not specifically with regard to clause 6 but other clause-like 13, 14, 17, 18 and 31 to which the hon. Member objected as being offensive to certain provisions of the Constitution, that it is very seldom unless, I should say, an error or something offensive is so patently clear on the face of it that the Chair takes the responsibility of declaring a part as *ultra vires*. The Chair does not take the responsibility of declaring any part or portion as *ultra vires*; the Chair leaves it to the vote of the House. It is for the House to enact any law even though it may ultimately be found to be *ultra vires* of the Constitution. Therefore, it is for the courts to consider, and our House is sovereign in that respect to enact such laws also which may be found *ultra vires* subsequently.

The Deputy Minister of Irrigation and Power (Shri Haid): Provided we feel that it is not *ultra vires*.

Mr. Deputy-Speaker: That is for the vote of the House to decide. It is for the Members to decide. If they feel it is *ultra vires* they can throw out the Bill. The Chair does not take the responsibility. I said so before, and I say that now. So far as the vote of the House is concerned, I will put the clause to the vote of the House to see whether they want the clause to be added to the Bill or not.

The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7.—*Period for which prospecting licences may be granted or renewed).*

Mr. Deputy-Speaker: We come to clause 7.—Any amendment? I see no one is moving any amendment. Then, the question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8.—*(Period for which mining leases may be granted or renewed).*

Shri Mahanty: I beg to move:

Page 5,—

omit lines 1 to 6.

Shri Panigrahi: I beg to move:

Page 5, line 4.—

before "authorise" insert "in consultation with the State Government concerned."

Shri Mahanty: Clause 8 relates to the period for which mining leases may not be granted or renewed. In this clause, the period for which a mining lease shall be granted is being specified. In the case of coal, iron ore or bauxite, it should not exceed 30 years. In the case of other minerals it should not exceed 20 years, and so

on and so forth. The clause also specifies the conditions under which mining leases can be renewed. Sub-clause (3) says:

"Notwithstanding anything contained in sub-section (2), if the Central Government is of opinion that in the interests of mineral development it is necessary so to do, it may, for reasons to be recorded, authorise the renewal of a mining lease for a further period or periods not exceeding in each case the period for which the mining lease was originally granted."

So, the whole objection is, an omnibus power is being taken by the Government of India and they are specifying all the conditions. If somebody comes for renewal he must conform to these conditions that have been stipulated in the regulations that have been framed, and so on and so forth. Over and above all this, why this blanket power is being acquired by Government? No reason has been adduced. This will, I am sure—I am not making any reference to the hon. Minister who is piloting this Bill—throw open the floodgates of opportunism and favouritism. While we are framing this legislation we must see to it that Parliament does not create a situation which will practically cause all kinds of administrative inequities. I therefore most humbly feel that this kind of omnibus power should be refused and that at least my amendment in this regard may be accepted.

Shri B. Das Gupta (Purulia): As regards clause 8, I am objecting to some of the provisions with regard to the period for which mining leases can be granted or renewed. The period that has been fixed regarding coal, iron ore or bauxite is 30 years and in the case of any other mineral, it is 20 years. There is also a provision for renewal of these periods. Now that in the near future we are aiming at nationalising or bringing the mines and mineral development under the

public sector, I think that the period fixed is too long—30 years and 20 years. The period comes to 60 years in respect of coal, iron ore or bauxite and in the other case, 20 years plus 20 years come to 40 years in all. That is, from today, we are giving mining leases for 30 years and it may extend up to another 30 years, making 60 years. Are we to wait for so long to bring mining and mineral development under the public sector? That is the point.

I think the Government should consider this point. We may not commit ourselves for so long a period as regards mining and mineral development.

Shri K. D. Malaviya: Shri Mahanty's amendment is for the omission of sub-clause (3). I am afraid I cannot accept it. So long as this transitional phase of a mixed pattern of economy continues, we should and must envisage conditions—though very rare—in which because of diverse circumstances some renewals may have to be made beyond those specified in clause 8.

But, how I wish I could assure my friends that it is not the policy of Government to open the floodgates for all those people to encourage nepotism or favouritism in regard to these things. It is by sheer necessity that we consider that such a proviso will be beneficial for the development of industries and for the development of our export trade. For, in certain conditions we do envisage that—perhaps rarely we may have to apply it—happening. When such an occasion arises, the Government will examine most carefully and will not apply it without the most pressing reasons for such a renewal. I therefore oppose the amendment.

Mr. Deputy-Speaker: I shall put amendments Nos. 30 and 5 to the vote of the House. The question is:

Page 5,—

omit lines 1 to 6

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 5, line 4,—

before "authorise" insert "in consultation with the State Government concerned."

The motion was negatived.

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—(Royalties in respect of mining leases)

Shri K. D. Malaviya: I beg to move.

Page 5, line 10.—

for "royalties" substitute "royalty"

Shri Panigrahi: I beg to move:

(i) Page 5, line 18, after "Gazette" insert "and in consultation with the State Government concerned."

(ii) Page 5, omit lines 25 and 26

Shri Mahanty: I beg to move.

Page 5 line 25—

after "enhance" insert "or reduce"

Shri Panigrahi: My amendments, Nos. 6 and 8, are I think very simple and innocent, and I hope the hon. Minister will accept them.

Shri Mahanty: My amendment No. 32 relates to sub-clause (3) of clause 9. In the course of his speech, the hon. Minister was pleased to say that in the original Bill the figure was 2 years and that the Joint Committee was pleased to raise it to four years in consideration of the security which has to be given to the private sector. He said that a minimum amount of security to the private sector has to be guaranteed. Therefore, in view of that consideration, the Committee has raised two years to four years.

[Shri Mahanty]

My apprehension is that this four-year period will just coincide, accidentally, not deliberately, with the quinquennial electoral activities of all the parties including ourselves. I know that in my own constituency how innumerable number of jeeps belonging to the mine-owners worked for a particular party. Therefore, to avoid such contingencies, let us try to raise four years to seven years. Seven years will ensure the minimum amount of security because four years is too short a period.

Shri K. D. Malaviya: It is not.

Shri Mahanty: We have assured that the royalties at any rate will not exceed more than 20 per cent. We have guaranteed that. Now, I propose that the hon. Minister will kindly see that my amendment is accepted. He should not stand on a matter of prestige nor do I stand on it.

Shri K. D. Malaviya: There is no question of prestige.

Shri Mahanty: Let us try to raise it from four years to seven years. That will be a test.

I also beg to move:

Page 5, line 26,—

for "four years" substitute "seven years".

15.50 hrs.

[PANDIT THEAKUR DAS BHARGAVA in the Chair]

Shri K. D. Malaviya: You want to add the word "reduction" after "enhancement"?

Shri Mahanty: Yes, and also seven years for four years. When you provide for enhancement, it is also necessary to provide for reduction, because we will not merely go on enhancing. If conditions warrant, we can also reduce the royalty. Therefore, I want to insert the words "or reduce" and substitute seven years for four years. I most humbly plead with the Hon.

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Minister to see his way to accept these amendments.

Shri Badheai Vyas: I beg to move:

Page 5, for lines 22 to 24, substitute—

"(a) fix the rate of royalty in respect of any mineral so as to exceed twenty-five per cent. of the rate of royalty in respect of the mineral, specified in the Second Schedule."

Sub-clause (3) (a) of clause 9 reads:

"Provided that the Central Government shall not fix the rate of royalty in respect of any mineral so as to exceed 20 per cent. of the sale price of the mineral at the pit's head".

For this, I want to substitute amendment 7. In the second schedule, no uniform rates have been fixed. For example, for crude mica, it is not a percentage of the sale price, but it is Re. 1 per maund; for trimmed mica, all qualities other than heavy stained, dense stained and spotted, it is Rs. 3 per maund. Similarly, there are other items also at page 18. So far as manganese ore is concerned, the rate of royalty varies. At present, for example, the royalty charged on manganese ore of high grade is from 5 to 7½ per cent. It is sought to be increased to 12½ per cent, as mentioned in the schedule. Similarly, for low grade below 45 per cent. manganese ore, the royalty charged at present is 3 to 5 per cent. This has also been raised to 10 per cent. Therefore, I suggest that there should be some uniformity, if the Central Government proposes to enhance the rate and it should be 25 per cent. of the rate mentioned in the Schedule.

Mr. Chairman: All these amendments are before the House

Shri K. D. Malaviya: You want the enhancement to be 25 per cent. uniformly?

Shri Radhelal Vyas: Yes; whenever it is enhanced, it should be increased by 25 per cent. of the rate mentioned in the first schedule. That is my amendment and I hope it will be accepted.

Shri K. D. Malaviya: I am sorry I cannot accept this amendment. I am not accepting any of the amendments moved by Mr. Panigrahi also.

Shri Mahanty: What about mine?

Shri K. D. Malaviya: I am sorry I cannot agree to increase the period from 4 years to 7 years. About the other amendment, I thought he was not interested in reducing the royalty rates.

Mr. Chairman: I will now put the Government amendment No. 31 to the House

The question is:

Page 5, line 10,—

for "royalties" substitute "royalty"

The motion was adopted.

Mr. Chairman: I will now put the other amendments, Nos. 6, 7, 8, 32 and 33, to the House.

Mr. Chairman: The question is:

Page 5, line 18, after "Gazette" insert "and in consultation with the State Government concerned."

The motion was negatived.

Mr. Chairman: The question is:

Page 5, omit lines 25 and 26.

The motion was negatived.

Mr. Chairman: The question is:

Page 5,—

for lines 22 to 24, substitute—

"(a) fix the rate of royalty in respect of any mineral so as to exceed twenty-five per cent.

of the rate of royalty in respect of the mineral, specified in the Second Schedule."

The motion was negatived.

Mr. Chairman: The question is:

Page 5, line 25,—

after "enhance" insert "or reduce".

The motion was negatived.

Mr. Chairman: The question is:

Page 5, line 26,—

for "four years" substitute "seven years".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 9, as amended, stand part of the Bill".

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10—(Application for prospecting licences or mining leases).

Shri Mahanty: I am moving amendment No. 34 only.

Shri Radhelal Vyas: I am moving amendments Nos. 9, 10 and 11.

Shri Mahanty: I beg to move:

Page 6, line 7,—

add at the end "for reasons to be recorded".

Shri Radhelal Vyas: I beg to move:

Page 5, line 33,—

add at the end—

"Such an application shall be presented or sent to the collector concerned or to any other official authorised by the collector to receive such applications".

[Shri Radheyial Vyas]

Page 6,—

(i) in line 2,—
after "shall be" insert "given or";

(ii) in line 3,—
for "within the prescribed time and" substitute "forthwith";
and

(iii) in line 3,—

add at the end—

"and particulars of the application shall be entered immediately in the Registers of applications for prospecting licences or mining leases as the case may be."

Page 6, line 7,—

add at the end—

"Such application shall be disposed of by the State Government within one year from the date of the presentation or receipt of the application."

Mr. Chairman: All these amendments are before the House.

Shri Mahanty: I am speaking on amendment No. 34, which seeks to add at the end of sub-clause (3) the words "for reasons to be recorded". This clause relates to applications for prospecting licence or mining lease. I think it is a slight error in drafting, because in clause 11 and in the subsequent clauses, wherever a mining lease has to be refused to a particular party, the reasons have to be recorded.

Shri K. D. Malaviya: Why should the reasons be recorded?

Shri Mahanty: Under Clause 10(1), a party makes an application for a prospecting licence or mining lease and he deposits the requisite fees. Under sub-clause (2), whenever these applications are received, there is an acknowledgment of their receipt within a prescribed time. Under sub-clause (3), the Government can refuse the application. The Government will

take into account certain conditions which have been stipulated by the rules and regulations framed for granting such applications.

I will cite to the hon. Minister an instance. One of my friends, who draws a privy purse of about Rs. 2 lakhs a year from the Government of India, asked for mining lease in Orissa. That lease was refused to him and was given to somebody else who was sympathetic to the policies which the Orissa Government were upholding, on the plea that this gentleman had not the bank reference. Think of the enormity of it. Because the Government had this blanket power of refusing an application for mining lease without the obligation to record the reasons therefor, this kind of administrative injustice has been possible.

What I want is simple. I am not going to change the fundamentals of of your Bill. I am only seeking to provide that if the State Governments refuse an application, they shall have to record the reasons, as you have asked them to record the reasons in clause 11 and subsequent clauses. I think it is a very innocuous amendment and I once again plead with the hon. Minister to accept it.

Shri Radheyial Vyas: Regarding my amendments 9, 10 and 11, they relate to the submission of the applications for prospecting licence or mining lease. This clause 10 mentions that

"(1) An application for a prospecting licence or a mining lease in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned in the prescribed form and shall be accompanied by the prescribed fee".

But it does not mention to whom the application shall be presented. It says it shall be presented to the State Government; it is a very vague term. In every district there is a Collector. There is no harm if you

specify that the application should be presented to the Collector. This amendment seeks to provide that the application shall be presented or they may also be sent, to the Collector concerned or any other official authorised by the Collector to receive such applications.

Sub-clause (2) provides that,

"Where an application is received under sub-section (1) there shall be sent to the applicant an acknowledgement of its receipt within the prescribed time and in the prescribed form."

If the applicant is present there, why should not the receipt be given to him then and there? I want to amend this and make a provision that if the applicant is present, the receipt should be given over to him then and there. It is not necessary that if he goes there and presents the application, he should go and not get a receipt. There may be complaints if at a later stage, these applications are to be entered in the register. Priorities are to be determined and the licences are to be granted on the basis of the receipt of the applications. This is just to avoid any harm that may be done to the applicants. I propose to provide that the receipt should be given forthwith so that nobody can have any opportunity to do mischief in the office. In sub-clause (2) it is stated that the receipt shall be sent to the applicant "within the prescribed time". For the words "within the prescribed time", I want to substitute the word "forthwith".

10 hrs.

Then, when an application is received, the particulars should be entered in the register then and there. It has not been made clear in the clause. So, my amendment seeks to do that. It says:

"and particulars of the application shall be entered imme-

diately in the Registers of applications for prospecting licences or mining leases as the case may be."

Then, these applications are submitted to the State Governments. There should be some time-limit within which the State Government should take action. Whether one year is sufficient or not, some period must be mentioned there, during which the State Government should be able to take some decision. My amendment seeks to add:

"Such application shall be disposed of by the State Government within one year from the date of the presentation of receipt of the application"

These are very innocuous amendments and they are in the interests of the parties concerned. They will avoid delay, harassment and scope for mischief in the office. I hope my amendments shall be acceptable to the hon Minister.

Mr. Chairman: All these amendments are before the House.

Shri K. D. Malaviya: I am afraid I cannot accept any of the amendments mentioned by either Mr Mahanty or Mr. Radhelal Vyas. I think there is some misunderstanding here. I might inform the House that once an application for prospecting licence is refused, it becomes a subject matter of review before the Central Government, as the parties are bound to apply for a review. When the question of review arises, all these reasons are to be mentioned. Therefore, it is no use incorporating the word, as suggested by my friend. That might complicate matters.

So far as Mr. Radhelal Vyas is concerned, he raised a number of points. One of his amendments states:

"Such application shall be disposed of by the State Government within one year from

the date of the presentation or receipt of the application."

Now, it is our effort to see that it should be disposed of as soon as possible. Of course, in some of the States it takes some time. We have, through improvement in our rules and because of the experience we have so far gained, reduced very much the time taken. Now it is not more than a few weeks. We are providing for that in our rules.

Then there is an amendment to substitute the term "shall be given" for the word "given". It is no use binding the Government to give the receipt at once, because there might be some complications. It is always safer and better to send the acknowledgement to them than to hand them over. Then people might start demanding them. Many people might come and the clerk in question may complicate the issues. That is all I can say.

श्री राधेनाथ व्यास : दरकारों का इंतरो को पता चल जायगा और और नोक भी दे देंगे ।

श्री के० दे० बालवीर्य : डाक से भेज दी जाएगी । वहा पर देने में गड़बड़ हो सकती है, होती तो नहीं है । इसके बजावा इसमें और कोई बात बत तो नहीं है ।

Mr. Chairman: One of the amendments says that the application should be presented to the Collector.

Shri K. D. Malviya: We have already developed certain functions and traditions in this behalf and the rules are there. There are prescribed authorities. Now, bringing in the institution of collector may not be desirable. We do not know whether he has enough time to do it. He has to create machinery. We have already got the machinery and we have prescribed some rules. Certain habits have been developed there. Now, instead of ingesting that machinery,

if we try to bring in another machinery, it may create difficulties. Therefore, we should better stick to the old machinery, instead of introducing a new machinery.

Mr. Chairman: I will now put amendment Nos. 9, 10, 11 and 34 to the vote of the House.

Mr. Chairman: The question is:

Page 5, line 33,—

add at the end—

"Such an application shall be presented or sent to the collector concerned or to any other official authorised by the collector to receive such applications".

The motion was negatived.

Mr. Chairman: The question is:

Page 6,—

(i) in line 2,—

after "shall be" insert "given or";

(ii) in line 3,—

for "within the prescribed time and" substitute "forthwith"; and

(iii) in line 3,—

add at the end—

"and particulars of the application shall be entered immediately in the Registers of applications for prospecting licences or mining leases as the case may be."

The motion was negatived.

Mr. Chairman: The question is:

Page 6, line 7,—

add at the end—

"such application shall be disposed off by the State Government within one year from the date of the presentation or receipt of the application:"

The motion was negatived.

Mr. Chairman: The question is:

Page 6, line 7,—

add at the end "for reasons to be recorded"

The motion was negatived.

Mr. Chairman: The question is:

"That clause 10 stand part of the Bill"

The motion was adopted

Clause 10 was added to the Bill.

Clause 11.—(Preferential right of certain persons)

Shri Mahanty: I beg to move:

Page 6, lines 13 and 14,—

omit "and is otherwise a fit person for being granted the mining lease".

Shri Radhelal Vyas: I beg to move:

Page 6,—

(i) after line 10, add—

"Provided that the licensee applies for mining lease before the expiry of the period of his prospecting license."

(ii) after "provided" insert "further".

Shri Mahanty: I am moving my amendment as an act of faith because all our arguments and submissions to the hon. Minister are in vain. I find he is keeping an undesirable company, so far as I am concerned, because the Chairman of the Joint Committee, Mr. Pattabhi Raman, is there. He does not want that a comma or a colon should be changed in the Joint Committee report, which he has produced. Therefore, all our pleadings are in vain.

Mr. Chairman: The amendments are before the House.

Shri K. D. Malaviya: He should be as much a source of inspiration to me as to the hon. Member.

Shri Mahanty: I hope on this occasion the hon. Minister or his source

of inspiration will kindly take into account what I have been submitting before them. Clause 11 is a very important clause in this Bill. It relates to preferential right to certain persons. Now, it may happen that a prospecting license has been granted in respect of certain persons. Clause 11 says:

"Where a prospecting license has been granted in respect of any land, the licensee shall have a preferential right for obtaining a mining lease in respect of that land over any other person:

Provided that the State Government is satisfied that the licensee has not committed any breach of the terms and conditions of the prospecting licence and is otherwise a fit person for being granted the mining lease."

What is the definition of "otherwise"? We have got countless experience where a person has been considered unfit to operate a mine, not because he lacks the technical know-how, but he lacks certain political affiliations, which the power would like him to have. That is why I am referring to this. In U.P. there are not many mines; nor in Madras are there many mines. But we have got it in our State. We know the VC and the govern State. We know how they are operated. We know the enormity of the proposition. A person will be conferred a preferential treatment under this clause over a person, who has been granted a prospecting licence

Therefore, we say as a fair proposition that if you want to give preference to a person over the person who has been granted a certificate of approval or a prospecting licence there should be only two conditions—whether he has cleared his income-tax arrears and whether he has fulfilled the other terms and conditions of the licence. If he has done so, you should not give this right to the State Government to give preference to another man. You have to prescribe some qualifications. Obviously,

[Shri Mahanty]

It cannot be the weight, height or other measurements. These are not the considerations.

Shri K. D. Malaviya: Cut throat

Shri Mahanty: The definition of cut throat may vary from person to person. Anyhow, I will not go into it now.

I will once again plead with the Minister in this matter because it relates to a very vital matter, where you are conferring a preferential right to a person, over a person who had acquired a mining lease or a prospecting licence. Therefore, you must see to it that not only justice is done but it appears to be done. That is why I am proposing that we may delete the words "and is otherwise a fit person for being granted the mining lease".

Shri Radhelal Vyas: Clause 11 gives the right to the prospecting licensee to have a preference for getting a mining lease over other applicants. We should not allow these prospecting licensees to sit over there without any action for a number of years for an indefinite period. He should have a preference only if he applies for a mining lease before the expiry of the period of his prospecting licence. My amendment seeks to provide for this. If we do not make this a condition, namely, his putting in application for a mining lease before the expiry of the period of his prospecting licence, he won't have an incentive or real desire to go ahead with the mining operations. Therefore, some condition should be laid down that he will have preference only in case he applies for a mining lease before the expiry of the period of prospecting licence.

Shri K. D. Malaviya: There are rules. If the time expires, he no longer holds a prospecting licence. It can be given to anybody. He cannot have any preference.

Shri Radhelal Vyas: He is getting that preference.

Shri K. D. Malaviya: No.

Shri Radhelal Vyas: The period expires. Thereafter some applications are received for a mining lease. This clause gives preference to the prospecting licensee. That is the provision.

Shri K. D. Malaviya: No.

Sardar Swaran Singh: Obviously he ceases to be a licensee. Preferential right is given to the lessee. After the lapse of the period, he ceases to be the licensee.

Shri K. D. Malaviya: With regard to Shri Mahanty, I am sorry, I cannot accept. I am trying to accept some of his amendments, but I could not. He wants me to omit the words "and is otherwise a fit person for being granted the mining lease". In the last years of experience, I do not think Shri Mahanty can quote a single case where a party has obtained a prospecting licence, and he has been refused or not given preferential claim for mining lease just because the Government wanted to have others. For ore leases, there are conditions which could not be envisaged by me or Shri Mahanty where he may have to be a fit person. It is not a case of fat man or lean man, etc., where preferential treatment is not accorded. Supposing he turns out to be a criminal or during the course of the prospecting licence, he exceeds certain conditions which makes it impossible to give him the lease, or becomes a blackmarketeer, or the steals some ore that he produced in the course of prospecting or he contravenes the rules of prospecting. There are conditions when perhaps Government might be compelled not to give him preferential treatment. It is for these reasons that we have provided in this clause, "and is otherwise fit". Otherwise, we are not going to use this in the ordinary sense or in the sense envisaged by Shri Mahanty.

Mr. Chairman: I shall now put the amendments to the vote of the House.

Mr. Chairman: The question is:

Page 6,—

(i) after line 10, add—

"Provided that the licensee applies for mining lease before the expiry of the period of his prospecting license."

(ii) after "provided" insert "further."

The motion was negatived.

Mr. Chairman: The question is:

Page 6, lines 13 and 14,—

omit "and is otherwise a fit person for being granted the mining lease".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12.— Registers of prospecting licences and mining leases)

Shri Mahanty: I beg to move:

Page 7, lines 14 and 15, omit

"holding a certificate of approval from the State Government or by an authorised agent of such person".

I am grateful to the hon. Minister for what he has said. He says he is trying to accommodate some of my amendments. At least this is an amendment which not only he, but the whole House will agree with me as regards its propriety. Clause 12 provides: that a register of prospecting licensees and mining leases should be maintained by the concerned authorities. Sub-clause (2) says:

"Every such register shall be open to inspection by any person holding a certificate of approval

from the State Government or by an authorised agent of such person, on payment of such fee as the State Government may fix."

I want to omit the words "holding a certificate of approval from the State Government or by an authorised agent of such person". With my amendment, the sub-clause will read as follows:

"Every such register shall be open to inspection by any person on payment of such fee as the State Government may fix."

Shri K. D. Malaviya: Any man in the district can go and inspect?

Shri Mahanty: My reasons are two. First, in my constituency, I know what kind of discrimination is going on. Supposing in my position as a Member of Parliament or as a member of the legislature, I want to go and inspect this register, today, I am not entitled. Let the hon. Minister point out to me under what rule I can go and inspect that register. Supposing the hon. Minister goes to inspect the register, under what rule is he entitled?

Shri K. D. Malaviya: Should I give every right to a Member of Parliament?

Shri Mahanty: I want to go and inspect the register. I receive information that some injustice has been done in fixing priorities and so on. Suppose I want to go and inspect the register, I must be entitled to do it. You must confer on me the right to do so if I pay the fee. Suppose he goes to inspect. He cannot do it under this law. I am considering from this point of view. Your attitude is, every authority is sacred; to me, every authority is a doubtful animal. That is the attitude. We are fighting against enormous odds. We know against what odds we are fighting. There will be difference in outlook. We can come to a mean. We can come to an agreement at least on this point that whoever wants, can go and

[Shri Mahanty]

inspect the register on payment of fees. I do not know why he should be afraid of it unless there are a number of skeletons in his cupboards.

I would, once again, most humbly request this House to see its way to accept this amendment. It will confer the right on the Members of this House to go and inspect the register.

Mr. Chairman: The amendment is before the House

Shri K. D. Malaviya: I accept the amendment.

Mr. Chairman: The question is:

Page 7, lines 13 and 14, omit

"holding a certificate of approval from the State Government or by an authorised agent of such person."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 12, as amended, stand part of the Bill"

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13.—(Power of Central Government to make rules in respect of minerals)

Mr. Chairman: There are some amendments.

Shri Radhelal Vyas: I am not moving. That is, again, a question regarding "given or".

Shri Siddananjappa (Hassan): I am not moving.

Amendment made:

Page 8, line 7, for "a prospecting licence or a mining lease" substitute "any other prospecting licence or mining lease".

—(Shri K. D. Malaviya)

Mr. Chairman: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill

Mr. Chairman: The question is:

"That clauses 14, 15 and 16 stand part of the Bill."

Shri Nausahir Bharucha: May I raise a point of order with regard to clauses 15 and 16? Clause 15 says:

"The State Government may, by notification in the Official Gazette, make rules for regulating the grant of, prospecting licences and mining leases in respect of minor minerals and for."

I want to know from the hon. Minister in charge of the Bill what happens to those minerals which are neither minor nor included in the First Schedule. My submission is that under item 23 of the State List, all such minerals would be the responsibility of the State to develop. Therefore, when you restrict the States only to making rules in respect of minor minerals, you are detracting from the right of the State to make rules in respect of non-specified minerals, that is, neither minor minerals nor the minerals included in Schedule I. Therefore, this particular provision is in direct conflict with item 23 of the State List.

Shri Baghrumalak: With your permission, Sir, I may say that the arguments advanced earlier during the course of the first reading apply to this also

The scheme of the Bill, the main basis of it, is to be found in clause 2. Clause 2 is a general clause which provides for regulation and development of minerals to the extent "hereinafter provided", and then clause 5 specifies certain minerals, and the minerals specified in the schedules are releasable only to under those mentioned in clause 5.

Similarly, in regard to minor minerals also, specific mention has been

made, but that does not take away the generality of clause 2, which is the main clause

Shri Naushir Bharucha: Then why mention minor minerals at all?

Shri Raghuramaiah: Clause 2 states:

"It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided."

"Mines and minerals" are wide enough, I presume, to include minor minerals

Mr. Chairman: The question is:

"That clause 14 stand part of the Bill"

The motion was adopted

Clause 14 was added to the Bill.

Mr. Chairman: The question is:

"That clause 15 stand part of the Bill"

The motion was adopted.

Clause 15 was added to the Bill.

Clause 16.—(Power to modify mining leases granted before 25th October, 1949)

Shri Naushir Bharucha: Clause 16 provides for power to modify mining leases which have been granted before 25th October, 1949.

As the clause stands, the scheme of the clause is that certain beneficial provisions might be toned down, beneficial provisions in leases granted prior to 25th October 1949. Therefore, the party is given the right to payment of compensation under clause 16(2)(b). The payment of compensation is in respect of such amendment of the terms of the leases which go to detract from the right or benefits of the leaseholder.

Article 31 provides that whenever any such thing is done for a public purpose, the law must lay down the principle and the method and manner of determining the compensation. What we are actually doing is delegating that power of determining the principles to the rule-making body, because we say that the Central Government may lay them down by a notification in the Official Gazette under clause 16(2). By notification we give the Central Government the authority to lay down the principles and policies, the method and the manner of determining compensation.

What I submit is this, that what is required to be laid down by Parliament, namely the principles and the method and the manner of determining compensation, cannot be delegated to the rule-making power of the Government. It must be laid down in the Act itself.

For example, in the case of the distribution of Union excises, we are required by article 272 to lay down the principles for distribution, and there the question arose whether certain things mentioned in the Bill were principles or not, and ultimately the Chair held that the principles must be specifically laid down.

Here the same position arises, that the principles must be laid down. They must not be left to the rule-making authority.

It may be pointed out that clause 28(2) specifically provides for a special type of treatment with regard to this particular clause, viz., clause 16(2)(c). It says:

"Without prejudice to the generality of the rule-making power vested in the Central Government, no rules made with reference to clause (c) of sub-section (2) of section 16 shall come into force until they have been approved, whether with or without modifications, by each House of Parliament."

[Shri Naushir Bharucha]

It may be therefore contended that it is Parliament which ultimately lays down the rules, but it is not so, and the reasons are that if we say that the rule-making authority shall bring these matters before Parliament, we delegate automatically the power to determine those principles to it; it is the rule-making authority which determines those principles and then brings them before the House, only for approval. The House, instead of being a policy-laying and policy-determining authority, becomes simply an approving authority. Therefore, my submission is that what right the House has got under article 31 for specifically laying down principles within the framework of the Bill cannot be delegated to the rule-making authority.

Shri Raghuramiah: With your permission again, Sir, I would like to draw the attention of my friend to article 31A(e) which specifically provides:

"Notwithstanding anything contained in article 13, no law providing for—

"(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence, shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31:"

What clause 16 of the Bill provides is that first of all, mining leases granted before 25th day of October 1949 shall as soon as possible after the commencement of the Act be brought into conformity with this Act. And then the rule-making power is given to Government in clause 16(2) by which it is empowered to determine the principles and the manner in which and the authority by which compensation shall be determined.

Therefore, all the argument about article 31 of the Constitution being violated is not valid because under article 31A(e) of the Constitution article 31 of the Constitution does not apply to this case.

In any case I might also inform my friend that in a decision of the Calcutta High Court (57, Calcutta Weekly Notes, 397) it has been held that even if article 31 applies, it is open to Parliament to leave the matter of compensation to be regulated by rules. But my main submission is that in any case article 31 does not apply to this case, and the matter is governed by article 31A(e).

Mr. Chairman: The question is:

"That clause 16 stand part of the Bill"

The motion was adopted.

Clause 16 was added to the Bill.

Clause 17.—(Special powers of Central Government to undertake prospecting or mining operations in certain lands)

Shri Radhelal Vyas: I beg to move:

Page 10, line 12,—

after "area" insert "and the probable time when the operations will be started".

Clause 17 gives the power to the Central Government to undertake prospecting or mining operations in any area and with that object make a notification in the Official Gazette and specify the boundaries of such areas stating where prospecting or mining operations will be carried out in the area.

If really the Government wants to undertake prospecting, then they should mention the probable time also within which the operations will be carried out. Only taking the land and notifying that they will carry out operations is not enough. If at all the Central Government makes a notification, it will do so only when it

seriously thinks of undertaking the operations there.

Shri K. D. Malaviya: Otherwise, it will not.

Shri Madhurai Vyas: Therefore, where is the harm if they mention in the Gazette Notification also the probable time by which such operations will be carried out so that the people concerned who are near about that land may have an idea of the time by which the operations will be carried out, and get an opportunity to make arrangements which may be necessary for their own safety?

Mr. Chairman: The amendment is before the House.

Shri Mahanty: I oppose this whole clause. I plead for the deletion of clause 17.

Shri K. D. Malaviya: The whole of it?

Shri Mahanty: Yes. This clause deals with the special powers of the Central Government to undertake prospecting or mining operations in the States. I venture to think that it offends the principle of equality before law as enshrined in article 14 of the Constitution. Now, article 14 of the Constitution reads:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Now, it has been held by a number of weighty judicial pronouncements that the State is a person, is a moral person, is a political person and is also a legal person. Now, the State can apply for a lease, and it can be granted a prospecting licence. So, the State is always a legal person; it is always a moral person too. That cannot be denied.

In clause 17, we are providing notwithstanding anything contained in this Act, and by that, we seek to grant the Central Government a prospecting licence or mining lease for

this kind of mining operations. The only proviso is that the Central Government should consult with the State Governments. It would have been obvious by now that the Central Government wants to develop and regulate our mineral resources in this country as much as any other X, Y or Z is interested in it. To that extent, I do not know how the State cannot be placed on the same pedestal as any of the private mining operators. In view of the fact that the State is a legal person and also a moral person just like any other person, if we confer this special right on the Central Government to go in for these mining operations notwithstanding anything contained in this law, I venture to think that that will be repugnant to the concept of equality before law which has been enshrined in article 14 of the Constitution.

Mr. Chairman: What about article 19(6)?

Shri N. E. Munisamy (Vellore): Reasonable restriction is allowed.

Shri Mahanty: I am thankful to you for having reminded me of article 19(6), which reads:

"... (ii) the carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

As I have stated already, the State is a moral person.

An Hon. Member: The State is very immoral.

Shri Mahanty: And this has been the subject-matter of judicial interpretations. Since time is limited, I am not going into them now. But the point is this. It is true that the State can carry on any trade in preference to another person, and while it does so, it can be granted some extra privileges. But

[Shri Mahanty]

that does not mean that it can completely negate the very law which we are going to formulate. But clause 17 says:

"Notwithstanding anything contained in this Act the Central Government, after consultation with the State Government, may undertake prospecting or mining operations in any area . . .".

It means that even though Government might not fulfil any of the conditions formulated in this Bill, they can be granted a mining lease or a prospecting licence to develop mineral resources. Therefore, it is certainly repugnant to the concept of equality before law. So, I want that this clause should be deleted.

Shri C. E. Pattabhi Raman (Kumbakonam): I had not intended to take part in this discussion in view of my association with the Bill, but I think I may with your leave point out two aspects of the matter.

The entry in the Union List in respect of this item is very important. Entry 54 reads:

"Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest."

The word 'regulation' has been the subject of some discussion in the courts of law, and I find that the 'United States' Supreme Court has quite definitely laid down the ambit of the word 'regulation'. But may I with your permission read the dictionary meaning of the word 'regulate'? It reads:

"Control by rule, subject to restrictions, moderate, adapt to requirements; adjust (machine, clock) so that it may work accurately."

So, it is wide enough. It is not only regulation but also development of minerals.

From this point of view, I would submit that the reference to article 14 providing for equality before law is hardly germane to this subject, where it is part of the Union Government's business in the Constitution itself to regulate and develop minerals.

Nor will the reference to article 19 help my friend. I think he referred to article 19(g) which says:

'to practise any profession, or to carry on any occupation, trade or business.'

There again, important restrictions have been made, and they are contained in article 19(6).

Mr. Chairman: I now put amendment No. 14 to vote.

The question is:

Page 10, line 12,—

after "area" insert "and the probable time when the operations will be started"

The motion was negatived.

Mr. Chairman: The question is:

"That clause 17 stand part of the Bill".

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18.—(*Mineral development*).

Shri Panigrahi: I beg to move:

Page 11, after line 18, add:

"(1) the provision of minimum amenities to labour engaged in the areas covered by mining operations."

Mr. Chairman: The amendment is before the House.

Shri Nambir Bharucha: I rise to a point of order on clause 18, namely

whether clause 18 delegating rule-making powers to the Central Government in the matter of development of minerals is *ultra vires* or not, in that the clause does not contain basic declarations of policies on which the development of minerals is to proceed. It leaves the policy also to be decided by the executive. It does not fix the legal principles which are to guide or control the delegated authority. It renders the legislative supremacy of this House virtually titular.

It will be seen that all that is said in clause 18 is:

"It shall be the duty of the Central Government to take all such steps as may be necessary for the conservation and development of minerals . . .".

Now, the House has not laid down any policy by which the rule-making power of the Central Government would be restricted, such as whether export of mineral ore will be permitted or not, whether priority will be given to such minerals as assist the core of the Plan or the development projects, whether radio-active ores would be exclusively sold to the atomic energy establishment or whether sales should be made to certain aliens or not, and so on. These are the questions of policy which it is the privilege of this House to enact. If clause 18 had said that all ores which have been extracted from the mines in respect of schedule I shall be sold to such and such a person or that Government will have power to regulate the prices and so on, one could understand, but here the entire problem of development, namely laying down policies even for the purpose of developing the ores, is left to the executive. Then, what does this House enact?

This is a Bill for regulating and developing. If the entire thing is to be left to the executive, then why not have one clause instead of all these clauses, saying that the Central Government may make rules for the regulation and development of mine-

erals and lay down the schedule, and finish with that? May I ask whether this House is going to be reduced to the position of merely a rubber stamp which keeps on saying 'Yes' to any rule that Government frame. I submit that the law has to be very distinct and clear.

16.39 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Portions which must be incorporated within the Bill and portions which can be delegated by way of rule-making power should be laid down clearly and distinctly. But I find that here, those portions which ought to be incorporated in the Bill, namely the policies and principles of development, have not been dealt with and are being delegated to the rule-making power.

Therefore, I submit that clause 18 is *ultra vires*, by reason of excessive delegation.

Mr. Deputy-Speaker: I need not give any answer to it. It is for the House to decide

Shri Naushir Bharucha: I thought this was very patent on the face of it.

Shri Raghuramaiah: If anything is less patent, I would say it is the argument of my hon. friend. He is really harping back on the old subject that article 31 applies to it because that article requires that when property is acquired principles of compensation should be laid down by law. Article 31 does not apply to this.

Shri Naushir Bharucha: These are not principles for compensation.

Shri Raghuramaiah: If you will please refer to article 31A(1)(e), you will find that it completely abrogates to the extent of the subject-matter of that article, the provisions of article 31.

Shri Naushir Bharucha: I do not say that it conflicts with article 31.

Shri Raghuramaiah: If he is not on article 31, if he is on the general principle of parliamentary control,

[Shri Raghuramaiah]

may I say that this kind of matters are very often delegated. If I may say so, constitutionally this is a very restricted delegation, because although power is given for making rules, those rules have to be placed before Parliament under clause 28 for not less than 30 days and they shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following. So it is not as if anything is being done behind the back of Parliament. Shri Bharucha can read the rules when they are placed and if he finds that some amendment is desirable, it is open to him to move it; if that amendment is accepted by Parliament, the rules will be modified to that extent. So there is nothing unconstitutional or unconscionable about it.

Mr. Deputy-Speaker: I shall now put amendment No. 15 to vote.

The question is:

Page 11,—

after line 18, add—

“(1) the provision of minimum amenities to labour engaged in the areas covered by mining operations.”

The motion was negatived.

The question is:

That clause 18 stand part of the Bill”.

The motion was adopted.

Clause 18 was added to the Bill.

Clause 19— (Prospecting licences and mining leases to be void if in contravention of the Act.)

Shri Radhahal Vyas: I beg to move:

Page 11, line 23,—after “acquired” insert “by fraud or misrepresentation practised by the persons applying for, it”.

Page 11, line 24,—add at the end—“and the State Government or Central Government may,

within one year from the date of grant or renewal, take action for declaring it void”.

This clause gives very wide powers to the Government or the officers concerned. Any prospecting licence or mining lease granted, renewed or acquired in contravention of the provisions of this Act or any rules or orders made thereunder shall be void and of no effect. Now, the lease or licence may be granted due to mistakes committed by the officers of Government concerned, and a man will be penalised for no fault of his. Moreover, it is not stated that only the Government shall be competent to take a decision. Any officer can say that the licensee has violated such and such provision of any order or Act. Therefore, he can say that it is void and refuse to take any action on it.

My amendment seeks to provide that the man should be penalised only if he has committed some fraud or mistake. The second amendment provides that the State or Central Government may within one year from the date of grant or renewal, take action for declaring it void. If after an indefinite period, Government find that a particular licence has been granted in violation of any particular rule, when the man will have invested large sums, and then declare the licence void, it would not be fair. There must be some time-limit. I have provided for a period of one year. I hope both the amendments will be considered by the Minister for acceptance.

Mr. Deputy-Speaker: The amendments are before the House.

Shri K. D. Malaviya: I am afraid I cannot accept these amendments. There are many other conditions which I visualise, but it is no use going into them.

Pandit Thakur Das Bhargava (Hisar): We have got clause 4 which says:

“No person shall undertake any prospecting or mining operations

in any area, except under and in accordance with the terms and conditions of a prospecting licence or, as the case may be, a mining lease, granted under this Act and the rules made thereunder".

As if this was not enough, we have sub-clause (2) which says:

"No prospecting licence or mining lease shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder".

Apart from these, there are two other provisions in this Act under which powers have been given to the State and Central Governments to do certain things, which cover this clause.

Apart from this, if a person is found guilty of any fraud or mistake not brought about by his own action, no action may be taken against him. I go further and say that even if such a mistake is made or fraud committed, there is a limitation provided by the Limitation Act for all private contracts. But the Government do not want to provide any limitation. It may be that the mistake or fraud might be discovered after ten years. What would happen to that man? This is very unfair provision in favour of Government. They must fix some limit of time, so that the person knows where he stands. When we make a law, we should not make it in such a way that it takes away the provisions of the Limitation Act, which takes away the other safeguards which are provided by other laws e.g. the Law of Estoppel. Otherwise, it might be very tyrannical in its operation.

Here it says that it will be void if a mistake is discovered or fraud committed "in contravention of the provisions of this Act or any rules or orders"—if there is any infraction of any rule or provision. This is very wide. Government want to keep within the hollow of their hand any person who may not be even at fault.

The officers may be at fault and yet they do not provide even a limitation. I submit this House should not be a party to passing such a law which takes away the rights of a private citizen and puts him in jeopardy for no fault of his.

Shri K. D. Malaviya: I do not accept the amendments. I have already said that I visualise many other conditions.

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava's point is that there might be grave apprehensions if it is discovered after a long time. The individual might be put to great hardship.

Pandit Thakur Das Bhargava: For ordinary matters the limitation is 3 years. Let it be 3 years or 5 years.

The Minister of Steel, Mines and Fuel (Sardar Swaran Singh): If I may intervene, it is a simple point. All that I thought the House would be jealous about was that any law made by this House and placed on the statute-book should be obeyed. All that we say here is that the law should be obeyed. Any lease granted in contravention of the provisions will be void.

Pandit Thakur Das Bhargava: By whom? By Government also. Suppose the government officer is guilty of a mistake. Who should suffer?

Sardar Swaran Singh: If the government officer makes a mistake, he may also suffer. But that does not mean that the other party should get the advantage of the mistake.

Pandit Thakur Das Bhargava: How does the officer suffer?

Sardar Swaran Singh: Therefore, it is obvious that it is to cover cases where any lease is granted or renewed in contravention of the provisions. That obviously has to be void. All that the provision says is that it is void. Ordinarily, it should be void.

[Sardar Swaran Singh].—

So I do not think there is any new principle enunciated here.

Mr. Deputy-Speaker: I shall now put amendments Nos. 16 and 17 to vote.

The question is:

Page 11, line 23,—

after "acquired" insert "by fraud or misrepresentation practiced by the persons applying for it".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 11, line 24,—

add at the end—

"and the State Government or Central Government may, within one year from the date of grant or renewal, take action for declaring it void."

The motion was negatived.

The question is:

"That clause 19 stand part of the Bill".

The motion was adopted.

Clause 19 was added to the Bill.

Clauses 20 to 29 were added to the Bill.

Clause 30—(Power of revision of Central Government)

Shri Radhahal Vyas: I beg to move:

Page 14,—

after line 28, add—

"Provided that the Central Government shall not modify or reverse the order of a State Government unless a notice is served on the opposite party to show cause."

It is the fundamental principle of law that if an order is passed and if it is to be modified an opportunity should be given to the party who is to be affected thereby. This is a very simple amendment and I think this at

least should be acceptable to the hon. Minister. We have promised justice to all the parties and if anything is to be done or if an order is to be reversed, it should be done after due notice is given to the party concerned.

Mr. Deputy-Speaker: The amendment is before the House.

Shri K. D. Malaviya: I am afraid I cannot accept the amendment.

Mr. Deputy-Speaker: I put the amendment to the vote of the House.

The question is:

Page 14,—

after line 28, add—

"Provided that the Central Government shall not modify or reverse the order of a State Government unless a notice is served on the opposite party to show cause."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 30 stand part of the Bill".

The motion was adopted.

Clause 30 was added to the Bill.

New clause 30A

Shri Radhahal Vyas: Sir, I beg to move:

Page 14,—

after line 28, insert—

"30A. The State Government may, of its own motion or on application made by an aggrieved party, within the prescribed time for sufficient reasons review any order made by itself or other authority in exercise of the powers conferred on it by or under this Act."

Page 14,—

after line 26, insert—

"30A The Central Government may, of its own motion or an application made by an aggrieved party, within the prescribed time for sufficient reasons review any order made by itself or other authority in exercise of the powers conferred on it by or under this Act."

Page 14,—

after line 26, insert—

"30A Appearances before the State Government or Central Government may be made by the parties personally, or their authorised agents, or their legal practitioners who are entitled to practise in the High Courts or the Supreme Court"

Sir, provision has been made for revising an order made by any subordinate officer. Why should there be not power to review some mistake made by an officer or by the Government. It is always a statutory power to review an order passed by any authority. It should be there. Mistakes might be committed. The order in such a case should be got reversed by going into the question. One can go up to the Central Government to revise it. That can also be the way to get an order modified. But the simplest way may be that if any mistake is detected, the State Government should have the power on its own motion if it detects the mistake or if it is brought to the notice of the Government by any aggrieved party, to review that order.

Mr. Deputy-Speaker: All these amendments are before the House.

Shri K. D. Malaviya: I am afraid I cannot accept the amendment. There must be some finality somewhere.

Mr. Deputy-Speaker: I shall put the amendments to the vote of the House

The question is:

Page 14,—

after line 26, insert—

"30A The State Government may, of its own motion or an application made by an aggrieved party, within the prescribed time for sufficient reasons review any order made by itself or other authority in exercise of the powers conferred on it by or under this Act"

The motion was negatived.

Mr. Deputy-Speaker: The question is

Page 14,—

after line 26, insert—

"30A The Central Government may, of its own motion or an application made by an aggrieved party, within the prescribed time for sufficient reasons review any order made by itself or other authority in exercise of the powers conferred on it by or under this Act."

The motion was negatived.

Mr. Deputy-Speaker: The question is

Page 14,—

after line 26, insert—

"30A Appearances before the State Government or Central Government may be made by the parties personally, or their authorised agents, or their legal practitioners who are entitled to practise in the High Courts or the Supreme Court."

The motion was negatived.

Clause 31— (Relaxation of Rules in special cases).

Shri B. Das Gupta: Sir, I oppose this whole clause.

Mr. Deputy-Speaker: But he has no amendment. Is it advisable to do this at this late hour? Anyway, he may have a minute or two.

Shri B. Das Gupta: Clause 31 abrogates the whole principle. In the original draft, this was clause 28. Clause 31 reads:

"The Central Government may, if it is of opinion that in the interests of mineral development it is necessary so to do, by order in writing and for reasons to be recorded authorise in any case the grant, renewal or transfer of any prospecting licence or mining lease, or the working of any mine for the purpose of searching for or winning any mineral, on terms and conditions different from those laid down in the rules made under section 13."

Practically clause 13 covers the whole aspect of the mining, licensing and mining operation. It authorises the Central Government to do anything regarding mining lease, mining operation and mining development. I do not think that if we accept this clause, there is any necessity of the Bill. We may simply say that the Central Government is authorised to do anything regarding mining operation and mining development. There is no necessity of any other law or regulation. This clause convinces any person that it abrogates the whole clauses, the whole Bill.

Sardar Swaran Singh: This is only an emergency power which has to be exercised very rarely and it has to be exercised for special reasons and the reasons are to be recorded in writing.

Pandit Thakur Das Bhargava (Hissar): May I say that I expected Sardar Sahib to say at this stage that if there is any mistake in clause 19, it will be corrected here? The House will get some satisfaction if it is utilised for the purpose for which we failed to provide the remedy under clause 19. Then, there may be some justification for this provision. Sections 30 and 31 are practically on the same

point. I feel that in this Act, you have got overlapping provisions but if they are used for doing justice to those who are affected by clause 19, I think this power may be retained.

Sardar Swaran Singh: There is a great deal in what Pandit Thakur Das Ji says. If more time were available, we would have said that and perhaps a number of other things also.

Mr. Deputy-Speaker: The question is:

"That Clause 31 stand part 'of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clause 32 was added to the Bill.

Clause 33—(Validation of certain acts and indemnity)

Shri Naushir Bharucha: Sir, on this clause, I rise on a point of order—the final shot. This clause says: "All acts of executive authority done....shall be as valid and operative as if they had been done....in accordance with law".

Take this instance. Suppose under the Mines and Minerals Regulation Act of 1948, I am sentenced to imprisonment just five days prior to the commencement of this Act. Then I could not move the Supreme Court under article 32.

An Hon. Member: What is the point of order?

Shri Naushir Bharucha: You have not appreciated it.

My submission is this. I could understand if a right of appeal is taken away. Appeal is a statutory right. But the right of appeal to the Supreme Court is a fundamental constitutional right which no Act can take away. I cannot go to the Supreme Court because the words are: 'no suit or legal proceedings....'. Even an application for writ of mandamus or writ of certiorari is prevented. I submit that my right to go and move the

Supreme Court under articles 32, 225 and 227 is a constitutional right and no Act of Parliament can take it away.

Mr. Deputy-Speaker: This would not be affected even by this law, I am sure.

Shri Naushir Bharucha: My submission is that this is *ultra vires* the Constitution.

Mr. Deputy-Speaker: In all the Acts, this provision still remains. Still the prerogative is there and it would not be affected in spite of the passage of this Bill.

Shri Naushir Bharucha: Are we here to pass laws which we know are *ultra vires* the Constitution?

Mr. Deputy-Speaker: That is a constitutional right, independent of this. It is the inherent right of these courts. That is not affected by this procedure. That is my opinion. Anyhow, the hon. Minister may reply now.

Sardar Swaran Singh: I do not think there is anything unusual in this. This is the normal phraseology that we have adopted in so many other enactments. We should not leave it here. As pointed out, it does not take away the constitutional right.

Pandit Thakur Das Bhargava: I should like to be assured by the hon. Minister that no appeals are barred under this law. Suppose a person is convicted and he wants to appeal. I do not think that this law bars because it is an appeal against the Government not against any 'person' as given in this section. Appeals will not be barred, I think. I would like some light to be thrown on this point. If appeal is barred it would be a very serious thing.

17 hrs.

Mr. Deputy-Speaker: Even if the Minister says that it would not be barred, would it bind the courts? The

courts will interpret the words as they stand.

Pandit Thakur Das Bhargava: The words are: "continued against any person". Government is not a person. Appeal will certainly be allowed. If the word "person" means Government, I should think that the House will not be well advised in passing a measure like this. If a person is convicted you cannot take away his right of appeal. We should think twice before passing a measure like that. I do not think the hon. Minister does agree with me that no appeal shall be barred.

Sardar Swaran Singh: I do not think it takes away the right of appeal in cases where a person is convicted for contravening any of the provisions of the present Act. The right of appeal is governed by the Code of Criminal Procedure and that right is not abrogated by this.

Mr. Deputy-Speaker: The question is:

"That clause 33 stand part of the Bill."

The motion was adopted.

Clause 33 was added to the Bill.

The First Schedule and the Second Schedule were added to the Bill.

Mr. Deputy-Speaker: I think there are some amendments to Third Schedule.

Shri K. D. Malaviya: I beg to move:

Page 19, line 16,—

after "clauses" insert "(b)"

Page 19, line 21,—

for "clause (d)" substitute "clause (a)"

Mr. Deputy-Speaker: The question is:

Page 19, line 16,—
after "clauses" insert "(b)"

The motion was adopted

Mr. Deputy-Speaker: The question is:

Page 19, line 21,—
for "clause (d)" substitute "clause (a)"

The motion was adopted

Mr. Deputy-Speaker: The question is:

"That Thrd Schedule, as amended, stand part of the Bill."

The motion was adopted

The Thrd Schedule, as amended, was added to the Bill

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

Shri K. D. Malaviya: Sir, 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

DAMODAR VALLEY CORPORATION (AMENDMENT) BILL

Mr. Deputy-Speaker: We now go to the next item on the Agenda.

An Hon. Member: There is a Half-an-hour Discussion.

Mr. Deputy-Speaker: I presume that the hon. Member has agreed that that discussion will be postponed to the next session when he will give fresh notice.

The Minister of Irrigation and Power (Shri S. K. Patil): Sir, I beg to move:

"That the Bill to amend the Damodar Valley Corporation Act, 1948, as passed by Rajya Sabha, be taken into consideration."

The Damodar Valley Corporation Act was passed in 1948 for the establishment and regulation of a Corporation for the development of the Damodar Valley.

Section 4 of the Act lays down that the Corporation shall consist of a Chairman and two other Members.

Section 5(1) of the Act prescribes that every Member shall be a whole-time servant of the Corporation. The Corporation has accordingly been functioning with a whole-time Chairman and two whole-time members. What this new amending Bill now provides is that the rigidity or compulsion of all three members being whole-timers be taken away and there should be flexibility introduced, that they may be whole-timers or otherwise. Therefore, what we are trying to do is to introduce flexibility.

The functions of the Corporation may be divided into two parts: (1) Construction of projects for (a) the promotion and operation of schemes for irrigation, water supply and drainage, (b) generation, transmission and distribution of electrical energy and (c) flood-control, navigation, afforestation, control of soil erosion; and (2) Development of the region as a whole, including the promotion of public health, agricultural and industrial economy and the general well-being of the Damodar Valley and its area of operation.

In the implementation of the construction of projects undertaken by the Corporation, the following projects have already been completed:—

- (1) Tilaiya Dam and Hydro-electric Station;
- (2) Konar Dam;
- (3) Durgapur Barrage;