

take these miscellaneous matters in the evening I can ask the Minister to give the definite dates.

Shri N. R. Muniswamy (Vellore): All these years we have been having the same thing.

Mr. Speaker: These things are there. The order has been given by the hon. Minister. The time that has been allocated is already given in the Bulletin. Hon. Members shall have to work it out. Anyhow, I shall ask office to make an attempt to give the approximate dates. I shall have it circulated.

Shri S. M. Banerjee: Always the exact dates are given. I cannot understand why there should be this deviation from the old procedure.

ELECTION TO COMMITTEE

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

The Minister of Scientific Research and Cultural Affairs (Shri Humayun Kabir): Sir, I beg to move:

"That in pursuance of clause i(f) of paragraph 3 of the Ministry of Education Resolution No. F. 16-10/44-E.III, dated the 30th November, 1945, as amended from time to time, the members of Lok Sabha do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve as members of the All India Council for Technical Education for the next term beginning on the 30th April, 1961, subject to the other provisions of the said Resolution."

Mr. Speaker: The question is:

"That in pursuance of clause i(f) of paragraph 3 of the Ministry of Education Resolution No. F. 16-10/44-E.III, dated the 30th November, 1945, as amended from time to time, the members of Lok Sabha do proceed to elect, in such manner as the Speaker

may direct, two members from among themselves to serve as members of the All India Council for Technical Education for the next term beginning on the 30th April, 1961, subject to the other provisions of the said Resolution."

The motion was adopted

12.13 hrs.

RAILWAY PASSENGERS FARES (REPEAL) BILL—Contd.

Mr. Speaker The House will now proceed with the further consideration of the following motion moved by Shrimati Tarkeshwari Sinha on the 13th March, 1961, namely:

"That the Bill to repeal the Railway Passenger Fares Act, 1957 and to make certain provisions consequential thereto, be taken into consideration."

Regarding the point of order that was raised, I, no doubt, said that I do not agree with the point of order and, therefore, the Bill may be proceeded with. The Finance Commission which is a statutory commission makes certain recommendations and a Bill is passed here allocating so much of revenues to the States. Later on, the Railway Convention Committee, which is not a statutory body is appointed and it makes some recommendations. The recommendations are accepted by the House. There is nothing irregular. But one ought to know how this amount which has been allotted under the Railway Passenger Fares (Repeal) Bill is made up. A general impression is given that there will be a subsidy and so on. When the House passed an Act allocating some revenue to the States, it must know definitely how much is being given to the various States. Hon. Members come here from the various States. The allocation might be right or wrong. But, when once an Act has been passed here after mature consideration, basing its decision on the

[Mr. Speaker]

report of a statutory commission, it ought not to be left merely to Government to say that they are making another provision. That will be by-passing Parliament. Therefore, some details ought to be given.

I expected a Schedule about the amount that we are going to give to the various States. The hon. Members may ask:

'Why have you varied the percentages; why are you giving more to one State and less to another State! All these questions were there when the original Act was passed. I think that a good deal of information ought to come from the hon. Minister.

The Deputy Minister of Finance (Shrimati Tarkeshwari Sinha): Sir, the Finance Commission has yet to decide about the proceeds that should go to the respective States. A lump sum has been provided, a sum of Rs. 12.50 crores. The Finance Commission has yet to decide the details and so I am not in a position to place them before the House before the decision is taken by the Finance Commission. (*Interruption*).

Then, this Commission is a continuous body. So, it is open for the present Finance Commission to examine these proposals and allocate the revenues to the various States. The only change that will come is that instead of the allotment being from the proceeds of that tax, the new allotment would be given as an allocation to the States and the distribution will be similar. The respective amounts to be given to the various States will be decided by the Finance Commission. (*Interruptions*).

Mr. Speaker: Order, order. We will assume the Finance Commission makes a report. Would it be available to the House for discussion?

Shri Tangamani (Madurai): The next Finance Commission's report will become operative from the 1st

April, 1962. The previous Finance Commission has made its recommendation and the House has considered it and percentages have been allotted. The whole thing is being taken away. No percentage is being given to the States.

Mr. Speaker: The hon. House can give retrospective effect to any proposal.

Shrimati Tarkeshwari Sinha: It is open to discussion because the Finance Commission's recommendations are always available.

Mr. Speaker: Whatever recommendations the Finance Commission makes are placed on the Table of the House along with the President's order. The House will have an opportunity.

Shri Tyagi (Dehra Dun): It is always open.

Shri Mahanty (Dhenkanal): The third Finance Commission will submit its report which will have effect from 1st April, 1962. But from April 1961 to April 1962, the States will be left high and dry for the Government say that they are going to make an allocation. As you have rightly said, we should know how and on what basis. If we are told the basis we may not have any objection. But it is in the interests of the States and even in the interests of this House that Government should let us know the principle of allocation of these Rs. 12.50 crores which the Railways are going to contribute to the General Revenues. It is a simple matter.

Shri Vidya Charan Shukla (Baloda Bazar): The Deputy Minister was pleased to say that the Finance Commission is a continuous body. I do not know how it is so. I would like it to be clarified. The period for which the previous Commission was appointed is over.

Shrimati Tarkeshwari Sinha: Although the Finance Commission is

said to be appointed for a term, the problems before one Finance Commission can always be brought to the notice of the next Commission. The problems do not go with the term of the Finance Commission. Therefore, this particular problem of the previous Finance Commission will be looked into by the next Commission also. That is the only thing I submitted.

Shri Vidya Charan Shukla: The succeeding Finance Commission is not bound by the decisions of the earlier Commission.

Shrimati Tarkeshwari Sinha: I never said anything about the decisions. I only said that the problems which were before the one Commission are brought before the next Commission also. It is open to the Commission to take its own decisions.

Mr. Speaker: Now, we will proceed.

Shri Sadhan Gupta (Calcutta—East): Sir, I wish to raise a point of order. I submit that this Bill is out of order because....

Mr. Speaker: I have disposed it of.

Shri Sadhan Gupta: How, Sir?

Mr. Speaker: Yesterday the same point was raised....

Shri Sadhan Gupta: Before I state my point how can you say that, Sir?

Mr. Speaker: Another hon. Member raised this point.

Shri Sadhan Gupta: What point, Sir?

Mr. Speaker: The same point that he is now raising that the Bill is out of order.

Shri Sadhan Gupta: Sir, I am saying that the Bill is out of order because it is in direct violation of article 269 of the Constitution. I shall explain briefly how it is.

Under article 269 certain taxes are to be levied and collected by the Union; and under clause (1)(d) of article 269, the railway passenger fares and freights taxes is one of them. And, under clause (2) of the said article the net proceeds of the taxes collected outside the Union territories are to be distributed in accordance with the law formulated by Parliament. This Bill comes into operation on the 1st of April. One of the clauses provides for the repeal of section 5 of the Estate Duty and Railway Passenger Fare Tax Act, which provides for the distribution of the railway passenger fare tax to the different States. Now, the result is that, although we will be levying and collecting the railway passenger fare tax up to 31st March, 1961, from the 1st April, 1962 we shall be left with no legal authority to distribute the railway passenger fare tax collected upto 31st March, 1961 to the different States, because we are not saving the power of distributing on the existing basis. That is why it is in flat contradiction of article 269 and the Bill is out of order; it directly violates the Constitution.

Mr. Speaker: When does it come into force?

Shri Sadhan Gupta: 1st April, 1962.

Mr. Speaker: 1962?

Shri Sadhan Gupta: 1st April, 1961.

Mr. Speaker: If it comes into effect from 1st April, 1961, what prevents the existing Act being applied in respect of the amounts collected before the 1st April, 1961?

Shri Sadhan Gupta: Because section 5 is repealed from that date. Distribution will have to be made after the 1st April.

Mr. Speaker: That is not the construction. If whatever amount is collected under the existing law is distributed before the 31st of March, 1961, I am sure the hon. Member has no objection; the Act enables the Government to distribute within that period. Before the 1st of April, it is entitled to collect and distribute also.

Bill

[Mr. Speaker]

What he says is this. It will be collected. But from the 1st of April, 1961 the Bill is repealed and so the Government has no right to distribute it, if it had not already been distributed. My feeling is that the basis in the Act can continue to operate so far as this is concerned. If distribution had not physically taken place within that period, it can be done later; it is only an executive act. It is not that there is no authority for it. In any case, the Speaker does not take the responsibility of deciding a particular matter of constitutional propriety, merely by making a statement that it is in order or out of order. The hon. Members may take this also into consideration and need not pass the Bill if they feel so inclined.

There is one other thing also. If necessary, he can move an amendment. If he has any doubt, he may say that notwithstanding this clause, nothing shall prevent the Government from distributing the money or exercising the powers under this Act in the matter of distributing the proceeds realised before 31st March, 1961; there will be no difficulty.

Shri Vittal Rao may continue his speech now.

Shri Tangamani rose—

Mr. Speaker: How can he speak on behalf of Shri Vittal Rao? Shri Vittal Rao is not present. Very well. He may speak. Shri Vittal Rao would not be called again.

Shri Tangamani: Sir, some points which we wanted to raise have already been disposed of by you in your rulings on the two points of order. As the House is aware, the Second Finance Commission in paragraph 182 of its report says:

"While this recommendation may hold good for the period of five years ending 31st March 1962, we suggest that steps be taken to investigate if the railways could

not, without undue labour or expense, maintain state wise statistics of route mileage, traffic and earnings to facilitate the consideration of alternative methods of distribution."

If they are not going to stick to the percentage recommended in paragraph 180, what is the percentage which they are going to fix on the basis of the directive given by the Finance Commission.

What is contained in paragraph 180 is substantially stated in clause 5 of the Estate Duty and the Railway Passenger Fare Distribution Act of 1957, except that in the case of Andhra Pradesh it is 8.81 per cent in place of 8.86 per cent, Maharashtra 10.80, per cent.

Shri Rajendra Singh (Chapra): Sir, what is the time allotted for this discussion?

Mr. Speaker: We will take up the other business as soon as this discussion is over. This may not take more than 10-15 minutes.

Shri Tangamani: Section 6 of the Act has been repealed and we are not left with any percentage. The Finance Commission itself anticipates such a contingency and the percentage is also indicated. By this new Bill, the title of the original Bill will be amended. Instead of the Estate Duty and Railway Passenger Fare Tax Distribution Act of 1957, we will have an Act in respect of Estate Duty alone. Now, Rs. 612.50 crores is the amount which the 1960 Convention Committee had arrived at after studying the figures for the previous years. It had stated that in the year 1959-60 the actual collection was Rs. 12.77 crores. When the report of the Convention Committee was discussed in this House, many hon. Members stated that it was not going to be Rs. 12.77 crores but much more and that Rs. 12.50 crores was on the lower scale. So much so, what has been

rightly due to the various State Governments had been denied to them. I am not going into this particular point.

In paragraph 137 of the same report, the Commission dealt with the distribution of estate duty. It applied its mind not only to the question of distribution of the money that had been collected from revenue by taxing these fares; and I submit it indicates in what form the money had to be distributed. On page 52, they say:

"The sum apportioned to property other than immovable property be distributed among the States in proportion to their population. The percentage share of each State will be as follows:

Andhra Pradesh	8.76
Assam	.. 2.53
Bihar	.. 10.86
Bombay	.. 13.52
Kerala	.. 3.79
Madhya Pradesh	.. 7.30
Madras	8.40
Mysore	.. 5.43
Orissa	.. 4.10
Punjab	.. 4.52
Rajasthan	.. 4.47
Uttar Pradesh	17.71
West Bengal	7.37
Jammu and Kashmir	1.24"

Mr. Speaker: Is it in the old schedule?

Shri Tangamani: It is not in the old schedule. In the original schedule, they say that whatever has been collected will be distributed on a particular basis. That deals with the railway fares alone. Here for the estate duty they have got another schedule.

Mr. Speaker: So, this schedule is not for distribution of the tax?

Shri Tangamani: No. But what I am suggesting is that this schedule

may be followed for the purpose of distributing Rs. 12.50 crores.

Mr. Speaker: There is a separate schedule for the distribution of tax on railway fares and that is sought to be abolished now. All that the hon. Member suggests is that there is another schedule relating to the distribution of estate duty. Until such time the Finance Commission disposes of this matter and decides the percentage, this schedule may be adopted for distribution of that money also.

Shri Tangamani: There is a basis for that and they say it is on the basis of population that it is distributed. They have worked out and they say that Madras got 8.4 per cent etc.—I am not reading out the whole thing. My submission is, when there is no schedule which is going to govern them—there is an indication in the report of the Finance Commission itself—this schedule may be adopted for the purpose of distributing Rs. 12.50 crores. Because the scope of the Bill itself is limited, I am not going into the entire question as to how far the Convention Committee was justified etc. My limited purpose is to know—and I would like to have a definite reply from the hon. Deputy Minister—whether they are going to follow this schedule which is mentioned in paragraph 137 on page 52 of the report of the Second Finance Commission.

Mr. Speaker: The hon. Minister.

Shri Mahanty: Sir, I would like to raise one or two points and I may also be given two minutes.

Mr. Speaker: Has he not disposed of everything?

Shri Mahanty: That was on the point of order.

Mr. Speaker: All right, he may take two minutes.

Shri Mahanty: Sir, I want to speak on this Bill because this is a very serious matter and I do not consider

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this Bill as simple as the hon. Minister has thought it to be. Sir, there is one pernicious aspect of this Bill—I am sorry I used the word “pernicious”, if the word “pernicious” is offending I withdraw it. But there is an aspect of this Bill which is really somewhat very disturbing. The Railway Minister wanted to present a pre-election budget. Therefore, he wanted to show increased railway earnings.

Mr. Speaker: Order, order. I would call upon the hon. Minister to reply. This is a political speech that the hon. Member is making. What else is this? I allowed him an opportunity in the beginning. Every hon. Member is entitled to say what he has to say on a point of order. After I have disposed that of, it is open to him to say that he has some points on the merits of the Bill. He may make those points also. But I find that he is making a purely political speech. The hon. Minister—

Shri Mahanty: How is it a political speech? I am not making any political speech.

Mr. Speaker: There is no other purpose. Order, order. I must be satisfied that he wants to raise some reasonable point with respect to distribution etc. Shri Tangamani suggested that in the absence of any schedule the other schedule may be adopted. Any hon. Member can speak some such thing on the merits of the Bill. Here the hon. Member goes to the fundamentals and asks as to why these railway freights and fares are not followed. They are following the convention. The report of the Railway Convention Committee has been adopted—that is another matter and it is for the hon. Minister to explain. I am not going to allow another opportunity to any hon. Member merely to say that the Bill has been brought in view of the coming elections. What else is the hon. Member saying? I call upon the hon. Minister.

Shri Sadhan Gupta: Sir, on a point of clarification.

Mr. Speaker: No clarification.

Shri Sadhan Gupta: We have to speak in Parliament on Bills and so many other things. Is it your ruling that even if it is relevant we cannot make a political speech on a Bill if we think it is necessary to throw out the Bill?

Mr. Speaker: When I exercise my discretion to allow a second opportunity to any hon. Member I ought not to allow it to enable him merely to make a political speech. It is a propaganda matter. Of course, when I give the original opportunity hon. Members are entitled to speak what they want to. Even then if I find that they are speaking something irrelevant I can stop them. A second opportunity is given merely out of my discretion. There I am entitled to say that the hon. Member is not contributing anything substantial to the subject before the House—that is the matter of distribution—but something else. If he had said this originally I do not know what I would have done. Let me proceed now.

Shrimati Tarkeshwari Sinha: Sir, so far as the point raised by the hon. Member Shri Sadhan Gupta about the present arrangement of distribution of the proceeds after 31-3-1961 is concerned, it will be carried on according to the provisions of the General Clauses Act and, therefore, there there is no difficulty in regard to that.

The point which has been raised by Shri Tangamani, Mr. Speaker, is in contradiction with the approval which this House gave to the resolution itself by which it accepted the recommendations of the Railway Convention Committee. This Bill has come as an enabling measure. Because the House has already accepted the provisions of

the report of the Convention Committee and agreed to the principle contained therein, this Bill is only an enabling measure so that the recommendations of the House could be implemented effectively.

Shri Tangamani has expressed his apprehension about what is going to be the fate of the States in regard to distribution. Probably he knows that this tax was levied in 1957 and after that all these questions were considered by the Railway Convention Committee. They took the average of the working period of two years during which this tax was in operation. The average was taken for the years 1958-59 and 1959-60, and basing their knowledge and information on the average of these two years the Railway Convention Committee recommended that Rs. 12.5 crores should go to the State as a subvention and they should be given this amount as a lump sum. There has been no disturbance of the level of that subvention because this figure was worked out on the average earning of passenger fares tax. So there should be absolutely no apprehension in regard to the amount which should go to the States.

The reason why the Railways had to do this was fully explained by the hon. Railway Minister when this report was being considered by this House. At that time he tried to reply to all these points and he satisfied the House, and it was therefore that this House gave approval to the Railway Convention Committee's recommendations.

The point is that the railway passenger fares have remained unchanged from 1955-56 and 1957-58 onwards and the income from passenger fares has proved inadequate to cover the costs. The Railways are incurring a loss on the passenger side because the income from passenger fares is not adequate to meet the operational cost. There is a net loss to the Railways on this side. The Railways, therefore, were feeling that this measure is a little bit inelastic and the Railways should have a little elasticity which any commercial undertaking should have.

Every year the Railways are suffering a net loss on this side. After actual working the operational costs are found to be more than the earnings from passenger fares. That is why I said....

Shri Braj Raj Singh (Firozabad): Sir, I feel that the hon. Deputy Minister has not at all studied the report of the Convention Committee. As a matter of fact, that report has said that there were certain expenses incurred on accounting which were not necessary. Therefore, they are not genuine losses.

Shrimati Tarkeshwar Sinha: I have read the report of the Convention Committee and I stand by the remark that I have just now made when I said that the Railways have been suffering a net loss on the passenger side. I would request the hon. Member to study the details and see whether actually the operational costs are more than the earnings from passenger fares.

Shri Rajendra Singh: What is the basis for the hon. Deputy Minister's statement

Mr. Speaker: She has said that the report of the Railway Convention Committee itself says so and she is also strengthened in her view by reference to the reports of the Railway Board and so on.

Shrimati Tarkeshwari Sinha: The operational services of the Railways as a whole are not incurring a loss, but I am talking about the passenger fares.

Mr. Speaker: There is the goods traffic and other things.

Shrimati Tarkeshwari Sinha: The income from passenger fares is not able to cover the operational cost of the Railways.

Shri Rajendra Singh: What is the basis of that.

Mr. Speaker: She has said that.

Shri Rajendra Singh: It is not there.

Mr. Speaker: It is a matter of opinion. She is not bound to say that.

Shri Rajendra Singh: May I know who has worked it out?

Shrimati Tarkeshwari Sinha: The hon. Member would kindly try to understand the difference between the two.

Mr. Speaker: Are we having a *viva voce* examination here?

Shrimati Tarkeshwari Sinha: The Railways are able to meet the cost from the goods traffic and not from the passenger traffic. The hon. Member should make a difference between passenger traffic and goods traffic. I am only saying that the income from passenger fares is much less than the operational costs on passengers' side and the Railways are incurring a loss on that account. Therefore, in order to make the scope of passenger fares more elastic the Railways have brought in this arrangement. The Railway Convention Committee was aware of all these aspects. They took into consideration all these points and it was only after that that they thought it wise to recommend to the Railways to give a subvention, of a lump sum to the States. I do not think this is in any way going to affect the proceeds which is likely to go to the States. After all, Sir, the working average for two years has been taken and the House should have no reason to presume now whether the railway earnings would be more or less. It is only a presumptive argument that the hon. Members opposite have raised. The facts of the case are that the average of two years' working has been taken into consideration and it was only basing on this average working of these passenger fares for two years that the Railway Convention Committee came to this conclusion.

So far as the point about distribution is concerned, I would again repeat that it has yet to be done. It has to be done by the Finance Commission, and they will certainly take into consideration every need of every State and they will see how this lump sum is to be distributed among the respective States. So, unless and until we know the recommendations of the Finance Commission, whatever expressions of apprehension are made can only be said to be imaginative. I have nothing more to say.

With these words, I commend the Bill for the acceptance of the House.

Mr. Speaker: The question is:

"That the Bill to repeal the Railway Passenger Fares Act, 1957 and to make certain provisions consequential thereto, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3— (*Amendment of Act 57 of 1957*).

Shri Sadhan Gupta: Regarding clause 3 which is the crucial clause with respect to which I had raised the point of order I do not think the hon. Minister is on very safe grounds in relying on the General Clauses Act. Presumably she means section 5 of that Act. Under the General Clauses Act a liability that is incurred continues despite the repeal of the section. This particular section, section 5 does not impose a liability. It confers an authority. There is no liability incurred to distribute in a certain manner. Under article 269 of the Constitution there is only an authority given to distribute in a particular manner.

Mr. Speaker: If the authority is for collection, distribution is an obligation. Is it not?

Shri Sadhan Gupta: It is an obligation but that obligation has to be discharged or exercised in accordance with certain principles formulated by Parliament by law and this is the principle formulated by law. When that is the position, if anything is still outstanding for distribution, there will be no principle formulated according to which distribution can be made. Therefore, even at this stage, I would request the hon. Minister to introduce an amendment saving the operation of section 5 as regards the outstandings and thereby to make it constitutional. Otherwise it would be unconstitutional and I think there is no reason why this cannot be done.

Shrimati Tarkeshwari Sinha: I do not think it is necessary at all. It would be covered by the General Clauses Act.

Mr. Speaker: Very well; there is difference of opinion in the matter. The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Speaker: The question is:

"That clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

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

Shrimati Tarkeshwari Sinha: I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

GENERAL BUDGET—GENERAL DISCUSSION—Contd.

Mr. Speaker: The House will now take up further discussion of the general budget. Shri N. R. Muniswamy may continue his speech.

Shri N. R. Muniswamy (Vellore): Mr. Speaker, Sir, last evening I began by saying a few words about the general aspects of the budget. The Finance Minister has had certain basic ideals in preparing the budget, and broadly speaking they are these: firstly, sacrifice. The Finance Minister wants everyone to make some sacrifice with a view to develop the country. Secondly, the spreading over of the taxes on all sections of the people and not impose them on any one section alone to feel the brunt. Thirdly, the Finance Minister wants to encourage exports and discourage imports. Also, he wants to discourage consumption and encourage investments. There are other aspects also, but these are the basic ideals with which the present budget has been brought forward before us.

12.46 hrs.

[SHRI HEDA in the Chair]

We have to examine whether these basic ideals are in conflict with the proposals of the budget or are in conformity with it. While examining this, I find that the Finance Minister has already given a convincing reply, in his speech in the other House, to all the criticisms that had been levelled against the budget. But one has to devote a second thought to it and see whether those reasons are convincing or not. I shall take up a few salient features of the budget in this regard. They are four in number: the first is the balance of payments position; the second is the economic policy and measures; the third is the taxation policy; and the last is the growth of expenditure. When we examine these four aspects, we have to see whether the basic ideals on which he prepared the budget are in conformity with or in conflict with the budget.