

LOK SABHA DEBATES

SECOND SERIES

VOLUME X, 1957

9th December to 21st December, 1957



THIRD SESSION, 1957

(Vol. X contains Nos. 21 to 32)

**LOK SABHA SECRETARIAT
NEW DELHI**

CONTENTS

COLUMNS

No. 21.—*Monday, 9th December, 1957.*

Oral Answers to Questions—

Starred Questions Nos. 900 to 904, 906, 907, 909, 912 to 914, 916 and 918 to 921 4125—59

Written Answers to Questions—

Starred Questions Nos. 905, 910, 911, 915, 917, 922 to 928 and 487 4159—66

Unstarred Questions Nos. 1293 to 1371 and 1373 to 1375 4166—4219

Re. Investments of Life Insurance Corporation in the firm of Mundras 4219

Papers laid on the Table 4219—20

Message from Rajya Sabha 4220

Mines and Minerals (Regulation and Development) Bill—

Extension of Time for Presentation of Report of Joint Committee 4220

Re. Adjournment Motion about labour situation in Kanpur 4221

Preventive Detention (Continuance) Bill—

Motion to consider 4221—4336

Daily Digest 4337—42

No. 22.—*Tuesday, 10th December, 1957.*

Oral Answers to Questions—

Starred * Questions Nos. 929 to 936, 938 to 940, 942 to 948, 952 to 954 and 956 4343—82

Written Answers to Questions—

Starred Questions Nos. 937, 941, 949, 951, 955, 957 to 962, 962-A, 963 to 979, 979-A, 980 and 981 4382—4400

Unstarred Questions Nos. 1376 to 1388 and 1390 to 1460 4400—52

Papers laid on the Table 4452—53

Business Advisory Committee—

Fifteenth Report 4453

Preventive Detention (Continuance) Bill—

Motion to consider 4453—4580

Clauses 2 and 1 4517—69

Motion to pass 4569

Payment of Wages (Amendment) Bill—

Motion to consider 4579—84

Daily Digest 4585—90

No. 23.—*Wednesday, 11th December, 1957.*

Oral Answers to Questions—

Starred Questions Nos. 983, 984, 986, 987, 990 to 992, 994 to 996, 998 to 1000, 1002, 1004, 1008 to 1010 and 1014 to 1019 4591—4626

Written Answers to Questions—

Starred * Questions Nos. 985, 989, 993, 997, 1001, 1003, 1005 to 1007, 1011 to 1013, 1020 to 1025 and 1027 to 1052 4626—50

Unstarred Questions Nos. 1461 to 1544 4650—98

Papers laid on the Table 4698—4702

Messages from Rajya Sabha 4702

Indian Reserve Forces (Amendment) Bill—

Laid on the Table as passed by Rajya Sabha 4702

Committee on Private Members' Bills and Resolutions—	
Eleventh Report	4703
Business Advisory Committee—	
Fifteenth Report	4703-04
Payment of Wages (Amendment) Bill—	
Motion to consider	4705-98
Clauses 2 to 8 and 1	4773-99
Motion to pass, as amended	4790
Delhi Development Bill—	
Motion to consider as reported by Joint Committee	4799-4852
Daily Digest	4853-60

No. 24.—Thursday, 12th December, 1957.

Oral Answers to Questions—

Starred * Questions Nos. 1053, 1055 to 1061, 1063, 1066, 1067, 1069 to 1080. 4161-97

Written Answers to Questions—

Starred Questions Nos. 1054, 1062, 1064, 1065 and 1068 4897-99

Unstarred Questions Nos. 1545 to 1602, 1604 and 1605 4899-4935

Papers laid on the Table 4936

Messages from Rajya Sabha 4936-37

Calling attention to matter of urgent public importance—

Stay-in-strike of workers Muir Mills, Kanpur 4937-39

Election to Committee 4939-40

Citizenship (Amendment) Bill—introduced 4940-42

Business of the House 4942

Delhi Development Bill, as reported by Joint Committee—

Motion to consider 4943-5057

Clauses 2 to 60 and 1 4974-5053

Motion to pass, as amended 5053

Union Duties of Excise (Distribution) Bill and

Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill—

Motions to consider 5058-90

Daily Digest 5091-96

No. 25.—Friday, 13th December, 1957.

Oral Answers to Questions

Starred * Questions Nos. 1081 to 1086, 1088 to 1090, 1098, 1099 and 1103 to 1112 5097-5134

Written Answers to Questions—

Starred Questions Nos. 1087, 1091, 1092 to 1097, 1100, 1101 and 1113 to 1125 5133-45

Unstarred Questions Nos. 1606 to 1672 5145-67

Business of the House 5187-88

Correction of Answer to Unstarred Question No. 56 5188

Papers laid on the Table 5188-89

Requisitioning and Acquisition of Immovable Property (Amendment) Bill Introduced 5189

Union Duties of Excise (Distribution) Bill and Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill— Motion to consider	5189—5265
Union Duties of Excise (Distribution) Bill— Clauses 1 to 6	5262
Motion to pass	5262
Estate duty and Tax on Railway Passenger Fares (Distribution) Bill— Clauses 1 to 6	5262
Motion to pass	5262
Demands for Supplementary Grants—General	5265—71
Committee on Private Members' Bills and Resolutions— Eleventh Report	5275
Resolution re: Second Five Year Plan	5276—5311
Resolution re: Provision for Major Port at Paradip	5311—18, 5323—47
Additional Duties of Excise (goods of special importance) Bill—Introduced Statement re: Reduction of Excise Duty on Cotton Fabrics and withdrawal of Excess Production rebate	5322—23
Resolution re: Committee to Review working of Scheduled Banks for purpose of Nationalisation	5348
Daily Digest	5349—54

No. 26.—Saturday, 14th December, 1957.

Member Sworn	5355—56
Papers laid on the Table	5356
Business of the House	5357—59
Demands for Supplementary Grants	5359—5417
Indian Tariff (Second Amendment) Bill— Motion to consider	5417—86
Clauses 2, 3 and 1	5481—86
Motion to pass	5486
Parliament (Prevention of Disqualification) Bill— Motion to refer to Joint Committee	5486—5512
Daily Digest	5513—14

No. 27.—Monday, 16th December, 1957.

Oral Answers to Questions—

Starred* Questions Nos. 1126, 1128, 1130 to 1133, 1137, 1142, 1144, 1147, 1149, 1150, 1152, 1156, 1157, 1160, 1162 and 1167 to 1169	5515—52
--	---------

Short Notice Question No. 5	5552—55
---------------------------------------	---------

Written Answers to Questions—

Starred Questions Nos. 1126-A, 1129, 1134 to 1136, 1138 to 1141, 1143, 1145, 1146, 1148, 1151, 1153 to 1155, 1158, 1159, 1161, 1164 to 1166 and 1171 to 1189	5556—77
--	---------

Unstarred Questions Nos. 1673 to 1733	5577—5612
---	-----------

Motion for adjournment—

Inadequate arrangements in connection with inauguration of suburban Electric —Railway system at Howrah	5612—26
---	---------

Message from Rajya Sabha	5616
------------------------------------	------

Mines and Minerals (Regulation and Development) Bill—

Report of Joint Committee Formed	5616
--	------

	Columns
Prevention of Disqualification (Amendment)	
Bill—Introduced	5616
Appropriation (No. 5) Bill—Introduced	5617—33
Motions to consider and pass	5622
Parliament (Prevention of Disqualification) Bill—	
Motion to refer to Joint Committee	5623—5703
Additional Duties of Excise (Goods of Special	
Importance) Bill	5703—98
Motion to consider—	
Investments of Life Insurance Corporation Funds	5738—80
Business Advisory Committee—	
Sixteenth Report	5762
Daily Digest	5781—86
No. 28.— <i>Tuesday 17th December, 1957.</i>	
Oral Answers to Questions—	
Starred* Questions Nos. 1190 to 1192, 1194 to 1202 and 1204	5787—5819
Written Answers to Questions—	
Starred Questions Nos. 1193, 1203, 1205 to 1227 and 908	5819—39
Unstarred Questions Nos. 1734 to 1782, 1784 to 1795 and 1797 to 1802	5834—72
Papers laid on the Table	5873
Business Advisory Committee—	
Sixteenth Report	5873—76
Statement re Interim Report of Pay Commission	5876—77
Conviction of a Member	5877—78
Prevention of Disqualification (Amendment) Bill—	
Motion to consider and to pass	5878—79
Motion Re International Situation	5879—6018
Business of the House	5973—74
Daily Digest	6019—24
No. 29.— <i>Wednesday, 18th December, 1957.</i>	
Oral Answers to Questions—	
Starred* Questions Nos. 1228, 1229, 1232 to 1235, 1237, 1238, 1241 to 1243, 1245, 1247 to 1250, 1252, 1254 to 1256 and 1258	6025—61
Written Answers to Questions—	
Starred Questions Nos. 1230, 1231, 1239, 1240, 1244, 1246, 1251, 1253, 1257, and 1259 to 1300	6061—90
Unstarred Questions Nos. 1803 to 1850, 1852 to 1890 and 1892 to 1904	6090—6157
Point of Information	6157
Motion for Adjournment—	
Inadequate arrangements in connection with inauguration of suburban Electric Railway system at Howrah	6157—64
Papers laid on the Table	6164—66
Message from Rajya Sabha	6166
Damodar Valley Corporation (Amendment) Bill—	
Laid on the Table as passed by Rajya Sabha	6166
Committee on Private Members' Bills and Resolutions	
Twelfth Report	6166
Committee on Petitions—	
Second Report	6167

Estimates Committee—	
First Report	6167
Public Accounts Committee—	
Second Report	6167
Additional Duties of Excise (Goods of Special Importance) Bill—	
Motion to consider	6167—6233
Clauses 2 to 7, the Schedules and clause 1.	6223—28
Motion to pass as amended	6229
Re : Laying of Report of Commission for Scheduled Castes and Scheduled Tribes on riots in Ramanathapuram	6234—50
Motion Re. Reports of Commissioner for Scheduled Castes and Scheduled Tribes	6250—6308
Half-an hour discussion re. Education Minister's Conference	6308—26
Daily Digest	6327—34
No. 30.—Thursday, 19th December, 1957.	
Oral Answers to Questions—	
Starred* Questions Nos. 1301 to 1308, 1311 1315 to 1313, 1315 to 1318, 1320 to 1323, 1324-A and 1328 to 1330;	6335—71
Short Notice Question No. 6	6371—73
Written Answers to Questions—	
Starred Questions Nos. 1309, 1310, 1314, 1319, 1324, 1325 to 1327, 1331 to 1342, 1345 to 1358, 1360 to 1378 and 1378-A	6373—6401
Unstarred Questions Nos. 1905 to 1921, 1923 to 1929, 1929-A, 1930 to 1977, 1977-A, 1978 to 1993 and 1995 to 2027	6401—71
Motion for Adjournment—	
Alleged threat of strike by Delhi State Teachers' Association	6471—72
Papers laid on the Table	6472—73
Messages from Rajya Sabha	6473-74, 6627-28
Motion Re : Reports of Commissioner for Scheduled Castes and Scheduled Tribes	6474—6578
Motion Re : Report of State Trading Corporation of India (Private) Limited	6579—6627
Union Duties of Excise (Distribution) Bill—	
Laid on the Table as passed by Rajya Sabha	6228
Estate Duty and Tax on Railway Passengers	
Fares (Distribution) Bill—	
Laid on the Table as passed by Rajya Sabha	6228
R Notes by Members on Reports by Commissioner for Scheduled Castes and Scheduled Tribes	6229-30
Daily Digest	6631—40
No. 31.—Friday, 20th December, 1957	
Oral Answers to Questions—	
Starred* Questions Nos. 1379 to 1387, 1390 to 1395, 1397 to 1401 and 1414	6641—80
Short Notice Questions Nos. 7 and 8	6680—86
Written Answers to Questions—	
Starred Questions Nos. 1388, 1389, 1396, 1402 to 1413, 1414-A, 1415 to 1425 and 1427 to 1433	6686—6706
Unstarred Questions Nos. 2028 to 2050 and 2052 to 2140	6706—72
Death of Shri Lingaraj Mishra	6772
Papers laid on the Table	6772—74
Committee on Absence of Members—	
Fourth Report	6774
Calling attention to matter of urgent public importance—	
Threatened strike of Parwaris of Delhi	6774—75
Motion re. Reports of Commissioner for Scheduled Castes and Scheduled Tribes	6775—6929

Committee on Private Members' Bills and Resolutions—	
Twelfth Report	6929
Delhi Regulation and Supervision of Educational Institutions Bill—Introduced	6930
Code of Criminal Procedure (Amendment) Bill—Introduced	6930
All India Institute of Medical Sciences (Amendment) Bill—withdrawn	6930-31
National and Festival Paid Holidays Bill—	
Motion to consider	6931-60
Punishment for Molestation of Women Bill—	
Motion to consider	6959-80
President's Assent to Bills	6989
Half-an-hour discussion regarding vegetable Oils and Anti-Oxidant	6990-99
Daily Digest	7001-10
No. 32.—Saturday, 21st December, 1957	
Oral Answers to Questions—	
Short Notice* Question No. 9	7011-13
Papers laid on the Table	7013-15
Committee on Subordinate Legislation—	
Second Report	7015
Calling attention to matter of urgent public importance—	
Closure of Mills at Kanpur	7015-16
Point of information	7016-17
Leave of absence	7017
Union Duties of Excise (Distribution) Bill—	
Amendment recommended by Rajya Sabha agreed to	7018-19
Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill—	
Amendment made by Rajya Sabha agreed to	7019-20
Countess of Dufferin's Fund Bill—	
Motion to consider	7020-73
Clauses 2—4 and 1	7061-69
Motion to pass	7069
Point <i>re</i> . Expropriations	7073-74
Business of the House	7074-75
Citizenship Amendment Bill—	
Motion to consider	7075-89
Clauses 2 and 1	7087-89
Motion to pass	7089
Bill passed	7089
Mines and Minerals (Regulation and Development) Bill as reported by Joint Committee—	
Motion to consider	7090-7175
Clauses 2 to 33 and 1	7126-74
Motion to pass, as amended	7174
Damodar Valley Corporation (Amendment) Bill as passed by Rajya Sabha—	
Motion to consider	7179-80
Clauses 1 and 2	7190
Motion to pass	7190
Daily Digest	7199-720
Resume of the Session	7201-0

N.B.—The sign + above a name of a Member on Questions which were orally answered indicates that the Question was actually asked on the floor of the House by that Member.

LOK SABHA DEBATES

7011

7012

LOK SABHA

Saturday, 21st December 1957.

The Lok Sabha met at Eleven of the Clock.

[Mr. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

Short Notice Question and Answer

NARSING GIRJEE MILLS LTD.,
SHOLAPUR

†
S N Q. 9. { Shri Khadilkar:
 Shri More:

Will the Minister of Labour and Employment be pleased to state:

(a) whether it is a fact that the Provident Fund dues amounting to Rs. 9 lakhs with the management of the Narsing Girjee Mills Ltd., Sholapur, were allowed to be converted into Debentures;

(b) if so, by whose authority this conversion took place;

(c) whether the Commissioner for Provident Fund has sanctioned this conversion of provident fund collections into Debentures;

(d) whether this conversion was at par and whether any brokerage or commission was given to anyone; and

(e) if so, to whom?

The Deputy Minister of Labour (Shri Abid Ali): (a) No. Debentures worth Rs. 9.13 lakhs were accepted in 1954 as security from the Mills pending payment of the provident fund dues

(b) to (e). Do not arise.

318 L.S.D.—1.

Shri Khadilkar: Is it not a fact that an assurance on the floor of the House was repeatedly given by the Minister of Labour that the provident fund money belonging to the workers would be considered as a separate trust?

Shri Abid Ali: According to the provisions of the Act, the amount collected by the employers on account of provident fund and their own dues should be deposited in Government securities.

Shri Khadilkar: Is Government aware that this mill has gone into liquidation and a liquidator has been appointed by the Bombay High Court? May I know how this conversion into debentures of an almost bankrupt concern was allowed?

Shri Abid Ali: According to the investigation, the assets of the mill are worth Rs. 30 lakhs. The provident fund amount due from the mill totalled about Rs. 28 lakhs. Out of this Rs. 13 lakhs and odd have been collected and Rs. 14 lakhs and odd are due Debentures for about Rs. 11 lakhs and odd have been taken as a first charge on the assets and for Rs. 3 lakhs guarantee from the employer, which, of course, is not very much secure

Shri Prabhat Kar: May I know whether according to the Provident Fund Act, the money belonging to the provident fund is only to be invested in trust securities or whether debentures can be taken?

Shri Abid Ali: As I have said earlier, the amount has to go to Government securities. But as the mill was not paying and when Rs. 4 lakhs became due in February 1954, we wanted to take action. The Bombay Government was of opinion that if

recovery proceedings were instituted at that stage, the mill would close. They recommended that the mill should be allowed to continue working, so that the workers, numbering more than 4,000, would not be rendered unemployed, and that debentures should be taken as first charge on the asset. That was the only basic course possible and that was taken.

Shri Khadilkar: May I know whether the Minister is aware that after giving this facility, the mill did not work, that labourers are unemployed and their ordinary dues of provident fund are not being paid?

Shri Abid Ali: What I mentioned was concerning February, 1954. The mill continued working till August, 1957, because of that facility which was given.

Shri Prabhat Kar: When this infringement of the investment of provident fund money was made in 1954, may I know what steps Government had taken against the company for this infringement?

Shri Abid Ali: Debentures were taken and also subsequently prosecution was started. Two prosecutions were started and recovery proceedings also were started. Recovery proceedings have come to a stage where they could not proceed further, because of the mill having gone into liquidation. In one prosecution, the two directors have been fined and the other case is pending.

PAPERS LAID ON THE TABLE

REPORT ON COMPENSATION TO BE PAID ON NATIONALISATION OF KOLAR GOLD MINES

The Minister of Mines and Oil (Shri K. D. Malaviya): I beg to lay on the Table a copy of the Report of the Ad Hoc Committee on the Compensation to be paid on the Nationalisation of the Kolar Gold Mines. [Placed in Library. See No. LT-477/57.]

REPORT ON INDIAN AIRLINES CORPORATION'S FARES AND FREIGHT RATES

The Minister of State in the Ministry of Transport and Communications (Shri Humayun Kabir): I beg to lay on the Table a copy of Report of the Air Transport Council on Indian Airlines Corporation's Fares and Freight Rates (May 1957). [Placed in Library. See No. LT-478/57.]

REPORT OF INDIAN GOVERNMENT DELEGATION TO 40TH SESSION OF I.L.C.

The Deputy Minister of Labour (Shri Abid Ali): I beg to lay on the Table a copy of the Report of the Indian Government Delegation to the 40th Session of the International Labour Conference (June 1957). [Placed in Library. See No. LT-479/57.]

AMENDMENT TO EMPLOYEES' PROVIDENT FUNDS SCHEME

Shri Abid Ali: I beg to lay on the Table, under sub-section (2) of Section 7 of the Employees' Provident Funds Act, 1952, a copy of Notification No. S.R.O. 3972, dated the 14th December, 1957, making certain further amendment to the Employees' Provident Funds Scheme, 1952. [Placed in Library. See No. LT-480/57.]

NOTIFICATIONS ISSUED UNDER SEA CUSTOMS ACT, 1878

The Deputy Minister of Finance (Shri B. R. Bhagat): I beg to lay on the Table, under sub-section (4) of Section 43B of the Sea Customs Act, 1878, a copy of each of the following Notifications:—

- (1) S.R.O. No. 3585, dated the 6th November, 1957.
- (2) S.R.O. No. 3586, dated the 6th November, 1957, containing the Customs Duties Drawback (Dye Stuffs) Rules, 1957 [Placed in Library. See No. LT-481/57.]

attention to matter of
Urgent Public Importance

NOTIFICATIONS ISSUED UNDER PUBLIC
DEBT ACT

Shri B. R. Bhagat: I beg to lay on the Table, under sub-section (3) of Section 28 of the Public Debt Act, 1944, a copy of each of the following Notifications:—

- (1) S.R.O. No. 2286, dated the 13th October, 1956, making certain further amendment to the Public Debt (Compensation Bonds) Rules, 1954.
- (2) S.R.O. No. 2287, dated the 13th October, 1956, making certain further amendment to the Public Debt (Annuity Certificates) Rules, 1954.
- (3) S.R.O. No. 1156, dated the 13th April, 1957, making certain further amendment to the Public Debt (Compensation Bonds) Rules, 1954. [Placed in Library. See No. LT-482/57.]

MINUTES OF COMMITTEE ON ABSENCE
OF MEMBERS

Shri Mulchand Dube (Farrukhabad): I beg to lay on the Table the Minutes of the Sittings (Third and Fourth) of the Committee on Absence of Members from the sittings of House, held during the Third Session. [Placed in Library. See No. LT-483/57.]

COMMITTEE ON SUBORDINATE
LEGISLATION

SECOND REPORT

Sardar Hekam Singh (Bhatinda). I beg to present the Second Report of the Committee on Subordinate Legislation.

CALLING ATTENTION TO MATTER
OF URGENT PUBLIC IMPORTANCE

CLOSURE OF MILLS AT KANPUR

Shri S. M. Banerjee (Kanpur): Under Rule 197, I beg to call the attention of the Minister of Commerce

and Industry to the following matter of urgent public importance and I request that he may make a statement thereon:—

"Reported closure of Kanpur Cotton Mills Ltd., and the Atherton West Mills, Kanpur".

The Minister of Commerce (Shri Kanungo): Messrs Kanpur Cotton Mills, Kanpur, is closed with effect from the 2nd December, 1957. The number of workers affected is 4,124. The reasons attributed for the closure of the mills are (a) continued heavy financial losses, (b) accumulation of stock and (c) surplus labour. The Mills were surveyed recently by the Textile Commissioner in connection with their application for a loan from the National Industrial Development Corporation. The survey report showed that the company had frittered away its resources in investments of doubtful nature. The company's policy of investment was also of a speculative nature. Government have been informed by the management that the mills are not interested in the loan from the National Industrial Development Corporation and that they would like to dispose of the mills by sale. Under the circumstances, Government also consider that this is the best course open to the mills.

MESSRS ATHERTON WEST AND COMPANY
LTD., KANPUR

Government have received information that this mill have put up a notice on 2nd December, 1957 that the mill will be closed from 1st January, 1958 due to accumulation of stock and financial losses. The mills' labour strength is 2,946. The mills have not applied for any loan from the National Industrial Development Corporation. Government are ascertaining the facts in regard to the closure of this mill.

POINT OF INFORMATION

Shrimati Renu Chakravarty (Basirhat): Now all the various papers are laid on the Table because this is

[Shrimati Renu Chakravarty]

the last day. I just want to know what has happened to the report of the N.E.F.A. air crash. We have been waiting for this report uptill now, it has not been laid on the Table

Mr. Speaker: The hon lady Member wants to know about the report promised to be laid on the Table relating to the N.E.F.A. air crash.

The Minister of State in the Ministry of Transport and Communications (Shri Humayun Kabir): As I told the House on an earlier occasion, nobody could get near that spot at that time. But after the monsoons were over, we have sent an officer to that place. It will take approximately three weeks to go there and another three weeks to come back. As soon as the report is available, I will place a copy on the Table of the House.

Mr. Speaker. During next session?

Shri Humayun Kabir Yes I hope to

LEAVE OF ABSENCE

Mr. Speaker The Committee on Absence of Members from the sittings of the House in their Fourth Report have recommended that leave of absence may be granted to the following members for the periods indicated in the report —

- (1) Shri B ren Roy
- (2) Shri K T K Tangamani
- (3) Shri C R Narasimhan
- (4) Shri S C Chowdhury
- (5) Shri Mahadeo Prasad
- (6) Shri B Pocker

I take it that the House agrees with the recommendations of the Committee

Hon. Members. Yes

Mr. Speaker: The Members will be informed accordingly

UNION DUTIES OF EXCISE (DISTRIBUTION) BILL

The Deputy Minister of Finance (Shri B. E. Bhagat): Shall I move both the Union Duties of Excise (Distribution) Bill and the Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill together?

Mr. Speaker: He may move one after the other

Shri B. E. Bhagat: I beg to move that the following amendment recommended by Rajya Sabha in the Bill to provide for the distribution of a part of the net proceeds of certain Union duties of excise among the States, be taken into consideration:—

"That at page 1, in the long title, the following be added at the end, namely —

'in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report, dated the 30th day of September, 1957' "

Shri B. E. Bhagat. I beg to move that the following amendment made by Rajya Sabha in the Bill to provide for the distribution of the net proceeds of the estate duty

Mr. Speaker Let us take them one by one. Both of them cannot be taken together. They are two distinct Bills. There is no meaning in taking both of them together. I shall now put this motion to the vote of the House.

The question is that the following amendment recommended by Rajya Sabha in the Bill to provide for the distribution of a part of the net proceeds of certain Union duties of excise among the States, be taken into consideration

"That at page 1, in the long title, the following be added at the end, namely.—

'in pursuance of the principles of distribution formu-

lated and the recommendations made by the Finance Commission in its report, dated the 30th day of September, 1957.' "

The motion was adopted.

Shri B. R. Bhagat: I beg to move:

"That the amendment recommended by Rajya Sabha be agreed to."

Mr. Speaker: I shall now put the motion to the vote of the House.

The question is:

"That the amendment recommended by Rajya Sabha be agreed to."

The motion was adopted.

ESTATE DUTY AND TAX ON RAILWAY PASSENGER FARES (DISTRIBUTION) BILL

Shri B. R. Bhagat: I beg to move that the following amendment made by Rajya Sabha in the Bill to provide for the distribution of the net proceeds of the estate duty and the tax on railway passenger fares among the States be taken into consideration:—

"That at page 1, in the long title, the following be added at the end, namely:—

"in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report, dated the 30th day of September, 1957.' "

Mr. Speaker: I shall now put the motion to the vote of the House.

The question is:

that the following amendment made by Rajya Sabha in the Bill to provide for the distribution of the net proceeds

of the estate duty and the tax on railway passenger fares among the States be taken into consideration:—

"That at page 1, in the long title, the following be added at the end, namely:—

"in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report, dated the 30th day of September, 1957.' "

The motion was adopted.

Shri B. R. Bhagat: I beg to move:

"That the amendment made by Rajya Sabha be agreed to".

Mr. Speaker: I shall put the motion to the vote of the House.

The question is:

"That the amendment made by Rajya Sabha be agreed to."

The motion was adopted.

COUNTESS OF DUFFERIN'S FUND BILL

Mr. Speaker: We will now take up "Bills for consideration and passing".

Shri V. P. Nayar (Quillon): May I raise a point of order about the competence of this House to discuss this Bill?

Mr. Speaker: Let the Minister first move the motion.

Shri V. P. Nayar: If my point of order is sustained, we cannot discuss this matter at all.

Mr. Speaker: That is another matter. No point of order can be raised unless a motion is before the House. We do not raise points of order because the items are in the agenda. We have got rules in the matter. Let the motion be moved first. Then we will take up the point of order.

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

"That the Bill to provide for the transfer of the Fund known as the Countess of Dufferin's Fund to the Central Government, be taken into consideration."

I should like to say a few words in addition to what has been stated in the Statement of Objects and Reasons.

The National Association for Supplying medical aid by women to the women of India was established in 1885 with the object of imparting medical education to women, rendering medical relief, and supplying nurses and midwives for hospitals and private work. In 1888 the Association was registered as a Society under the Societies Registration Act, 1860. The fund which was raised by public subscriptions both in India and the United Kingdom, was known as "The Countess of Dufferin's Fund" and was managed by the Association. A Central Committee at Delhi was entrusted with the general management of the affairs of the Fund, while in the various States local committees were formed which were allowed to manage their own affairs and funds, but which were affiliated to the Central Council. Each local committee was responsible for the establishment of hospitals for women and children and for supplying female medical aid to the women of that State according to the Funds at their disposal. "Branches" were formed in the then Provinces of Assam, Baluchistan, Bengal, C. P. and Berar, Bihar and Orissa, Bombay, Burma, Madras, Punjab, United Provinces, North West Frontier Province, and later in Orissa and in Sind.

After partition it became necessary to divide the assets of the Countess of Dufferin's Fund between India and Pakistan. For this purpose Resolutions were passed on the 19th April, 1948, at an Extraordinary General Meeting of the Association for the winding up of the Association and for

distributing the balance of funds left after meeting the liabilities, between the Red Cross Societies of India and Pakistan in the ratio of 35:8 which was based on the number of W. M. S. Officers to be absorbed in India and Pakistan respectively. The relevant resolution was passed.

As the actual number of Officers who elected to continue in service was 37 and the number of officers who remained in the respective countries was 34 in India, and 3 in Pakistan, it was subsequently decided that the ratio should be changed from 35:8 to 34:3, the percentage being 92:8.

Since it was not possible to calculate the exact amount of the liability of the Fund and to arrive at the figures of surplus balance to be divided between India and Pakistan before the 31st March, 1953, it was decided to divide the funds as they stood on that date between the two countries.

The audited accounts of the Countess of Dufferin's Fund as they stood on the 31st March, 1953, have now become available and the assets of the funds as on the date amount to Rs. 13,76,203. According to the ratio of 92:8, Pakistan's share comes to Rs. 1,10,096 and India's Rs. 12,66,107. In addition to Pakistan's share of Rs. 1,10,096 there is liability amounting to Rs. 44,726 payable to Pakistan on account of leave salary, study leave salary and allowances and passage money in respect of three ex-W.M.S. officers who opted for Pakistan. This leave was earned by these officers during their service in India prior to their going to Pakistan. The total amount payable to Pakistan therefore comes to Rs. 1,54,822 (Rs. 1,10,096 plus Rs. 44,726) and the sum of Rs. 12,21,381 will be the net balance available for India.

Later on Government took the decision that in stead of transferring it to the Red Cross, the amount may as well remain with the Government. There are some other details about which I need not trouble the House.

We were legally advised, when the question was referred whether the resolution of the Association was legally in order in providing for the winding up of its affairs and for transferring the balance of its funds to the Red Cross Societies, that under the Societies Registration Act, 1860, the Association was not competent to resolve to give funds to the Red Cross Societies in India and Pakistan. We were advised that in order to give effect to the resolutions, it would be necessary to enact legislation for the transfer of funds to the Red Cross Societies in India and Pakistan, or to any bodies which we liked.

I do not want to tire the House with all the details. About the division of assets of the Fund, I would like to refer to one matter. Money is due to us on account of West Punjab (Pakistan Branch). It owes to the Punjab (Indian Branch) an amount of, according to us, Rs 1,80,000. But that will be a matter for negotiation later on. So, it was considered advisable to legislate for adjustment of Pakistan's share.

Under the circumstances, this legislation has been undertaken, providing for the transfer of assets and liabilities of the Central Association to the Central Government to be utilised in consonance with the objects of the Fund. I should like to underline this. It is not as if the Fund comes as a windfall to the Government. The Government will have to utilise the fund in accordance with the original purpose along with the residual ministerial staff consisting of an Assistant and a peon. That is the only staff. The legislation has also provided for the validation of action taken under the Resolution passed on 19th April, 1948. After the property has been vested in the Central Government, it will be for the Government as successors of the Association to deal with the claims of Pakistan if they pursue it. That is the purpose of the Bill.

According to the present scheme, those assets that have been transferred,

which belonged to that Fund, with a specific objective, when this Bill is passed, will be vested in the Government for use for the purposes for which the Fund was intended.

There are amendments to have this Bill to refer to a Select Committee. This is a simple measure. If, in the course of the debate, any information is asked for, I shall be very happy to supply it to the House. This Bill does not make any departure from the objective of the Fund. It is because a situation arose and we were legally advised that this was necessary, we have come to the House for a transfer of the funds from the Countess of Dufferin's Fund to the Government of India for such adjustments as may be found necessary with Pakistan as also for the utilisation of the Funds for the purpose and in the manner they were originally intended. I shall be very happy to supply, during the course of the debate, any information that any hon. Member may like to have.

Mr Speaker: Motion moved

That the Bill to provide for the transfer of the Fund known as the Countess of Dufferin's Fund to the Central Government, be taken into consideration."

Before we take up the amendments to this motion I shall hear Shri V. P. Nayar.

Shri V. P. Nayar: The Bill as introduced in the House seems to be beyond the competence of this House to discuss. The purport of this Bill is the transfer of certain assets which once belonged to an Association which is defunct today. It is well known that a transfer cannot be made without the consent of two parties. There must be a transferor and a transferee. This Society was registered under the Societies Registration Act which also

[Shri V. P. Nayar]

provides for the dissolution of such society under section 13. If I may be permitted to read the relevant portion:

"Any number not less than three-fifths of the members of any society may determine that it shall be dissolved and thereupon, it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities."

This is section 13. Actually, there is a saving that there has to be the consent of the Government. By an amendment, the legislature said that the consent of the Government should be there. There is a proviso which says:

"Provided that whenever any Government is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved without the consent of the Government of the State of registration."

Mr. Speaker: What happened to the fund? Dissolution has taken place?

Shri V. P. Nayar: Dissolution has taken place in effect. A portion of the fund, the corpus of the fund belonging to the Association, has already been transferred to the Pakistan Red Cross Association.

Mr. Speaker: A portion?

Shri V. P. Nayar: A portion. So that, that portion transferred to Pakistan could not have been transferred unless dissolution had taken effect. There is no question of the transfer till then. I am not against the Government acquiring Rs 12 lakhs. I want it. I want to ensure that there is no legal flaw. That is all.

Legal opinion seems to be that there is nothing wrong. On the other

hand, if once you concede that it cannot by any stretch of imagination amount to a transfer because there is no transferor here, if at all it vests after dissolution, it has to be vested in some body and that is only the Indian Red Cross Association. I do not know what that organisation has stated. I have got a copy of the Resolution here. The hon. Minister was pleased to place two copies in the Library. It is said here:

"the corpus of the Fund belonging to the Association be handed over to the Indian and Pakistan Red Cross Societies and the Societies will keep a separate account in respect thereof;

"That the Red Cross Society will administer the fund in consonance with the objects of the Counsellors of Dufferin's Fund ."

We do not have the objectives of the Fund before us.

Mr. Speaker: That will be in the memorandum and articles of association.

Shri V. P. Nayar: We ought to have been supplied that. I do not argue on that. The organisation, before dissolution, had passed a resolution under which a portion of the fund has already been transferred to the Pakistan organisation. Therefore, if the remaining fund vests in India, the dissolution having taken effect, it can only vest in the Indian Red Cross Association.

Mr. Speaker: Did the share of Pakistan .

Shri V. P. Nayar: Yes. The notes.

Mr. Speaker: Order, order. What is the meaning of answering before understanding my question? Did that portion which has been transferred to Pakistan given to the Red Cross Society of Pakistan?

Shri V. P. Nayar: Yes. That is what I find from the note.

"As the Provident Fund Accounts of W.M.S. Officers who had opted for Pakistan had been finally settled and the money due to them had been paid, the reserve of Rs. 2,50,007 was to remain with India."

So that, if the Government wanted, certainly, it could have withheld consent at this stage. The fact that a portion of the fund has already been allowed to be transferred to Pakistan shows that the Government did not exercise the power to withhold consent. Therefore, I contend that dissolution has taken effect. Even supposing there is no dissolution, how can the Government take over unless there is consent? A transfer, as you know, cannot be made by one party alone. It cannot be the subject of unilateral action. If there is a transfer, it presupposes there must be a transferor. If there is no transfer, it will be an acquisition which will violate the provisions of the Constitution under article 13(2) and also article 31(2).

It is expressly provided in the Constitution,—I may be permitted to read the relevant portion—

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention, of this clause shall, to the extent of the contravention, be void."

Article 31(2) says:

"No property shall be compulsorily acquired...."

Government may say that it is not compulsory acquisition. So long as there is no transferor, there cannot be anything which cannot but be construed as compulsory acquisition. The article says, there shall not be compulsory acquisition, save for a public purpose. The public purpose may be there. It is not mentioned. It says:

"...save by the authority of law which provides for compen-

sation for the property so acquired or requisitioned"

Therefore, I contend that even if by a particular section, we oust the jurisdiction of all courts,—now it is settled law that we cannot do it—it will create legal complications. I want the Government to ensure—they must take over the fund, there is no question of that and the fund should be utilised for welfare—when they do it, they must make it fool-proof and not allow any opportunity for litigation on this point

"

In view of what I submitted, I feel that it is beyond the competence of the House in the form in which the Bill is presented and on the basis of the arguments of the hon. Minister, we cannot consider this Bill.

Shri Karmarkar: We have tried to make it as fool-proof as possible. I am rather surprised at the arguments of my learned friend. Firstly, the Association has not been dissolved in the eye of law because that dissolution was connected with the transfer of funds. They could not transfer the funds to a body in Pakistan. That was the legal difficulty. Therefore, as I made it clear in my opening remarks, clause 3 of the Bill says,

"On the commencement of this Act—

(a) the Association shall stand dissolved;"

Till then, it does not stand dissolved because it cannot simply pass a resolution or dissolution without making arrangements for its funds. Since this was not a legal transfer to the Red Cross Society in Pakistan—I wish to correct my friend on that point—no funds were transferred to the Red Cross Society of Pakistan—because it could not legally be done, because they could not legally transfer even that share. Therefore, we have come to Parliament with this legislation, and after we have passed this Bill, it will be for Pakistan to make a claim. As against that, there is our counter

[Shri Karmarkar]

claim, as I have said, and then if at all any money is due, then Government will transfer it to Pakistan.

Shri V. P. Nayar: It has been transferred according to your note.

Mr. Speaker: What I understand from Shri Nayar's statement of the case is that the dissolution of the association is under the articles of association. A resolution was passed by the association itself on the 19th day of April 1948, as set out in clause 4—"at the extraordinary general meeting of the association held on the 19th day of April, 1948". The provision of the Societies Registration Act is there, that is in particular cases when the Government has contributed moneys, the consent of the Government is necessary to validate or give effect to the resolution. It is not necessary that the Government should come here and get the consent by an Act of Parliament. The Government might have given its consent. We will assume the consent has not been given, therefore the resolution has not come into effect. The consent is now given. When once the consent is given, the resolution comes into operation, and there is nothing preventing the association from distributing it whether to Pakistan or to any other party, whoever might be the contributories. They have given that portion, they have allocated it to Pakistan; they have given the other portion to the Red Cross here. They are entitled to do it under the Societies Registration Act

All that the Societies Registration Act says is that it is open to the Government to give consent or withhold consent. It is not the Government that has to distribute; it is the society that has to distribute. If the extraordinary resolution has not been given effect to or consented to by Government, they will have to pass another resolution and then dissolve it with the consent of the Government. Thereafter, that resolution will have effect. They can give the proper portion to Pakistan and the other portion to the

Indian Red Cross. If they have not given to the Indian Red Cross, under what article of the Constitution is this Government or Parliament entitled to take away the money legitimately entitled to the Red Cross Society. You cannot pay compensation. Another kind of compensation for money itself seems to be inconsistent. How then can the money of the association be transferred unless the association itself is found up? These are the problems raised.

Shri Karmarkar: The precise problem raised in the first instance was that some money has been transferred either to the Pakistan Government or the Red Cross Society. As a matter of fact, part of these funds were due to officers who were members of the Women's Medical Service by way of things like leave salary or any deficits in pay because the State Governments pay less, or things like that. The members of the Women's Medical Service were guaranteed certain things.

A point of fact that I may mention to the House is that this payment was not made either to the Red Cross or the Pakistan Government. This payment was made in the normal course to the officers to whom leave salary or other overseas salary was due. So, that point does not arise at all. We have not transferred any funds. In fact, our legal advice was—to be precise, I shall read it out—"to refer the question to our Attorney-General as to whether the resolution of the association was legally in order in providing for the winding up of its affairs and transferring the balance of its funds to the Red Cross societies".

He was of the opinion that under the Societies Registration Act of 1960 the association was not competent to resolve to give funds to the Red Cross Society in India and Pakistan and advised that in order to give effect to the resolution, it would be necessary to enact legislation for the transfer of such funds.

Mr. Speaker: I want to know first of all who is competent to dissolve the association. Let us go step by step. **Shri Nayar** says the dissolution on resolution is under the articles of association. Under the Societies Registration Act, how does the Government or Parliament come in so far as the dissolution is concerned? Therefore, if the society is entitled to dissolve itself by resolution, then the funds also they can dispose of? Is it anywhere stated that the funds shall be at the disposal of the Government or Parliament? It is an autonomous body. Is it not open to that body to distribute?

Shri Karmarkar: That was the precise point which I proposed to deal with. Now I shall read the resolution. The resolution is not first of dissolution, but first to transfer funds

"Resolved that immediate steps be taken to dissolve the National Association for Supplying Medical Aid by Women to the Women of India (Countess of Dufferin's Fund including the Women's Medical Service) and that after all the liabilities have been met or funds earmarked to meet them, the balance be divided in the proportion 35.8 between kindred organisations in India and Pakistan respectively.

Resolved further that the kindred organisations be the Indian and Pakistan Red Cross Societies, provided the Societies agree to the following conditions:

1. That the corpus of the Fund belonging to the Association be handed over to the Indian and Pakistan Red Cross Societies and the Societies will keep a separate account in respect thereof;

2. That the Red Cross Society will administer the fund in consonance with the objects of the Countess of Dufferin's Fund, after making provision for meeting specified liabilities of which particulars will be supplied by the Council to the Red Cross Societies;

.. ..

Resolved further that on such

debts and liabilities being satisfied and the remaining property of the Association being divided between the Indian and Pakistan Red Cross Societies the Association shall stand dissolved."

When this was sought to be done, our legal advice was that they could not transfer property to the Pakistan Red Cross Society like that. So, we had to come to the House. Dissolution cannot occur unless the liabilities and assets are transferred to the respective parties. It cannot happen, according to our legal advice, in the manner they sought to do it. Therefore, we have to come to Parliament, both for having the association declared dissolved and for vesting the amounts in the Government of India, so that they can negotiate, if a claim is made, with the Pakistan Government and then decide about the future. We will have to take a decision on the merits that the funds do vest in Government and that they should look after the funds. That is the present position.

Mr. Speaker: If a society is dissolved without making any provision for its funds, who is to distribute the funds?

Shri Karmarkar: That is precisely the difficulty which the Attorney-General must have been faced with.

Mr. Speaker: Therefore it is that before dissolution they have to distribute the funds and then pass a resolution to dissolve it.

Shri Karmarkar: But they have not distributed. What they say specifically is: "such liabilities being satisfied and the remaining property of the Association being divided....".

Where does the remaining property rest? Not in a vacuum. If the resolution had to be executed, then the funds had to be transferred to the Pakistan society. Otherwise, who is to hold the funds when it is dissolved?

Mr. Speaker: Therefore it is that they passed the resolution in advance of dissolution. That is why exactly...

Shri Karmarkar: They made it simultaneously.

Mr. Speaker: I think they must have transferred them, both the moneys.

Shri Karmarkar: No, they have not, that is the point I am mentioning to the House. They cannot, and therefore we have come to trouble this House. Under the law we were advised this association could not pass on a single pie in accordance with its resolution to the Pakistan Red Cross Society, and we came against a blind.

Mr. Speaker: What is the hurry for this legislation now? I would like to think about it.

This society is an autonomous body so long as it exists and it has funds, I do not know how Government or the extraordinary jurisdiction of Parliament can take it away, but, I believe for mismanagement and other things—I have not looked into it—they can dissolve an existing organisation under the Societies Registration Act. There is a provision under the Societies Registration Act itself. Under section 13 there is provision for dissolution of societies and adjustment of their affairs. In accordance with that an extraordinary resolution was passed dissolving the association and making distribution of its assets. Where a portion of the moneys has been contributed by the Government, under the proviso Government's consent also should be taken; otherwise, the Government's consent is not necessary. The Government's consent was sought. I do not know whether the Government's consent has been given, in which case the resolution will work itself out. If the Government's consent has not been given, possibly the hon. Minister wants to make it the consent of Parliament instead of the consent by Government, and therefore, he says the association stands dissolved. I understand in the context it means that it ratifies and gives consent through Parliament which asks Government itself to give consent to this resolution. Therefore, this resolution dissolving the association has

to work itself out. They have transferred the money to the Red Cross. How does the money of the Red Cross vest in this? What right have we....

Shri Karmarkar: They sought to transfer it. They have not transferred it. They have passed the resolution.

Mr. Speaker: If they seek to transfer it, how can we ignore it? How can Parliament exercise jurisdiction or control over the decision of an autonomous association?

Shri Karmarkar: Even if Government consented—today, supposing we consent....

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I do not presume to answer the legal questions. But all I wish to say is that Government and the Red Cross organisation have been in constant touch with each other. There is no question of bypassing Government by the Red Cross. Not only that, but the International Red Cross also has been consulted. In fact, there has been a meeting of the International Red Cross in Delhi, and consultations took place between them, because, here is Pakistan, and here is India, they had jointly formed this association, and, as in other things, there has to be a separation. Pakistan wants this money. Owing to various difficulties, legal chiefly, this has not been possible to be done in spite of agreement and other things. We want to finalise this, and give Pakistan's share to Pakistan. Let them function as they like, and we can function as we like. We consulted the International Red Cross, and after great difficulties, a way out was suggested to us. We try to follow that way. Government are agreeable; our Red Cross organisation is agreeable; and the International Red Cross is agreeable. What the law is, I cannot say, but everybody is agreeable.

Shri V. P. Nayar: We also agree. None of us is against it. But the point is something different.

Shrimati Benu Chakravarty (Basirhat): May I draw your attention to one point which has just struck me after the arguments that have taken place? The Countess of Dufferin's Fund passed a resolution which said that there has to be a transfer of the funds to the Red Cross Society. By the Bill which we are trying to pass here, we are trying to give effect to a part of the resolution which has been passed there, but we ignore a part that has already been embodied in that resolution.

After hearing all this argument, my point is that since the question is one of dividing up the assets between Pakistan and ourselves, I think it is very right that we should see that the entire question is dealt with in such a way that later on difficulties do not crop up. Therefore, my suggestion would again be that we accept the suggestion made by certain lady Members of this House that the whole matter might be referred to a Select Committee, and if there are any difficulties, we can smoothen them out there.

The Minister of Law (Shri A. K. Sen): I have not really followed the objection taken. I take it that it is not a constitutional objection. (Interruptions) I would request hon Members to be a little patient. It is not a constitutional objection that has been taken. What is said is that the provisions of clause 3 conflict with the Societies Registration Act. If that is so, Parliament is perfectly competent to do this if Parliament within its own domain can by statute dissolve any association or by statute transfer the assets of any association. This point was taken when the Indian Iron and Steel Co. Ltd. and the Steel Corporation of Bengal were amalgamated, and the assets were transferred by statute, and the High Court of Calcutta said in its judgment that if Parliament was legislating in its own domain, it could do so by any process which was valid constitutionally. If the point of constitutionality has not been taken, I do not see what objection there may be.

Shri V. P. Nayar: There is.

Shri A. K. Sen: If the Societies Registration Act could be amended, and if in case there is any repugnance the later statute will prevail, I see no point in the objection.

Shri V. P. Nayar: May I submit that the Law Minister unfortunately was not present here earlier....

Shri A. K. Sen: I may not have been present, but I have been told what the objection was.

Shri V. P. Nayar: ...when I had raised two constitutional questions.

Mr. Speaker: The hon. Member may leave it to me

I would request the Law Minister to look into section 13 of the Societies Registration Act, which reads:

"Any number not less than three-fourths of the members of any society may determine that it shall be dissolved...."

That means that the society shall be dissolved, if three-fourths of the members determine.

" and thereupon it shall be dissolved forthwith or at the time then agreed upon... "

—that is, if they do not fix a separate date—

" . . . and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities according to the rules of the society applicable thereto, if any, and if not, as the governing body shall find expedient.

Provided that in the event of any dispute arising among the said governing body or the members of a society, the adjustment of its affairs shall be referred to the principal court of original civil jurisdiction of the district in which the chief building of the society is situate, and the court shall make such order in the matter as it shall deem proper.

[Mr. Speaker]

Provided that no society shall be dissolved unless three-fourths of the members shall have expressed a wish for such dissolution by their own votes delivered in person or by any proxy."

The second proviso relates to the matter in hand.

"Provided that whenever any government is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved without the consent of the Government of the State of registration."

Here, three-fourths of the members of the governing body met and passed a resolution to dissolve it. They have also said that a portion shall be given away to Pakistan, and another portion to the Red Cross Society here. Subject to all those liabilities, the Minister of Health said that there are liabilities or debts which have to be paid and so on. Whoever takes over a fund will also bear the liabilities that follow. Now, therefore, under clause 13 of the Societies Registration Act, they have acted. All that they want is that that resolution should be given effect to. The consent of Government comes in, because in this case, Government seem to have contributed. Is that so?

Shri Karmarkar: Yes

Mr. Speaker: Government have contributed some moneys, and, therefore, the consent of Government is necessary under the proviso. Now, a resolution may be given consent to; in advance, Government may give their consent, as in this case; a resolution has been passed, and Government have merely to give consent. If Government give their consent, the resolution will work itself out. If there is any difficulty between the members and the society, or they do not agree with the governing body, the matter has to be referred to a court. I want to know how Parliament has got jurisdiction over this matter now.

Shri A. K. Sen: Parliament will have jurisdiction, once the Bill is passed. I agree.

Mr. Speaker: How does the Bill come into being? The question is that we have no jurisdiction to get along with the Bill. This resolution has to work itself out, if Government give their consent. If Government do not give their consent, then the society will continue in existence.

Shri A. K. Sen: The point is this. In the absence of any statute, I agree that the statutory procedure prescribed under section 13 of the Societies Registration Act has to be strictly followed. But if that statutory procedure is supplemented or, let us say, replaced by a fresh statutory procedure for a particular purpose and with reference to a particular society, as in the present case, I cannot see any constitutional objection to it. It is open to Parliament even to change section 13 of the Societies Registration Act.

As I said, the incident in point actually arose in the case of the Indian Iron and Steel Co. Ltd. and the Steel Corporation of Bengal. You will remember that instead of following the statutory procedure of the amalgamation as described under section 153 of the Indian Companies Act, as it then was, Government passed an ordinance originally and later on it was confirmed by an Act of Parliament, where by statute it was provided that provided the statutory conditions were satisfied as laid down in the ordinance, the two societies would be amalgamated, and the entire assets of the Steel Corporation of Bengal would be transferred to the Indian Iron and Steel Co. Ltd. That point was challenged in the Calcutta High Court, and I had the honour of arguing it against Government. The High Court held that company being a Central subject, it was open to Parliament, and to the President by an ordinance, to pass a law

whereby statutorily the two companies would be amalgamated.

Here also, it is the same thing. If we look at clause 3 of the present Bill, we shall find that

"On the commencement of this Act—

(a) the Association shall stand dissolved."

It was also provided there that—

"On the commencement of the Ordinance, the Steel Corporation of Bengal would stand dissolved and all its assets and properties would stand transferred automatically to the Indian Iron and Steel Co. Ltd."

..

That was contrary to the provisions of section 153 of the Indian Companies Act of 1913. This is a statutory provision for dissolution. You will find that under private Acts of Parliament, in England also, many corporations are incorporated by statute and dissolved by statute.

Then, we have in clause 3:

"(b) the Fund shall vest in the Central Government; and

(c) all the debts and liabilities of the Association shall be transferred to the Central Government and shall thereafter be discharged and satisfied by it out of the fund."

I can understand if it is contended that this subject is not within the competence of Parliament.

Shri V. P. Nayar: That is the contention.

Shri A. K. Sen: That is a different matter. But I am not meeting that point now. If it arises, we shall meet it. But I do not see any impediment in the way of Parliament dissolving a particular association by statute and providing what should happen on such dissolution.

Shri V. P. Nayar: May I submit that the hon. Minister is mistaken? It was

a contention based on the fact that this is outside the competence of the House because it violates section 13 of the Act and article 31 of the Constitution. I can understand the case of the Steel Corporation which the hon. Minister had the good fortune to argue. That is specifically provided for under article 31A(1)(c) which refers to "the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations". The same matter was discussed.....

Shri A. K. Sen: That is a later edition. It was after that that this was amended.

Shri V. P. Nayar: The same matter was discussed in the House, but my contention is that there is no transfer at all, because a transfer ultimately presupposes the existence of a transferor and transferee. Where is the transferor here? I contend that it will, in effect, be acquisition and in violation of the provisions of the Constitution. Hence it is not within the competence of this House.

Some Hon. Members rose—

Mr. Speaker: I have heard sufficiently. Two objections have been raised. The resolution has been passed in accordance with section 13 of the Societies Registration Act. The only thing that remains is the consent of the Government. If the consent is given in any shape or form, the resolution works itself out.

The second point is that the Societies Registration Act is a Central Act and Parliament has got a right to go into this matter. The objection raised is that the transfer of Rs. 13 lakhs or so, whatever it be, ought not to be made to Government from this fund, from which funds will be given to the Red Cross and so on, and therefore, it will be appropriation without compensation, which militates against article 31.

So far as the first point is concerned, this is a Central subject. Possibly,

[Shri A. K. Sen]

it could have been said 'notwithstanding anything contained in section 18 of the Societies Registration Act. ' then it would have been better.

Shri A. K. Sen: In England, it has been condemned. They say 'notwithstanding ' is unnecessary and repugnant

Mr Speaker: It could have been done to draw pointed attention to it lest it may appear that there is any inconsistency. We always do that in Bills, we always add a particular clause repealing the previous provisions or previous Act. Naturally, whether we do it or not, this has got the effect, but all the same, to avoid any appearance of inconsistency, that could have been done, that would have made the position clear, that this is exercise of sovereign power vested in them notwithstanding the provisions of the Societies Registration Act

Therefore, this House is competent to go into this matter and ignore those resolutions passed. It must take into its hands the power of dissolution

The other point is that compensation has to be paid. There is no private individual. We can understand that compensation has to be paid. What has Government to do by itself? To cater to the public interest, a fund known as 'Dufferin's Fund' was created. Now what was given with one hand comes back to the other. As regards the word 'transfer' it could have been substituted by 'vest'. Shri V. P. Nayar raised the point that transfer requires two persons.

Shri A. K. Sen: That is the ordinary concept of 'transfer', not statutory transfer.

Mr Speaker: That is so, but sub-clause (c) of clause 8 says-

"all the debts and liabilities of the Association shall be transferred to the Central Government and shall thereafter. "

Shri Karmarkar: Sub-clause (b) says that the Fund shall vest in the Central Government. Sub-clause (c) makes it clear that Government will be bound to meet the debts and liabilities of the Association.

Mr. Speaker: So I rule that there is nothing in this point of order. I do not think there is anything more to say on it. Now, we shall proceed with the Bill.

Shrimati Renuka Ray: I wish to move amendment No 5 instead of No 1.

Dr. Sushila Nayar: I wish to move amendment No 4.

Mr Speaker: The time allotted is half an hour. Already we have spent much time.

Shri V. P. Nayar: It is already over. Let us have it next session.

Shrimati Renuka Ray (Malda): I beg to move

That the Countess of Dufferin's Fund Bill, 1957 be referred to a Joint Committee of the Houses consisting of 15 members, 10 from this House namely -

- 1 Dr. K. Atchamamba
 - 2 Shri H. C. Dasappa
 - 3 Dr. Sushila Nayar
 - 4 Shri Nath Pai
 - 5 Shrimati Renu Chakravartty
 - 6 Shri Feroze Gandhi
 - 7 Shrimati Ila Palchadhuri
 - 8 Shri Dwan Chand Sharma
 - 9 Shri D. P. Karmarkar, and
 - 10 Shrimati Renuka Ray
- and 5 members from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the 15th February, 1958;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees

will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee

Dr Sushila Nayar: I beg to move

"That the Countess of Dufferin's Fund Bill, 1957 be referred to a Joint Committee of the Houses consisting of 15 members, 10 from this House, namely:

- 1 Shri S V Ramaswamy
- 2 Shri Feroze Gandhi
- 3 Dr K Atchamamba
- 4 Shri Bibhuti Mishra
- 5 Shri D S Raju
- 6 Shri H C Dasappa
- 7 Shrimati Renuka Ray
- 8 Shrimati Parvarthi Krishnan
- 9 Shri D P Karmarkar, and
- 10 Dr Sushila Nayar

and 5 members from Rajya Sabha

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee,

that the Committee shall make a report to this House by the first day of the next session,

that in other respects, the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee".

318 L.S.D.—3

I have moved for reference of this Bill to a Joint Committee. The Dufferin's Fund was created for a specific purpose. It is for the promotion of medical education amongst women and for the promotion of hospitals for the treatment of women and children in India. Part of the functions of this Fund was rather stopped because of various reasons, shortage of funds, and the Government's liability to help the various hospitals etc. For that reason, the hospitals are not being run by the Fund. They have been transferred to the various State Governments.

At the moment when these changes were brought about, it was pleaded that as a result of these changes women's education in the medical field and women's opportunities in the medical line would not be curtailed, but if anything, they would be expanded, they would get a wider field in which to function. Now, what has actually happened is worth the attention of the hon. Minister. In practically all the places where the Dufferin hospitals had existed as a separate individual entity with women running and managing them they have become a minor wing of the civil hospitals in those places. The efficiency and importance of the hospitals has decreased. The status of Superintendents of those hospitals, who are women, has considerably gone down. I have gone to one hospital after another hearing the same sad story that they are not getting the things they needed, they are not getting the staff they needed and they are just very minor appendages of the civil hospitals. This was not the intention of Government when the hospitals were originally established.

While this Fund was created, surely the major portion was contributed by Government. It was a foreign government that created it, and we expected that our own Government would be even more generous and contribute even more funds for the promotion of the activities for which the Fund was created.

[Dr. Sushila Nayar]

We all know that the hon. Prime Minister is very generous, very kind and very liberal in his outlook so far as women are concerned. He does want to give equal opportunities and equal status to them. Nobody has any doubt about that. But that is not the case with regard to a very very large number, a vast majority, of the people in this country. In my humble opinion, any action which opens up the doors for curtailing the opportunities for women is undesirable.

18 hrs.

Therefore, I request that the Fund instead of ceasing to exist can undergo any change of name if necessary or any other modifications that are necessary may be introduced. But, a separate Fund for the promotion of the objects for which it was created, particularly, the promotion of medical education in this country should still exist. I, therefore, plead that instead of passing this Bill in a hurry and saying that the Dufferin Fund ceases to exist and that the assets and liabilities are transferred to Government, the Bill may please be referred to a Joint Committee so that we can calmly sit down and consider what is the way in which this Fund can be utilised in future and utilised for the purposes for which it was created and utilised well and properly.

Mr. Speaker: Both the amendments are before the House

Shrimati Kouska Ray: Mr Speaker, Sir, when the Minister was placing this Bill before the House he said that it is a very simple matter. We have already had some legal and constitutional points raised today and you have given your decision. But it is not legal or constitutional point but some other vital matters in regard to this Fund that I wish to place before the House

My hon friend, Dr Sushila Nayar has already spoken from the angle of medical women. But, I want to say, first of all, that the House would like

to know and have before it the audited accounts of this Dufferin Fund since 1948. I think it is necessary for the House to know exactly what the position of this Fund is because a resolution was adopted in 1948 and since then a long time has passed. I understand that some money has been spent and scholarships have been given for women who have been sent abroad. I think it is right to have these audited accounts before the House and it would give us a good idea.

Apart from that, the question arises that the Women's Medical Service to which this Fund gave assistance in the past no longer exists. Women's Medical Service as a separate thing is something we do not want either. We would like the integration of the Medical services. It is not that point which I want to labour. I do think that after the Women's Medical Service was disbanded the position of the medical women has not become equal with that of men in opportunity as, of course, it should be under the Constitution and as we desire

There are certain things which I would like to place before this House. After the Women's Medical Service was disbanded, women doctors who have better qualifications and training have been placed under Civil Surgeons, in some places, of lesser qualifications and training. That is their contention. I would like the hon Minister to go into this

Some of the advertisements for some of the senior posts in the C.H.S. or other schemes are not put forward. Therefore, medical women are not able to apply. These posts are filled through the Government's decision. I would like the hon Minister to look into this matter also

This Fund was used for scholarships for women to qualify themselves further; and, in the past, they were given posts according to the specialised qualifications they acquired. But, I understand that that no longer operates. Now, women who have been

given scholarships out of this Fund and that after they come back they do not get the opportunities which they used to get before and their position today is worse than what it was before.

I have no objection to the operation of this Fund by Government, provided a separate, new committee is set up in place of this Dufferin Committee where medical women who have had training in the original Committee when it used to be operated before 1948 are there along with Members of this House and the Education and Health Department representatives. The hon. Minister may be the Chairman of such a committee. I am mentioning this only to show what we feel should be done.

It would be better if the whole matter is discussed in a Select Committee and the Bill placed before the House in the next session with all the provisions that are required to make the new committee operate after this Fund has been abolished.

Shrimati Renu Chakravarty has tabled certain amendments. I do not know whether the hon. Minister is willing to accept them or any of them. If he is willing to accept them, we may not consider the question of sending this Bill to a Select Committee; otherwise, it should be sent to a Select Committee.

Shrimati Renu Chakravarty: I rise to support this motion for sending this Bill to a Joint Committee for the simple reason that I feel that many important points have to be considered at length and that we should not hurry through with this Bill. It is so very important from the point of view of the very objectives of the Lady Dufferin Fund; that is, the extension of medical facilities for women as well as for the training of more women doctors, nurses and midwives.

This Fund was actually set up by a foreign government and it did very good work. We know that Lady Dufferin Hospitals which are spread

throughout the country have done yeoman service. We would say that even today the objectives of this Fund need to be underlined more and more because even today there are women in our country who will not be treated by men and who want to be treated by women. Therefore, more and more institutions, clinics etc under the guidance of women doctors, nurses and midwives are necessary.

Secondly, although the question of equal opportunities is embodied in our Constitution, it has not become a fact. That has already been stressed by the previous speakers. As a matter of fact, although equal opportunities for men and women is a part of our Constitution, Government institutions set out advertisements in the papers saying that women are not eligible for various posts, such as posts in the Education Department of my State. I myself have seen them. It is a shocking state of affairs when Government institutions actually put forward these advertisements. I can understand that if there were posts in which, may be, Government thinks that women are unfit, but these are posts such as psychologists, laboratory assistants and such like. I have not yet been able to point out any particular advertisement by the Health Directorate. But they have some subtle method of doing so. They do not put out that women are not eligible but when the interviews take place we find that.....

Mr. Speaker: How does it arise here from this Dufferin Fund? The Dufferin Fund is a separate Fund to open hospitals for women to be run by women; and the recommendation is to abolish it. I do not know how even if it goes to the Select Committee this is relevant.

Shri Karmarkar: The point appears to be this. Since the object was to encourage women and since the hon. Member feels that it is not being done, it is a reminder to Government that this should not be kept with us.

Shrimati Renu Chakravarty: If you will let me argue out the case, I will

[Shrimati Renu Chakravartty]

show you how it is absolutely relevant. That is not because I want that the Fund should be kept for the purpose of the objectives of the Lady Dufferin Association.....

Mr. Speaker: That is for medical assistance to women.

Shrimati Renu Chakravartty: Now the Government is just faking it over. They are not saying that it will be kept specifically for women for their medical education and for setting up hospitals for women. Today, because the Fund was set up in 1886, and it is 1956, it is not necessary—that cannot be brought forward as an argument. That was the reason why I was saying this

We find that they do not have promotional avenues. Even in the Lady Hardinge Hospital in the City of Delhi, what do we find? Formerly, it was entirely for the women. Even in such an institution today we find that a gentleman has been introduced as the Principal of that institution even though some of the doctors present there have higher qualifications than him. Therefore, I feel it is very necessary to keep this Fund for the objectives laid down by that Association. I am all in favour of the Government taking it over because I want that there should be further facilities and extension of the Fund. We must be absolutely sure that this fund will be a starting point for the augmented fund for setting up a larger number of scholarships and a larger number of institutions and women doctors. That is why I want this reference to a Joint Committee.

Shrimati Ila Palchoudhuri (Nabadwip): The Minister has contended that there is no legal objection to this Bill being brought. But one does look at it with a certain amount of consternation. The Minister has assured us that the Bill provided that the Fund would be treated in the spirit in which the resolution intended it to be

According to the resolution passed in 1948, it was supposed to go to the Indian Red Cross Society. The Countess of Mountbatten attended that meeting. Now the contention is that the Red Cross is not going to have it and the Government is going to acquire it. If it does so, it may overlook certain items. The Fund was created to give more and more opportunity to the women of India to qualify in the medical services and to provide nurses and midwives and so forth. Even to this day, women in the rural areas prefer to be treated by women doctors and it is so even in towns. But we find that better qualified women doctors have not been engaged in hospitals or they have not been given places where they should have been.

I think that these things should be thrashed out in the Joint Committee where I think the Women's Medical Service should be represented. Members of Parliament should be represented.

In Bengal there was the branch of Dufferin Funds, and there was also the Red Cross, which was formed seventy years ago and it used to work right at the beginning with all the enthusiasm with which it works this day. If this fund is absorbed by the Government, I hope it will be earmarked to do good and to look after the welfare of women for which it was meant. When Bengal and other Red Cross institutions come to it, I hope sanctions would not take months to get. If the Government absorbs this fund, it should really follow the spirit of the Red Cross and should whenever the Red Cross wants help for the legitimate purposes according to the resolution give every co-operation. It should be earmarked for the welfare of women and to make the claims clear, there should be a Joint Committee for discussing everything fully, and the Government should really "invest in kindness" which is the life of the Red Cross Societies.

Shri Bhakt Darshan (Garhwal) rose—

Mr. Speaker: The hon. Minister.

Shri Nath Pal (Rajapur): One man should speak.

Mr. Speaker: The hon. Minister is also a male. (*Interruptions*).

Shri Karmarkar: He will take an opportunity on some other Bill.

Sir, I should say that I feel a little embarrassed with this debate because all the Members who have spoken have persuaded themselves to put their ideas in such a sweet language.

Mr. Speaker: I would like to know this. Why should it go to the Joint Committee? The hon lady Members are opposed, they may oppose this Bill and throw it out.

Shri Karmarkar: They do not want to oppose it.

Mr. Speaker: If they are accepting the object of the Bill and even if it goes to the Joint Committee, the abolition of this Fund is clear because the first principle here is that the Fund shall stand abolished and that the money will vest with the Central Government. What further action is to be done by the Government? How can you say there that this Fund should be used for such and such purpose?

Shrimati Benu Chakravartty: It is exactly the point. We are not opposed to the Fund being made over to the Central Government. Once it is made over to the Central Government that is how we are supporting it—it will be augmented. But what we are opposing is this. It should not become just a sort of a general part of the Consolidated Fund out of which everything is done. It should be allocated specifically for the objects of the Association.

Shrimati Benuka Ray: We would like that in the Joint Committee certain provisions be added by which the objects of the Fund could specifically be retained.

Dr. Sushila Nayar: Sir, I must make it clear that personally I feel very strongly that the Fund should be retained as a separate entity. I do not wish it to become part of the General Budget of the Government of India and I do not want it to be managed by the usual Government machinery. If I have supported this Bill and suggested reference to the Joint Committee, it is purely because the original Dufferin's Fund that was created had been frittered away. If the Government wishes to start a new Fund or give it a new name or wishes to honour any national lady or a great person, there is absolutely no objection to that too. This Fund should become the nucleus for an enlarged endowment for promoting medical education and medical relief of women and children in this country. It was a very unfortunate moment when some steps were taken and womens Medical Service abolished and the Dufferin hospitals were made appendages of the civil hospitals. The results have been very sad. There is no time for me to go into the details and I do not wish to take up the time of the House. I do wish to make it clear that my sole object is that this Fund should not disappear as a separate entity. The name may be changed but it should become the nucleus of a larger endowment for promoting the purposes for which the Fund was created in the first place.

Shri Karmarkar: Sir, the real object of the various good observations made by the hon Members who had participated in the debate was to direct the attention of the Government to the imperative necessity of continuing the Fund for the specified objectives. As my esteemed friend, Dr Sushila Nayar said, let me make it clear straightaway that it is not the intention of the Government to annex this as a small sum of Rs. 12 lakhs or Rs. 15 lakhs. The fund will continue for the purpose. If possible, I am quite sure that Government will be adding to that fund. There is no difference of opinion on that point at all. And, it was largely that apprehension, I think, that per-

[Shri Karmarkar]

sueded my friends, so far as I know their minds, to have it referred to a Select Committee. I am prepared to give them the assurances which were behind their speeches

Acharya Kripalani (Sitamarhi): When Ministers are changing, what is the good of your assurances?

Shri Karmarkar: I think, Sir, this is a field where angels fear to tread.

Mr. Speaker: If there is a change it will be a change in favour of a lady Member.

Shri Karmarkar: I hope, Sir, Acharya Kripalani will permit me to deal with the arguments of my esteemed colleagues, the really relevant speakers who have spoken.

The second point that Dr Sushila Nayar made was that she is not exactly satisfied with the conditions in the hospitals in the States. Now, as it would have it, when we framed the Constitution we made a division of labour, we made a division of responsibilities and hospitals are with the States. They are completely autonomous in that field, but if there is any particular case, or if there is a general case I would like my esteemed colleague to send me on a note. We have an annual meeting of Ministers, and I shall draw their pointed attention to this.

It is not because we have come up with this Bill. But as hon. Members are aware, Government are keenly anxious to see to it that everybody including the women of India are done justice. It is not as if we force a man doctor upon a lady who does not want to be treated by a man doctor, even though a sensible patient does not mind the sex of the doctor who treats him or her. What he or she is concerned is to get the best treatment possible

Anyway, here in Delhi, for instance, we have the Lady Hardinge Hospital which is absolutely a women's hospital; we do not have men patients there.

There is a Zanana hospital in the city. I am not exactly in possession of the facts and figures here, but I am quite sure that the States also will see to it that there are some women hospitals where only women can be admitted. There is some point in that, and we as Government would like to extend medical treatment to everyone equally, whether man, woman or child, and especially the women folk in this country require greater attention.

Another point was made about equal opportunities for women—I forgot who first made that point.

An Hon. Member: All the three made out that point

Shri Karmarkar: In any case all of us are agreed on that, that there should be equal opportunity. I will go even one step further. A woman should be treated as having a little handicap, and if in an interview a lady gets five marks less if I were on the selection committee I will give five or six marks more, but that is a different matter (*Interruption*). I would like to do that because we have but precious little of them in this country as medical doctors. In any case I am not likely to be on any selection committee, but if I were on any selection committee that would be the principle that I would follow (*Interruption*) That will give a filip to the lady folk in the country taking to this eminent profession of medical practice

Shri D. C. Sharma (Gurdaspur): Sir what is this giving five or six marks more about, I could not understand?

Shri Karmarkar: I think my friend when he was an examiner cut down five marks in the college where he was teaching. That is a different point.

But here I am on this serious point I entirely agree with the plea that is made. It is not because I agree, but it is one of the axioms on which the Government should run, that everybody should have equal opportunity

In proper cases, I should think, if there is any least chance of a lady being rejected because she is a lady, that should be attended to with attention, I mean to say, with concern. If there is a single case where a lady has been discriminated as a lady in the matter of appointments I should like to know about that instance, and I will personally look into that

Dr. Sushila Nayar: Is it that after independence suddenly women lady doctors have deteriorated, while there were so many before independence?

Shri Karmarkar: I do not know why my hon. friend takes a dismal view of women doctors. In Delhi we are proud of our lady doctors in the Contributory Health Scheme. They are doing—I don't say a man's job—a good woman's job and we are proud of them (*Interruption*). I do not think, Sir, that the allegation made against the ladies in India as either being left out or as being incompetent is wrong. They do not suffer from any such inferiority complex, thanks to their abilities and achievements. Day in and day out we find cases of ladies coming forward. In any case it will be always our attempt to see that the 'better half' of the nation finds its proper representation on the medical services

My hon. friend Shrimati Renu Chakravarty said that she has no instance to point out in the matter of services of the Government of India. You cannot find out one. We do not discriminate. Our principle is, equal work equal pay. If there is a doctor appointed to a grade we give him or her the grade. We do not cut down 10 per cent. because the incumbent happens to be a lady. I would like to make that clear, because that point was put forward.

Sir, they spoke of the Lady Hardinge College. Ultimately, a college is a college. The original idea was formed some 40 or 50 years back when there was less of enlightenment over certain matters, when the girls refused to go to any college without *purdah*. They used to sit in their class rooms with

purdah on unless there was a lady teacher. Those times are gone. These days girls are more in advance with the times. They do not mind whether it is a man or woman teacher who teaches them, unless we put some such ideas into their heads. In this college there are eight male teachers who are very competent. I do not see any reason why men should be prohibited from the precincts of this college. If it is a girl's college it will continue to be so. There are only very few male teachers compared to the other lady doctors there. Nevertheless, when we advertise for the posts, even now we have advertised for the post of Principal, in the first instance we advertise for ladies, and unless all the ladies are incompetent we shall choose someone of them.

Dr. Sushila Nayar: You make them incompetent.

Shri Karmarkar: People who are really competent will never be made incompetent by anybody.

Dr. Sushila Nayar: A selection committee can do anything. That is what you are doing.

Shri Karmarkar: Sir, I will not answer that charge, I think I will discuss it outside the House. I do not know any instance where Government as a body has worked with a prejudiced mind. Man may err, but I am yet to find a man who is really a woman hater (*Interruption*).

Mr. Speaker: Do all these arise out of this Bill?

Shrimati Benaka Ray: Sir, it is not a matter of amusement. I feel that the matter is being treated very lightly.

Shri Karmarkar: I entirely agree with my hon. friend

Sir, my esteemed predecessor was also the President of the Red Cross for a large number of years. She was in charge of the Ministry for nine full years. She was a better judge than I could be. Out of all things she judged, and I think rightly, that

[Shri Karmarkar]

this fund should vest with the Government. Why? Because the Red Cross Society will be amenable once a year to the general body.

Acharya Kripalani: Because she thought she will always be a Minister and safeguard the interests of women.

Shri Karmarkar: Sir, I think I will have to disregard my learned friend's interruption unless there is something relevant.

Acharya Kripalani: He will always be a Minister and safeguard the interests of women.

Shri Karmarkar: I hope my hon. friend's blessings come true, but nothing depends upon his blessings.

Rajkumari Amrit Kaur both as President of the Red Cross Organisation and as Health Minister decided, and decided rightly I think, that this fund should rather vest in Government, because we are here to be cross-examined, to be questioned, to be interpellated and all that in the budget sessions. We are answerable to this House, and I think funds would be better here than in any private organisation, where all Members of Parliament could have access to them. That was the view, I think, which persuaded my esteemed predecessor to say that it should vest with the Government.

That is all I think, the points raised. I should like to assure the House that, as I said at the commencement, there is absolutely no idea of any territorial or monetary acquisition in this matter. We do not want to acquire anything. After all, what is the fund? It is about 12 lakhs or 15 lakhs. We are spending far more on other objectives. On the training of nurses we are spending many times this amount. Why should we have an evil eye on a small fund of 15 lakhs which is neither here nor there? But lest there should be any doubt on this score, I should like to assure the House that this fund will be treated as a nucleus

There was a governing body under the old organisation. I cannot say with certainty anything, but I believe that there will be an advisory committee about this. Though one could not possibly include all lady Members in that particular body, I will see that Parliament has representation in that. In fact, in regard to this matter I should like to be guided by Members of this House. We are open to suggestions and corrections. The object will be there and it will always be my duty to abide by them, only, let us not forget for the end of time after this Bill is passed. I wish we could set up a small advisory committee for the management of the interests from this fund. In any case, even now, for instance for the year 1957-58 we have given six scholarships for nursing, 25 for under-graduates and three for post-graduates. The fund has been functioning and we would like to have the fund functioning well.

I am sure the observation in favour of referring the Bill to a Select Committee was made more under the apprehension that possibly the Government may not be able to do justice. I will very gladly assure the House that we shall see to it that the fund is properly managed and for the objective of the fund, and if possible and if it is necessary to add to the resources of the fund. In any case, we shall consider it our duty to advance the cause in a much more degree than this fund could ever do. In fact, it has had a good record of service. I need not repeat it one by one. We should in fact record our appreciation of the work done by those who have been in charge of the management of this Fund. They have all tried to do the best. I suppose there are no more arguments to be made. I am quite sure that with this assurance, my friend Shrimati Renu Chakravarty will withdraw her suggestion.

Shrimati Renu Chakravarty: If the Minister says that he is prepared to see that the Fund is properly managed, do we take it that ..

Mr. Speaker: It is kept as a separate Fund; that is point No. 1. It is managed separately; that is point No. 2. A Council is associated with its management; that is point No. 3. It is augmented if necessary; that is point No. 4. These are the points which have been made.

Shrimati Renu Chakravarty: These are the things that he has promised. Will he be prepared to accept the amendments if we move them straightway?

Mr. Speaker: Let us see when the amendments come up. I believe that the hon Members who have tabled amendments for reference to the Joint Committee are withdrawing the amendments.

Shrimati Renuka Ray: I should like the Minister to give a specific assurance that a separate committee will be formed of the nature that I mentioned in the course of my speech. If that assurance is there, then I shall withdraw my amendment.

Shri Karmarkar: I thought that the assurance was specific. I wish to see to it that a committee is formed including one or two Members of Parliament.

Shrimati Renuka Ray: It is not a question of Parliament. I meant medical women.

Shri Karmarkar: I am particular that members of Parliament are associated with such things. We shall see that there is an advisory committee for guiding us in respect of the expenditure of this Fund.

Dr. Sushila Nayar: While asking for the leave of the House for withdrawing my amendment, I should like to say one or two words in answer to some of the remarks made by the hon Minister.

Mr. Speaker: She wants to cover the same ground again.

Dr. Sushila Nayar: It is not the same ground. If you will permit me a minute or two I shall say what I

want to say. The Minister said that the girls have advanced and that....

Mr. Speaker: With all respect, I am not going to allow all this kind of second discussion over this matter.

Dr. Sushila Nayar: I would like you to permit me to say just a few words.

Mr. Speaker: The hon. Member may withdraw or may not withdraw. If she does not withdraw I shall put it to the House.

Dr. Sushila Nayar: I hope you will be a little more reasonable to us. I wish to say, Sir,....

Mr. Speaker: She was herself a Speaker

Dr. Sushila Nayar: When any matter relating to women comes up before this House, there is hilarity and jocularity, as if it is all a matter of joke. I am sorry to say that the hon. Minister himself is a party to that jocular mood and hilarity, and I protest against it. With these words, I wish to withdraw my amendment, on the specific four-point assurance that you have enumerated.

Mr. Speaker: I was only repeating what the Minister said.

Shri Karmarkar: You have summarised it very well

Shrimati Renuka Ray: I withdraw my motion on the assurance given by the Minister that a committee will be formed. I hope also that he will accept the amendments tabled by Shrimati Renu Chakravarty.

Mr. Speaker: I take it that the hon. lady Members have the leave of the House to withdraw their amendments relating to the reference of the Bill to a Joint Committee.

The amendments were, by leave, withdrawn.

Mr. Speaker: I shall now put the motion for consideration to the vote of the House. The question is:

"That the Bill to provide for the transfer of the Fund known as

[Mr. Speaker]

the Countess of Dufferin's Fund to the Central Government, be taken into consideration."

The motion was adopted.

Clause 2—Definitions

Mr. Speaker: We shall now proceed to clause-by-clause consideration. For clause 2, there are no amendments.

The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Dissolution of Association and transfer of Fund)

Shrimati Benu Chakravarty: I beg to move:

Page 1, after line 16, add

"Provided that the Fund is used only for the purposes and objectives of the Association"

I do not think I need say very much about this, because we have already argued out this case sufficiently, and the hon. Minister has also accepted what I had said. So, I think there is absolutely no reason why he should not accept this amendment of mine. I therefore commend it to the acceptance of the House.

Mr. Speaker: The amendment is before the House.

Shri Karmarkar: I beg to oppose this amendment in view of the assurance that I have given, and on one relevant consideration. There was what is known as—and partly it is existing—the Women's Medical Service. It has ceased to exist. Out of 41 Members, I understand that some 16 remain. According to our arrangement, unless the States agree, it is difficult. When we wanted to, and when we did, form a Central Health Service, we did request the States to participate in that.

At the present moment, as from a particular date—I think from 1947 or 1948—all the members of the Women's Medical Service who opted to their respective States went to the States, and the States were asked to absorb them and they absorbed them. Apart from the people who had been absorbed some retired out of the original 41. Among the 41 members, there were 16 who remained. Out of them, I think about eight are in the Central Government. We shall bear the liabilities in respect of them, but there is no idea of creating, apart from the Central Health Service formulated by the Central Government, any other Women's Medical Service, because we cannot do that and we do not want to do that. Unless the States agree, they cannot participate in the general service which we have formed under the Central Government. Therefore, one object goes out.

With regard to the other objects as I said, those objects of the Fund exist. We are serving the objects of the Fund. Even otherwise, as my hon. friends will concede, in respect of nurses' training we are doing about ten times the work that this Fund could have served. That is why I say that in view of the specific assurance I do not think an amendment to clause 2 is necessary.

Shrimati Benu Chakravarty: May I point out that this Fund is to be used only for the purposes and objectives of the Association. It does not specify that all the objectives of the Association would be carried out. Already, by a resolution, the W.M.S. has been terminated. Therefore, that question does not arise at all. The question is, whether the Fund will be kept for furthering the purposes and the objectives of the Association. The amendment does not say anything about the W.M.S. It can easily be accepted.

Shri Karmarkar: I do not feel it necessary to accept it. Otherwise, logically, if we accept it, we shall have to add many more things which we consider would be surplus, in view of

the declaration made on behalf of the Government on the floor of this House, we consider that this amendment is not necessary.

Shri Nath Pai: Why be so destinate?

Shrimati Bena Chakravarty: I could not understand what the Minister said.

Mr. Speaker: He says that in view of the assurance that this Fund shall be kept separate, that there is going

to be a council appointed, he does not think it necessary to accept this amendment

Mr. Speaker: The question is.

Page 1, after line 16, add—

“Provided that the Fund is used only for the purposes and objectives of the Association”

The Lok Sabha divided: Ayes 42; Noes 147

Division No. 15]

AYES

[12.41 Hrs

Banerjee, Shri S M
Barua, Shri Hem
Bharucha, Shri Neelhar
Chakravarty, Shrimati Bena
Chandramani Kalo, Shri
Choudhuri, Shri T K
Dasgupta, Shri B
Deb, Shri P G
Dharmalingam, Shri
Drohar, Shri
Elias, Shri M
Golkwad, Shri B K
Ghosal, Shri
Ghose, Shri S

Gosw, Shri
Gupta, Shri Sadhan
Iyer, Shri Eswara
Jadhav, Shri
Kamble, Shri B C
Karr, Shri D A
Kodiyar, Shri
Kunhan, Shri
Mahagonkar, Shri
Manay, Shri
Matera, Shri
Mehdi, Shri S A
Mukherjee, Shri H N
Mullick, Shri B C

Nath Pai, Shri
Nayar Shri V P
Pantgrahi, Shri
Parulekar, Shri
Patel, Shri P R
Patil, Shri Balasubh
Patil, Shri Nana
Prodhan, Shri B. C
Ram Garib, Shri
Singh, Shri Rajendra
Somule, Shri H N
Soren, Shri
Sugandhi, Shri
Warior, Shri

NOES

Abdul Lateef, Shri
Abdur Rehman, Molvi
Agadi, Shri
Agrawal Shri
Ambalam, Shri Subbub
Arumugham, Shri R S
Ashana, Shri
Bakhtwal, Shri
Banerji, Dr. R.
Barupal, Shri P L
Benepe, Shri
Bhain Durban, Shri
Bhargava, Imdit Thekur Des
Bhattacharyya, Shri C. K.
Bhogal Bhal, Shri
Bideri, Shri
Chavurvedi, Shri
Chaudhry, Shri C. L.
Chaud Lal, Shri
Daman, Shri
Dangya, Shri
Das, Shri Shankar
Das, Shri Manarji
Deygarnat, Shri
Golkwad, Shri Potwalghose
Ganguly, Shri
Ghosh, Shri M. K.
Goudar, Shri K. P
Gurind Das, Seth

Guha, Shri A. C
Gupta, Shri C L
Hegvani, Shri Anwar
Hazarika, Shri J N
Hewari, Shri
Hisham Singh, Sardar
Jain, Shri M. C.
Jena, Shri K. C.
Jogendra Sen, Shri
Jyotshi, Pandit J P
Kamble, Dr
Kanakabai, Shri
Karmakar, Shri
Kashyap, Shri
Karyal, Shri P N
Kedria, Shri C. M
Khadiwala, Shri
Kishore, Shri
Korobargaly, Shri
Krishan Chandra, Shri
Krishna Rao, Shri M V
Lahiri, Shri
Lal, Shri R. S.
Laxmi Bai, Shrimati
Mahapatra, Shri K. D.
Malviya, Shri K. B.
Malviya, Shri Motilal
Mansam, Shri
Mandal, Dr. Pashupat

Maniyangadan, Shri
Masuriya Dun, Shri
Mathur, Shri Harish Chandra
Mehta, Shri J R.
Mishra, Shri L N
Mishra, Shri M P
Mishra Shri B D
Mishra, Shri R. R.
Mohammed, Shri
Muzum, Shri Patka
Naich, Shri Govindarajulu
Nair, Shri Kottukrishnan
Nallaboyy, Shri
Nayak, Shri Mohan
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Pahadia, Shri
Pangarkar, Shri
Panna Lal, Shri
Patel, Shrimati Mansben
Patel, Shri N N
Patil, Shri S K.
Pillai, Shri Thambu
Prabakar, Shri Naval
Prasad, Shri Mahadeo
Rajin Ramana, Shri
Raghunath Singh, Shri
Rahman, Shri M. H.
Rameswami, Shri S. V.

Ram Krishna, Shri
Rangure, Shri M.
Ram Saran, Shri
Ram Subbag Singh, Dr.
Rane, Shri
Ranga, Shri
Rangarao, Shri
Rao, Shri D. V.
Rao, Shri Jagannatha
Raut, Shri Bhoja
Reddy, Shri Bali
Reddy, Shri Naraya
Reddy, Shri Ramakrishna
Reddy, Shri Ram
Sabdarai, Shrimati
Sahu, Shri Bhagabat
Sambandam, Shri
Sanganna, Shri
Sarhadi, Shri Ajit Singh
Saryabham Devi, Shrimati

Selku, Shri
Sen, Shri A. K.
Servali, Shri Valrajan
Shah, Shri Manabendra
Sharma, Shri D. C.
Sharma, Shri R. C.
Shastri, Pandit H.
Siddananappa, Shri
Singh, Shri D. P.
Singh, Shri H. P.
Singh, Shri K. N.
Singh, Shri M. N.
Singh, Shri T. N.
Sinha, Shri Anirudh
Sinha, Shri B. P.
Sinha, Shri Gajendra Prasad
Sinha, Shri Jhulan
Sirha, Shri Sarangdhara
Sinha, Shri Satya Narayan
Sinha-an Singh, Shri

Sultan, Shrimati Meemoona
Suman Prasad, Shri
Swaran Singh, Sardar
Syed Mahmud, Dr.
Tahir, Shri Mohammed
Tariq, Shri A. M.
Tewari, Shri Dwarikanath
Thirumala Rao, Shri
Triwari, Shri Babu Lal
Triwari, Shri R. S.
Uike, Shri
Umarao Singh, Shri
Upadhyaya, Shri Shiva Devi
Varma, Shri B. B.
Varma, Shri M. L.
Vyas, Shri Radhela
Wadia, Shri
Wanik, Shri Balakrishna
Wodeyar, Shri

The motion was negatived.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill

Mr. Speaker: So far as the new clause 3A is concerned, it says:

"The Central Government shall have the right to augment the fund....." etc.

Always the Central Government has the right to make any grant or to increase the fund. We are not conferring any new right upon them. So, it does not appear to be necessary or proper.

Clause 4—Validation of certain acts done before the commencement of this Act)

Shrimati Benu Chakravartty: I want to oppose clause 4, because we have not been given any details as to the acts or things done before the commencement of this Act, i.e., from the time of the resolution passed by the lady doctors' association to the passing of this Act. We do not know how they have used the money. Very obviously, there must be certain illegal actions done by this organisation, which we now want to condone. We have been told by the hon. Minister that such things as the transfer of

funds to Pakistan could not be executed because of legal difficulties. All other expenditure which was to be incurred obviously was to be incurred according to the rules of the association. If that is so, that would be quite in order and there is absolutely no necessity why we have to condone certain actions and things done before the commencement of this Act by a special clause.

Personally, not having been given a detailed account as to the way in which the money has been disbursed, I understand just by way of hearing from various people that certain things have been done which may not find favour—or, I would not say 'favour', I would rather say, which are not quite within the law—and that is why we have to bring forward this clause 4. I think this House should not be asked to pass a blanket clause of this nature, trying to legalise certain actions which otherwise would be illegal. Since we have been assured by the hon. Minister that the difficulty of transferring the money from here to Pakistan was the only point which was included within the resolution of April, 1949, I think we should not give this blanket power to legalising those acts without knowing what is the money that was expended and what are the items which are feared to be illegal, etc. That is why I want to oppose this clause strongly.

Shri V. P. Nayar: I am also against this clause not merely for the reasons advanced already, but because here after a period of 8 or 9 years, we are asked to condone not merely certain acts done, which may be acts of commission or omission, purported to be done under the resolution—up to that it could be understood. But beyond that taking away the jurisdiction of the courts is not correct. As you rightly observed when the point of order was raised, even in a matter of dissolution, the competent authority to oppose the order was the court. After 8 years, you come and say that no action taken under the resolution can be called to question in a court of law. Where is the necessity for ousting the jurisdiction of courts? If the Government believe that all those actions are proper, there is no fear at all in going to the court. . . I do not know the details of the expenditure I would very much like the hon Minister to take the House into confidence and tell us that so much money has been kept at the time of the dissolution, so much has been spent on certain purposes. Until we know how the money has been spent it is not possible for us to agree to this clause which lays down that no court shall adjudicate upon any of the disputes which are likely to arise. So, I oppose the clause and I hope the hon Minister will reconsider the case.

Shri Easwara Iyer (Trivandrum): Regarding the question of ouster of the jurisdiction of the courts, one finds that there is an alarming tendency to oust the jurisdiction of courts. I certainly doubt whether a provision made in a Bill that no suit or proceedings shall lie regarding the question of the validity or invalidity of an action, is constitutional. I may say that if an Act is illegal and is against the provisions of any statute or law in force in the country, certainly that Act can be questioned in the court under the extraordinary jurisdiction given under article 236 of the Constitution. When such is the case,

why should we put in this superfluous clause, unless we are enamoured of ousting the jurisdiction of the courts? When the Constitution gives ample power to the Court under Article 236 to go into any illegal transaction, the mere fact that there is such a provision in this Bill is not going to help it. This tendency of ousting the jurisdiction of the court in questioning the validity of a transaction should be removed. That is all I have to submit.

Shri Karmarkar: What is sought to be done is to protect "all acts and things done, before the commencement of this Act, by any person acting or purporting to act in pursuance of the Resolutions passed at the extraordinary general meeting of the Association." This is only a necessary safeguard. It is not to cover anything. Nothing can cover what is illegal in the eye of law. Supposing somebody is responsible for misappropriation of funds, then it is not covered by this. What is sought to be done is to protect such action taken in execution of the resolutions of that particular body between then and now.

I appreciate the anxiety of hon. Members opposite to know everything. I find that the last report was published in 1949 for the year 1947. I propose to advise my Ministry to bring out a report from the date of this report up to date, giving accounts and all that I am as anxious as my hon. colleagues on the other side that everything should be done rightly, not only done rightly, but shown to be done rightly. Therefore

Shri Nath Pai: In that case, the Bill should have waited for this report and not give a blanket cover.

Shri Karmarkar: There is no blanket or cover; it is all legitimate.

Mr. Speaker: This further report was not originally contemplated; but in view of what the hon. Members have pointed out, the hon. Minister wants a report to be prepared.

[Mr. Speaker]

The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 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.

Shri Karmarkar: I move:

"That the Bill be passed"

Mr. Speaker: Motion moved, Discussion may proceed.

Shrimati Meen Chakravarty: There are only two points which have not been touched throughout the debate. One is regarding the necessity of setting up an All India cadre. The hon. Minister has stated that the States have refused. But he has not added why they have refused it. They have refused it because they are not able to bear the additional expenditure that will be incurred in setting up the All India Cadre; because, this cadre would have to be given a higher rate of pay than the State cadre.

There is a very legitimate fear in their minds. That is why I have said that it is very essential that the Government of India must consider paying the extra emoluments from the Central Fund for the setting up of this All India Cadre. They should pay the difference between the State scale and the cadre scale. The reason for my saying this is that there are many backward States in this country, which don't have even one or two women doctors to serve even the big cities.

I have heard that the backward States are the States that have most vehemently opposed the setting up of this cadre. They are afraid that they will have to bear the additional expenditure which they cannot afford to

bear if they are to have the All India cadre. Therefore, I suggest that the Central Government must take upon itself the extra financial burden for the setting up of the All India cadre.

May be, it is not necessary as far as men are concerned. But, as far as women doctors are concerned, how many women doctors do we have in the States like Rajasthan and Orissa? Very few. Therefore, it is absolutely necessary that those who come from forward States—I am saying it comparatively speaking, for we are all backward—like Bengal, Bombay and Kerala should spare the women doctors that we need. That is why I propose that this should be taken into consideration.

My second point is about service conditions. Take, for instance, the Lady Hardinge College Hospital. There are doctors from 1949 up till today they are in service. I suggest that the years of service that they have put in from the time of the dissolution resolution of April 1948, from that time, till today should be taken into consideration for purposes of emoluments in this cadre. Their services should be taken into consideration from the date of dissolution.

These are the two points which I would urge the Government to consider

श्री भक्त दर्शन . अध्यक्ष महोदय, माननीय मंत्री जी ने अपने पिछले भाषणों में यह प्रावधान दिया है कि यह फंड जब सरकार के अधीन चला जायेगा तो उनकी रकम और भी बढ़ा दी जायेगी और राज भी जो नगरों में माताओं और बच्चों के इलाज की व्यवस्था है वह बहुत ही परतोषजनक है और अपर्याप्त है उसे बढ़ा कर माताओं और पिछड़े हुए प्रदेशों में भी ले जाया जायेगा । इसलिये इस सम्बन्ध में तो मुझे कुछ नहीं कहना है ।

में एक बात कहना चाहता हूँ और यह यह है कि यह स्पष्ट नहीं है कि इन

विधेयक के द्वारा जब सरकार इसका प्रबन्ध करने हूय हैं के लेनी उस के बाय भी इसका नाम यही रहेगा या बदल दिया जावेगा । में यह प्रश्न इसलिये उठा रहा हूँ कि में अभी तक यह नहीं समझ पा रहा हूँ कि स्वाधीनता के इस वर्ष बाद भी इसी तरह के नाम क्यों जारी रहने विवे जा रहे हैं ? क्या हमारे देश में ऐसी अढ्यायोग्य महिलायें नहीं हैं जिनके नाम पर इस फंड का नाम रखा जा सके ? पुराने जमाने की बात जाने कीजिये । आष भी हमारे देश में ऐसे नाम हैं, जैसे श्रीमती कस्तूरबा गांधी का नाम है, जिनके नाम पर एक स्मारक बन भी रहा है । क्यों नहीं गवर्नमेंट इस फंड का नाम और इसी तरह के दूसरे फंडों के नाम ऐसी महिलाओं के नाम पर रखती है ? ऐसा करने से देश में अनुकूल वातावरण पैदा होगा और साथ ही इस समय जो हमारी माननीया महिला सदस्याओं ने अपने अधिकाओं का प्रश्न उठाया है में ममजता हूँ ऐसा करके हम उनके प्रति भी अपनी अढ्या प्रकट कर सकेंगे । अतः क्यों न उनके ही नाम पर इन फंडों का संचालन किया जाये ? मे. आशा करता हूँ कि माननीय मंत्री महोदय इस और ध्यान देने की कृपा करेंगे ।

Shri Karmarkar: There are two and a half points which have been raised, two by my hon. friend Shrimati Renu Chakravartty and half by my hon. friend, Shri Bhakt Darshan.

The first point that was raised was about the nature of the service. I would like to take another opportunity to dilate on that point. What we have asked the States is to create a Central Health Services on the lines of the original IMS or on the lines of the present I.A.S. or I.P.S. That is to say, we wanted to create a service, the members of which in various States will get uniform scales of pay, so that they might always have the freedom to come to the Centre in deserving

cases. We want a common uniform sort of blood running through the veins in all the States.

But for reasons, on which I am prepared to dilate upon on some other day, I may tell my friend that a large majority of the States did not want to participate in this scheme. That has been the present state of affairs and we cannot force our decision on the State. We want to develop an integrated All India service, both for men and women.

I could not exactly follow my friend's arguments about doctors. As I said, out of the 16 doctors 8 are in the Lady Hardinge Hospital. They are there for a long time. They are getting the remuneration which they would have otherwise got.

Shrimati Renu Chakravartty: From 1949?

Shri Karmarkar: Yes, to date and they will continue to get it till they retire.

Shrimati Renu Chakravartty: Their scales of pay will continue from 1949?

Shri Karmarkar: It is calculated from the start

Shrimati Renu Chakravartty: I don't think they have got it.

Shri Karmarkar: I think she has not been able to make the point clear. Those who were there prior to 1948 are still serving in the same place. They continue to get the same service conditions. We are not denying them anything. They will continue to get them till they retire.

Shrimati Renu Chakravartty: Will the new scales of pay start from 1948? What about those governed by the old scales of pay?

Shri Karmarkar: I say that the new scale will be applicable. It is no use arguing. My friend is not quite sure and I am not sure what she means. I think we might just adjourn for a while. After five minutes we can fully discuss the matter. I am prepared to satisfy the curiosity of my hon. friend.

[Shri Karmarkar]

I will try to reply to Shri Bhakta Darahan. I hope his argument will be appreciated in the appropriate quarters. He complained about the name. There is no particular advantage in removing old names unless they are so offensive. We do not want to substitute new names. We can have new names for new things. Anyhow, his observations will receive due consideration in due course. Anyhow, it is not a very important point. All the observations made on the floor of this House will receive due attention. That is all I have to say.

Mr. Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

POINT RE EXPUNCTION

Acharya Kripalani (Sitamarhi) May I submit . . .

Mr. Speaker: Is it relating to this Bill?

Acharya Kripalani: No I am sorry, I have to interrupt the proceedings of this House. I have to refer to another matter. On the 27th November, I delivered a speech.

Mr. Speaker: Hon Members should always give some notice to me regarding these matters.

Acharya Kripalani: I gave you notice 13 days ago. You said that you will consider this matter. For 13 days nothing has been done. This is the last day and so I have ventured to raise it here. This is the first time that I have ever interrupted the proceedings of this House. Is it not a fact that I too am a representative of the people? Things were said against me which, I think, would prejudice my reputation. I very much hesitate to interrupt the proceedings of this House. As you know, though for years I am here, I have never, even once, raised a point of order.

Mr. Speaker: He should have met me this morning. He could have told me that since he did not receive any reply, he will raise this matter in the House.

Acharya Kripalani: On my statement you yourself said, if you remember it, that you will consider this question and let me know. Now 13 days have passed and as yet I have not heard anything from you. Let me make my point clear. You were good enough to expunge the word that I had used. I have submitted to you that earlier with an oblique reference this very word was used by the Finance Minister. You said that you will look into the matter.

Some Hon. Members: What is the word?

13 hrs.

Acharya Kripalani: The word was very innocent. It only meant in the dictionary, I think, spurious.

We are not great scholars in English. Sometimes we do not know what the word meant exactly. But, a friend of mine, Shri Feroze Gandhi referred to the dictionary and found out that the word that I had used meant only spurious. I think I am entitled to say that the ability of the Finance Minister is spurious.

Mr. Speaker: Very well.

Acharya Kripalani: Even then, if the word that I used was objectionable and you have ordered its expunction, you are within your rights. I cannot question your authority there. But, I submit that the word that the Finance Minister used with oblique reference to me also should be removed in fairness to me.

BUSINESS OF THE HOUSE

The Minister of Irrigation and Power (Shri S. K. Patil): I made a request to you that my Bill be taken now and I had also requested the Deputy Minister of Home Affairs. She has no objection.

Mr. Speaker: The Bill stands as No 4. Four and a half hours in all have been allotted for it. We must take all these Bills today. There is no harm if we take this now.

Shrimati Bena Chakravarty: May I just point out, Sir, if this is taken in precedence, it will create much confusion. Because, Members are functioning in parties. We have set apart certain Members to speak on these Bills. If constantly the order of business is changed like this, the Member who is supposed to speak on behalf of the party may not be present in the House. That is the difficulty. I do not want to say anything more.

Mr. Speaker: What is the hurry about this Bill?

Shri S. K. Patil: It is a non-controversial Bill. All the Bills have to be finished today.

Mr. Speaker: It is true. It may be that some Members may expect that this Bill would be taken up later on in the day and may come to the House only then. Unless the hon. Minister is going away somewhere else immediately.

Shri S. K. Patil: I cannot make that an excuse. If the House requires my presence, I must be present.

Mr. Speaker: I will call Pandit G. B. Pant.

CITIZENSHIP AMENDMENT BILL

The Deputy Minister of Home Affairs (Shrimati Alva). Sir, I beg to move

"That the Bill to amend the Citizenship Act, 1955, be taken into consideration."

This is a very small amending Bill by which we want to list three more independent countries that have become independent within the Commonwealth: Ghana, Federation of Malaya and Singapore. Singapore has already informed us that reciprocal arrangements have been made for the naturalisation of citizenship. As to the other two countries that we are putting on the list, we are anticipating reciprocal arrangements with them.

313 LSD—3

In the Statement of Objects and Reasons it is made very clear that in order to enable the Government of India to notify on a reciprocal basis, the citizenship or nationality law of these countries as and when it becomes necessary, it is proposed to amend the Act to include these countries also in the First Schedule.

I do not want to say anything more as this is of a routine nature. I have explained why the three countries are proposed to be listed in the Schedule A.

Motion moved.

"That the Bill to amend the Citizenship Act, 1955, be taken into consideration."

Mr. Speaker: The motion is before the House. What about the amendment?

Shri Sadhan Gupta (Calcutta-East): Sir, I beg to move

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 17th day of February, 1958."

I have moved this motion for circulation because, I am opposed to the spirit of the Bill and I want to refer it to the country so that the country may give its verdict on a very important matter, namely, whether the country would support the maintenance and reiteration in this instance of the Commonwealth tie.

13 06 hrs.

[MR. DEPUTY SPEAKER in the Chair]

Let me make it clear that I am not opposed to granting facilities to the citizens of other countries to become citizens of our country on a reciprocal basis. I am not opposed to that principle. When we have to live in an international community, it is always better that we foster friendliest relations between the different countries. But, what I am opposed to is this: the slavish outlook of basing our citizenship law on a tie of which we need not be proud, or we need to be ashamed of our Commonwealth tie. It has been said repeatedly from the Government side that

[Shri Sadhan Gupta]

this tie does not in any way injure our prestige because this tie does not affect our Independence. It has also been said in defence of the tie, that we do not break old contacts, but we keep them and create new ones.

I should like to answer both these points. I would take the last point first, because it seems to be a more plausible argument. Why should we break old contacts? I am for contacts. I am for contacts with every country in the world. I am for the friendliest contacts with every Government. My party is also for the friendliest contact with every country. My party feels that this country should establish such contacts with every country. When I say every country, I mean every country: the Soviet Union as well as the United States; socialist countries as well as capitalist countries, Britain not excluded, the countries of the Commonwealth not excluded. What we are ashamed of, however, is that certain countries should be selected for conferring special privileges because they belong to a certain group of countries. I would understand the conferring of privileges because of their close relations with our country. For instance, as far as this Bill is concerned, I would gladly welcome the inclusion of Ghana as a nation which is entitled to the citizenship of our country, the nationals of which are entitled to citizenship of our country on a reciprocal basis. I would very gladly welcome that. It is not because Ghana is a member of the Commonwealth. It is because Ghana is a symbol of resurgent Africa and it has demonstrated that it follows an independent foreign policy and does not belong to any imperialist group, and so on.

Similarly, there are many Commonwealth countries whom we would gladly welcome, whose nationals we would welcome as citizens on a reciprocal basis. But, that is because of their particular relationship with us and their ties with us and their friendly contacts with us. For instan-

ce, Ceylon: we would welcome although there are outstanding problems. I wish the citizenship problem as between India and Ceylon were settled. But, with all these problems, there is considerable scope for friendly relations between India and Ceylon. Therefore, I would welcome Ceylonese citizens as our citizens on a reciprocal basis, of course.

But, Sir, what is the fun in welcoming every country because it belongs to the Commonwealth? What ties have we got with Australia, for example? What ties have we got with other countries?

Take the case of Malaya and Singapore. For all we know, Malaya and Singapore are moving closer towards the South-East Asia Treaty Organisation. If they go on closer to it, we cannot welcome Malayan nationals as our citizens,—I say again, if they move closer to the SEATO. We find that Malaya gives every facility to Britain, but when it comes to the question of Indian citizens, they are making a certain distinction between Malayabi Indians and others simply because of the fact that there is a Communist Government in Kerala. If they choose, they might fight their Communists, and though we have certain views about that, we need not express them here, we need not interfere in their domestic matters. I believe the Malayan Communists are able to take care of themselves. Let them fight out their own battles, and let them determine the rights and wrongs of that battle, but why should they discriminate against certain Indians on the ground that the men of their State have democratically chosen a certain form of Government. All this shows that it is not really a defence against Communists in their own State; it shows that they are veering towards imperialism, aligning themselves more and more with SEATO. The nationals of such a nation we cannot take as our citizens. Similarly, the same is the case with Singapore.

Therefore, what I wish to emphasize is: let us select countries on their own right, on their own merits and confer on them the right of reciprocal citizenship.

For example, it is a very sad thing that Burma is omitted from the list of countries. I may not be suspect of opposing Malaya because of my sympathy towards the Malayan Communists. Burma is also fighting her Communist, but there is no denying the fact that Burma is taking an independent stand as regards her foreign policy, and as a result, they earn the right of our respect and our friendship, and we have no objection to allowing Burmese nationals becoming our citizens on a reciprocal basis. But Burma is not included while Malaya is sought to be included. Nepal, our immediate neighbour, with whom we have so many cultural and traditional ties, is not included in this scheme whereas Singapore is included.

What is the principle behind it except a slavish attachment to the Commonwealth? Is that a way of making new contacts?

This contact is a very peculiar contact. It selects a certain group irrespective of their merits because that group once happened to be the slaves of Britain. It selects a certain group and sticks to that on the basis of that grouping alone, and confers certain privileges. Is that keeping a contact? It insulates us from close contacts with others. Why should we have closer contact with one group because it is a group? Why should we not treat them all alike? Why should not we treat Britain and China, for example, alike or on their own merits? Why should we not treat Burma and Ghana, for example, as equals? Why should we make a distinction? That is my objection, and I think there could be no answer to it. It cannot be defended on the ground that it is merely maintaining contacts. It is insulating ourselves from really rational contacts with others.

The other argument, that it has not hindered our independence, is also not a very great fact, not a very convincing fact. We know the different way in which we have treated the rising in Kenya and in Tunisia and Morocco. We have unhesitatingly condemned French repression in Morocco and Tunisia, but we have not condemned the British repression in Kenya or Cyprus. That shows that we are not independent. We are inhibited by certain ties, the Commonwealth tie in this instance from adopting a proper and democratic policy in international affairs.

Similarly, in the Egyptian affairs, the Prime Minister went out of his way to say that what Egypt has done is not the way he would have done. I cannot but think that this was because of our Commonwealth tie. Similarly, instances can be multiplied, and we have shown from time to time how the Commonwealth tie has really inhibited us from following a foreign policy according to our traditions and according what our foreign policy should be, according to the general lines of our foreign policy.

Therefore, I would oppose this Bill and ask this Bill be circulated for the purpose of eliciting public opinion. Let us evolve something which would put our international contacts on a more rational basis, on a more independent basis, and not tie us to a particular grouping based on the overlordship of a particular nation under whom we had suffered formerly.

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

Shri Nath Pal: I shall refrain from saying things which, though otherwise will be justifiable, will not be strictly relevant since we are not right now having a debate on the foreign affairs of India. I shall confine myself to certain issues that arise out of the proposal that is before the House today.

I certainly welcome the countries that are included here. It gives us great joy to know that we will be

[Shri Nath Pai]

conferring the only honour that is within our reach, that of reciprocity of citizenship, to the people of Ghana. Ghana happens to be the first African country to emerge as a sovereign, free nation. We earnestly hope that that will be the beginning of the era of freedom for the whole of Africa, and I mean African Africa. Therefore, it gives us great joy that we will be extending and exchanging citizenship rights to the people of Ghana and with them.

The same can be said about the people of the Federation of Malaya and also of Singapore, whose emergence as free people has filled us with joy. We knew what it was to be under foreign yoke, and theirs happened to be the same master. We therefore welcome them in this new comity.

My regret comes on another account. There are certain omissions which are very regrettable. I do not know if the amendments will be strictly within procedure, and that is why I wanted this chance to say what I have to.

As the law stands today, we exchange these rights with South Africa. That is a very lamentable thing. We extend to them the rights which our Constitution confers on everybody who is fortunate enough to be born in India, and for this very honour of being born in this country, which we regard as the highest good luck, we are penalised in South Africa. Far from the rights which accrue to a citizen of South Africa, the Indians are not treated there as human beings too. The ghetto is the place to which we are segregated, and in spite of what the U.N. General Assembly and the special commission have been saying on the issue, that country has been defying the world conscience and denying to us the rights to which we are entitled. So, one regrets that to such a country we extend these rights, but we omit such countries with which we have been almost fierce in our affection and admiration, countries like Burma and Nepal.

These are two countries about which there have not been two opinions in this country. Burma from the community of interest and outlook and the past unbroken tradition of friendship should be the country with which we should find ways and means of exchanging, extending these rights. The same applies to Nepal. These means will have to be somehow made good, if we are not to render this concession of reciprocity of rights a ridiculous one. Those who are nearer to us in their affection and approach, who have stood by us in our hour of trial and who will do so in future, will be Burma and Nepal. Rightly therefore we should find ways and means of extending and exchanging these rights with these countries.

This is all that I have to submit.

Shri D. C. Sharma (Gurdaspur): I am afraid this Bill has more or less provoked a debate on the foreign policy of India, and as was said by my hon. friend Shri Nath Pai, we should never try to extend the scope of this Bill in that direction. We should have restricted ourselves to the very limited objectives of this Bill. Whether we should stay in the Commonwealth or not is a very big question, and I do not think this Bill is going to solve that question or to diminish the importance of that question or to aggravate whatever effects there are of that question or to hide whatever effects there are of that question. So, I do not think that is very relevant to this debate.

But I must say that so far as these three countries are concerned, we have definitely those ties with them, to which the hon. Member from the Opposition who took part in the debate first referred to. We do want contact with Ghana, and we are very proud that Ghana's relations with our country are very friendly. I have been reading in the papers that a trade and cultural delegation from Ghana is going to come to this country. I have also been reading in the papers that the people of Ghana hold this country in high estimation and also the leaders

of this country in great esteem. They have been saying that they have derived a great deal of impulse in their struggle for freedom, from our country. Moreover, Ghana belongs to a group of nations, which, to say the least, have won their freedom in a very legitimate manner, and it has shown the way to freedom for other countries in that continent. So, Ghana certainly is an example which has to be acknowledged by this country, but it is also an example which has got to be followed, I should say, by the other countries in that continent of Africa. So, I do not think there can be any difference of opinion about Ghana. We should always welcome Ghana.

I welcome also the Federation of Malaya. I think in Malaya we are going to have a multiracial kind of society. Malaya, therefore, is a very good example of the amity that can exist, and the harmony that can prevail, in a multiracial kind of society. There are so many Indians in Malaya, and from the accounts that I have read in the papers, they are as good citizens as other citizens in that Federation. This is also a new experiment. I do not know from where my hon. friend got this information that the people of Malaya are giving a very discriminatory treatment towards the people of Kerala. I do not know what the source of his information is. I have not come across any such information. I believe that the Federation of Malaya treats the inhabitants of all the States of India as Indians. They do not have one rule for the Punjabis, another for the people of Kerala, a third one for the Tamils and so on. I do not know how my hon. friend has got this information. I think it is more in the imagination of some of my hon. friends than in actual fact.

I find that in Singapore also, there is a large number of our countrymen. They work there as traders and also in various other capacities. I have met them. I have met some of our countrymen in Malaya, and I think,

from what I know about them, that they are doing very well.

So far as the question of contacts is concerned, our contacts with Malaya and with Singapore are real. We are only putting those contacts on a firmer and more durable and more friendly basis in this Bill. So far as our ties are concerned, our ties with Malaya and Singapore are strong already, and I think this Bill will make those ties stronger than before.

As regards Ghana, our ties may not be due to the presence of some of our nationals there. In fact, I had once asked a question in this House on that subject, as to how many Indian nationals there were in Ghana; so, I do not know whether, and if so, how many Indian nationals are there. Whether any Indian national is there or not, the fact remains that Ghana is a country which is very dear to us, so far as the desire for freedom and the desire for an independent foreign policy are concerned. I believe the Prime Minister of Ghana, Dr. Nkrumah, has said that they are going to follow the same kind of independent foreign policy as India.

Here, I would say that in the matter of citizenship our country has to go very cautiously and very slowly. We have begun with what may be called the Commonwealth of nations. Of course, South Africa is also there in it. I agree with Shri Nath Pai in what he said, because South Africa does not give encouragement when we look at the Commonwealth of nations. But one swallow does not make a summer. On the whole our ties with the Commonwealth of the nations have been friendly. And I dare say also on the floor of this House that our ties with the Commonwealth of nations have not affected our policy of any kind adversely in any way. Whatever you may say, you cannot deny that our Commonwealth ties have not stood in the way of our pursuing an independent policy.

Moreover, in human relations, we have got to begin somewhere, and

[Shri D. C. Sharma]

even in this citizenship business, we have got to begin somewhere. It does not mean that we should stay all the time at the place where we begin. I think citizenship can be a kind of extending business, and an ever-extending business. So, having begun with these countries I shall forget for the time being that they are Commonwealth countries—I think this process should be a continuous process. This friendship has to be an ever-enlarging process, and I hope the day will not be far off when some of the countries to which my hon. friend has referred, will also have with us a reciprocal citizenship law. I would welcome it if we could extend this to Burma and Nepal also, because I know that our relations with Burma are the most friendly, if I can say so, and Nepal also is one of our good neighbours.

Now it is one thing to extend the scope of this Bill, and it is another to oppose whatever is there in this Bill, and it is a third thing to welcome this Bill. I would ask Government to consider whether this reciprocal citizenship can be extended to some of our neighbouring countries. I do not know what legal and constitutional difficulties there may be in that respect. But I think it will be worth the while for our Government to explore if this Bill can be made applicable to Burma and to Nepal.

Shrimati Alva: I do not agree with the suggestion made by Shri Sadhan Gupta. I do not know how he traversed new ground and brought in foreign policy. This is a very very simple Bill. We are within the Commonwealth and as the countries are getting independent, we want to enlarge the list. It is a Bill of a very routine nature. But Shri Sadhan Gupta felt that we had a slavish outlook and we were once again being led into imperialism and we were tied up. But Shri D. C. Sharma has replied him saying that citizenship is an ever-extending business. I think he is perfectly right in that observation.

One thing I want to say is that mutual citizenship is given on a basis of reciprocity. It is reciprocity that counts. Singapore has already a law and they have already informed us that they have given Indians this privilege. It is now our turn to give their people that privilege if they want it here.

The position about the other two, the Federation of Malaya and Ghana, is on the same basis. We anticipate that they will tell us that this mutual citizenship, relationship should come into existence. We do not want to come to this House again for that purpose, and so we have included those two countries also.

The only question remaining is about Burma and Nepal. I do not know why this House is interested again in Burma and Nepal because the original Act was passed only in 1956. Every possible point was covered and discussed. It was also made known to the House why Burma could not come in. First of all, there is no mutual relationship as regards citizenship. Though we are very friendly with Burma, with every country—Shri D. C. Sharma has said we want to be friendly and we want to have good relations with Burma—it is for that country to come forward. Then we can examine and consider the issue and then come to a reciprocity arrangement.

Shri Nath Pai: Why not anticipate in the case of Burma also?

Shrimati Alva: Let me finish my argument. Although we are very friendly with Burma, as the law stands, Indians there are treated as foreigners. They are subject to the provisions of the Burmese Foreigners' Regulation and the Registration of Foreigners' Act in the same way as other foreigners.

It will take some time. It is for Burma to come and ask for this arrangement. As I said, we are

friendly with Burma. May be that Burma has her own difficulties. We do not know her difficulties. We do not want to press them. They will come forward and we will also go forward. Perhaps we shall have it soon.

As far as Nepal is concerned, Nepalis come and go. If it is at a State level, then Nepal must suggest this to us. But we do not restrict the movements of Nepalis. Therefore, that also does not arise.

I do not think I have any further points to answer. South Africa is beyond the scope of this Bill. Therefore, I oppose the amendment.

Mr. Deputy-Speaker: I shall now put the amendment of Shri Sadhan Gupta, No 4, for circulation for eliciting opinion to vote. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 17th day of February, 1958".

The motion was negatived.

Mr. Deputy-Speaker: I shall now put the main motion to vote. The question is.

"That the Bill to amend the Citizenship Act, 1955 be taken into consideration".

The motion was adopted

Clause 2— (Amendment of First Schedule).

Shri Sadhan Gupta: I beg to move.

Page 1,—omit lines 9 and 10

I have already given my reasons.

Mr. Deputy-Speaker: He has also moved the amendment.

Shri T. B. Vittal Rao: He will be very brief this time.

Shri Sadhan Gupta: I want to answer some of the observations made by the Minister.

Mr. Deputy-Speaker: Is it very necessary?

Shri Nath Pai: No.

Shri Sadhan Gupta: Observations have been made on my speech.

Mr. Deputy-Speaker: All observations need not be replied to.

Shri Sadhan Gupta: But Minister's observations are important. Anyway, I would do it in a short time.

I am opposing the inclusion of Malaya and Singapore only for the reason that they do not seem to follow a foreign policy which is independent, and citizens of such countries would be quite dangerous for us to accept as our citizens even on a reciprocity basis. For instance, it is a strange thing—and our representative at the U.N. had occasion to comment on it—that the Federation of Malaya voted against the Indian line on the representation question of the People's Republic of China. Our representative had occasion to remark on that occasion that it was very strange that a new member should vote in order to keep somebody out. This is an attitude which we cannot support and which hinders friendly relations between two countries.

Therefore, I want to know what is the real attitude of Malaya in this respect. From what we find from reports, the attitude does not seem to be encouraging and does not seem to be such as would conduce to the creation of very friendly relations. This is why I am opposing the inclusion of Malaya and Singapore in this list.

Regarding Ghana, of course I heartily welcome that country and we will be proud to have nationals of Ghana as our citizens on a reciprocal basis.

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

Shri Nath Pai: We had an amendment. I had sent in a note in the name of Shri Surendranath Dwivedy.

[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

*Published in the Gazette of India Extraordinary Part II—Section 2, dated 21-12-57

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 अपनी 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, re-h-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 उनमें 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 फ्राटिजन अपनी रोखी कमाने हैं। इन में बहुत ज्यादा प्राथमिक 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 प्राथमिक 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 प्राथमिक 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 Nanshkr 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.

313 LSD—2

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 नोकरी दे देने ।

श्री के० दे० बालवीर : हाक से नोकरी जाएगी । वहा पर देने में गड़बड़ हो सकती है, होती तो नहीं है । इसके बजावा इनमें 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 licence."

(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 governnd 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 Raghuramiah: 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. R. 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 Radhalal 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 Radhalal 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 Third Schedule, as amended, stand part of the Bill."

The motion was adopted

The Third 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;

(4) Bokaro Thermal Power Station; and

(5) Maithon Dam

The Panchet Hill project and associated Hydro-electric Station as also the Hydro-electric Station attached to the Maithon Dam are in an advanced stage of construction. With the exception of the Durgapur Thermal Power Station, these projects and the appurtenant canal system and transmission system are expected to be completed by the end of 1958. On the whole about 80 per cent of the construction work has been completed.

Hitherto, the Damodar Valley Corporation has concentrated more on the expeditious completion of works, so that the development work has taken a second place. Since the completion of the Maithon Dam, there has been a considerable reduction in the volume of construction work. The participating Governments have decided to restrict the scope of the developmental activities to work related directly to the main objects of the Corporation, viz., irrigation, power generation and flood control. With the advent of planned development the State Governments of West Bengal and Bihar have taken up intensive developmental work in their respective areas.

With the construction work now tapering off—as I have said, 80 per cent has been completed and only 20 per cent remains—and the scope for developmental activities restricted by the limited funds made available to the Corporation, I feel that the existing set up of a whole-time Chairman and two whole-time members has become too heavy and that its continuance in its present form is not justified. I could even tell the House that out of these three whole-time members two of them are selected after consultation with the respective Governments of Bihar and Bengal. In

actual practice what has happened is that first-class people are slowly being withdrawn and they are being substituted by people whom I cannot call first-class and who can be whole-time officers. Therefore, in actual practice it is being done, but because we are bound down by the rigidity of the Act it becomes obligatory on our part to have all these three members as whole-timers.

Sub-section (1) of Section 5 of the DVC Act, 1948 precludes the appointment of members other than whole-time. To provide a measure of flexibility and to give freedom to the Central Government to appoint full-time or part-time members, as the case may be, in accordance with the state of work of the Corporation, I propose, Sir, by this amendment to delete this Sub-section.

I might inform this hon. House that I have discussed this proposal with the Chief Ministers of West Bengal and Bihar, both of whom agree to this suggestion.

Now, Sir, I would like to give you an up-to-date idea as to what exactly are the benefits that have already come out of the Damodar Valley Scheme and the total area expected to be irrigated by this scheme. I shall take up West Bengal first. Out of a total area of 10,26,000 acres to be irrigated 11,200 acres were irrigated in 1956 and the area irrigated in this year is 1,32,000 acres. Water was supplied free to the cultivators by the State Government during the current year. It is expected that once the benefits of irrigation are brought home to the cultivators, it will be possible gradually to levy irrigation rates. Whatever might be our views on that question the Bengal Government has already done that and therefore, there is no other remedy

So far as Bihar is concerned, the following irrigation schemes are under active consideration. The area to be irrigated by the Tihaya High

[Shri S. K. Patil]

level irrigation scheme is 15,500 acres. Area to be irrigated under the Tilaiya Outlet Scheme is 500 acres. Due to the nature of the terrain the major irrigation benefits go to West Bengal.

Now, so far as power generation is concerned from the Bokaro Thermal Plant which has been completed, the power generated at present is 1,50,000 KW and the additional provision being made is 75,000 KW. For that plant, 75,000 KW are being made available. For the Tilaiya hydro-electric station, 4,000 KW; Maithon hydro-electric station, 25,000 KW are being generated, and 40,000 KW will be had in the next few months. Panchet Hill hydro-electric station—nothing has yet come in, but before the end of 1958, 40,000 KW will be generated. Durgapur Thermal Power Station—150,000 KW will be generated. Just now we are having 174,000 KW generated in all, for power, and the additional power being made during the next year is 305,000 KW. The grand total will be 479,000 KW. That is the capacity or the power potential of the DVC.

So far as consumption of this power or energy that has been generated is concerned, the Government of West Bengal consumes 25 million KWH per mensem. The Government of Bihar consumes 15 million KWH per mensem. Others, both in West Bengal and Bihar, consume 51 million KWH per mensem.

The total income from power from the 1st January, 1952 to 31st October, 1957, that is, till about a month and 20 days back, is Rs. 7,07,79,000 from the DVC project. During the month of October, 1957, it was Rs. 34,82,000. The expected income during 1957-58 will be Rs. 2,29,00,000 from power generation. The expected income during 1958-59 will be Rs. 4,29,00,000. The total expenditure incurred on the DVC project up to 30th September, 1957, was Rs. 197.99 crores. The expenditure expected to be incurred during the current financial year is of the order of Rs. 18.88 crores. The

expenditure expected to be incurred in 1958-59 is of the order of Rs. 17.10 crores. The expected return on full development of the projects in 1962-63 will be, as follows. Power will bring us 6.08 per cent on the capital investment; irrigation, if it becomes successful according to the Plan, will bring us 3.72 per cent; flood-control—NIL—ever since the DVC has come into operation, flood nuisance which came up time and again, has almost stopped, and we hope it would never recur. The total average for power and irrigation together will be somewhere in the region of 4.15 per cent.

I give this information not because it was pertinent to this particular Bill which has been passed by the Rajya Sabha, but the House should have a complete knowledge as to what progress has been made so far, and what we propose to do in the near future. I may also incidentally say that the second aspect of the Damodar Valley Corporation Act is this. The development has not been really concentrated upon for obvious reasons. In the first place, it is the responsibility of the States in that they must have those development programmes. The amount goes beyond the original scheme of the Damodar Valley. Not that it goes outside the scheme of things but the money necessary for the development has to be found out apart from the figures that I have now read i.e. Rs. 150 crores.

The present amendment that I am proposing, once again I would like to say, has nothing to do with the main Act. There are many features of the DVC Act which we want to change as the House knows very well. Although the Corporation is autonomous and it has been created by the statute of this Parliament, we have got to go into consultation with both the Bihar and the West Bengal Governments. The difficulties are immense. If one Government likes it, the other Government does not like it. So, in order to have a kind of highest common factor which is acceptable to both, which is a very laborious process, amendments to the main Act will come later on. I do

not know when, but I am anxious to have it as early as possible. But that is something which is not exactly within my power. The scope of the present Act is extremely limited as has been laid down in the Statement of Objects and Reasons, and that is, to take away the rigidity of the Act and to introduce flexibility.

Where it is obligatory on us to have all the three members as whole-time officers, we are taking the liberty as to what we shall do as necessitated by circumstances—whether we want whole-time or part-time officers and so on.

I may also tell the House that there is sometimes—in the other House and possibly not in this House—there seems to be, a misconception about part-time officers. People sometimes believe a part-time officer is one who only works for part-time, for an hour or two. That is not our conception. Part-time officer means that those officers, say, Development Commissioners and so on—who are paid by the respective Governments. They are not paid by the DVC. I am not saying it because we shall be making a large savings which would be perhaps to the tune of Rs. 1 lakh. That is not before us—the question of saving money that way. It is for this purpose—because, in actual practice, there is no work of development and it is not easy to find these top-ranking people as whole-time officers.

Thus, the scope of this particular Bill is extremely limited, that is, to introduce flexibility in the appointment of these officers. Sir, I move.

Mr. Deputy-Speaker: Motion moved:

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

Now, how many Members would like to participate and how long are we prepared to sit today?

Shri Naushir Bharucha: Till 8.30.

Mr. Deputy-Speaker: That was my view.

Shri Prabhat Kar: I would say that we are at the lag end of the House. The Bill has been introduced after 5.0 P.M. At least every Member should be given 10 minutes each.

Mr. Deputy-Speaker: I am prepared to sit up to 10 O’Clock.

Shri Prabhat Kar: At least ten minutes each.

Mr. Deputy-Speaker: I found ten Members rising in their seats. So, ten into ten will give us 100 minutes. Taking half an hour for the Minister, it becomes 130 minutes.

Shri B. Das Gupta: This is an important Bill.

Mr. Deputy-Speaker: So, if the House is prepared to sit longer, I have no objection.

Shri Prabhat Kar: Yesterday, we sat up to 8.30.

Pandit Thakur Das Bhargava: Another Bill has been promised. So, I think we should take as little time as possible for this.

Mr. Deputy-Speaker: The Minister has already made it clear—though he has referred to many details—that this Bill has a limited scope only. The rigidity is being removed and then he has assured us that he is looking into the original Bill, because Government also thinks that certain modifications are to be made. So, I do not think the whole chapter should be opened up now and all the details discussed. This Bill perhaps saves the hon. Members from the agony at the lag end! So, I would request the hon. Members to have five minutes each.

Shrimati Reshmi Ray: May I ask one question? If the hon. Minister gives an assurance that he is going to bring a comprehensive Bill regarding the important matters that have

[Shrimati Renuka Ray]

been completely left out of this Bill as early as possible, at least in the next session, then perhaps we need not go into so much argument about this Bill. Otherwise it becomes incumbent on us to discuss this Bill fully. Whereas we have no objection to what he has brought, there are some very fundamental matters which also have to be brought up, and which have been brought up in the State legislatures and on which amendments should have been brought.

Shri S. K. Fatli: I have stated that as soon as both the Governments really agree to some course of action, I am most anxious to bring it.

Mr. Deputy-Speaker: The hon. Lady Member might persuade her own Government, and then....

Shrimati Renuka Ray: I think that is not fair. There are some points on which there can be no difference of opinion between any State Governments inasmuch as the fact that the Damodar Valley Corporation now....

Mr. Deputy-Speaker: No speech.

Shrimati Renuka Ray: ... has finished most of the work; whereas the State Governments have had to pay a large amount like 65 per cent, for instance, the West Bengal Government....

Mr. Deputy-Speaker: No speech at this hour.

Shri Naushir Bharucha: What is the objection to this Bill being taken up in the next session which might start within, say, a month or so from now?

Shri S. K. Fatli: Not because it has been passed by the Rajya Sabha but certain progress has been held up. Because we have not done that, this Bill comes up I do not go into the controversy but the hon. Members here must have heard of the controversies during the Question Hours. We want to change the set-up. It is merely for the set-up and it is being delayed month after month. Every time we ask for postponing by six

months. Then again, this project is financed by the World Bank. They do not want any amount of instability so far as our set-up is concerned. Therefore, I would beg of this House that, while the big questions would be really covered when the comprehensive Bill comes, so far as the scope of the present Bill is concerned, they should not arrest the progress of this Bill.

Shri Prabhat Kar (Hoogly): As it has been stated, we would have very much liked a comprehensive Bill on this particular Corporation, because there have been various complaints. There was a unanimous resolution in the West Bengal Assembly for the change of this Corporation Bill and it was expected that the hon. Minister would bring forward a comprehensive Bill, instead of this particular Bill. I would only say that I was really surprised to read the Statement of Objects and Reasons. I do not want to object to the main provision of the Bill, because he has explained to us that it is necessary

He said on the whole about 80 per cent of the construction has been completed. He said that the main purpose for which the D.V.C. was incorporated has almost been completed. I hope that the House will remember—perhaps it is still ringing in the ears of the people—the words of Shri N. V. Gadgil, who ten years ago, in this month of December, moved this Bill. When he introduced the D.V.C. Bill, he raised high hopes before the country. He narrated how the romance of T.V.A. which ushered in an era of prosperity in Tennessee Valley by taming the wayward Tennessee river inspired the conception of the Damodar Valley Project. He said, "there will be water for irrigation, power for industry and employment all round". He at that time assured the House about the rehabilitation of displaced persons. He assured that those whose lands and houses would be acquired for the purpose of this project would be

resettled "not in similar but in better surroundings" and if I may quote his words, that they would exchange "their hovels for decent cottages, darkness for light and fanaticism for faith". At the time when the project was undertaken, it was the intention that model villages should be made available and every effort made to see that those who were resettled did not feel themselves in some strange unknown world.

Having said that the 80 per cent mark of the D.V.C. has been completed, the Minister said that the question of the development of that area and other things for which the Corporation was built, should be left to the steel organisation. I may say that the purpose for which the Corporation was instituted has failed. Have the people been really rehabilitated or have the model villages been really built? Has all the purpose for which this Corporation has been built been served? According to the Hon. Minister's statement, we understand that the D.V.C.'s construction work is now virtually over; maintenance and a little subsidiary development will alone remain after Panchet is completed. So ends the high hopes. Is it simply for the construction that this Corporation was built up? Is it simply for the engineering work, for the construction of these dams that the Corporation was built up, or for something else apart from this construction? The hon. Minister's approach to this Corporation is an engineering approach and is not approach for development. That is the fundamental difference between his approach and the approach of the Minister who moved the Corporation Bill first. The present Minister looks at this Corporation from the engineering point of view; he says that if these dams have been completed, 80 per cent of the work is complete.

I must say that the record of the working of the D.V.C. is not one which inspires confidence. I know that we shall get an opportunity of

discussing this matter elaborately when a comprehensive Bill comes over here.

The hon. Prime Minister once said: "The river valley projects are our temples". Many once believed it. But I must say that this belief in purity, integrity and efficiency in administration of DVC has been rudely shaken, nay, almost completely shattered. It cannot be restored by few cavalier comments by the hon. Minister. We will have the opportunity of discussing this matter when the next Bill comes.

The next point that I want to stress. . .

Mr. Deputy-Speaker: I thought the hon. Member was concluding.

Shri Prabhat Kar: My feeling is that along with this Bill, the fate of the 22,000 employees working in the DVC also will be hanging in the air. The hon. Minister, the other day said that only 600 or 700 will be found surplus and for that they are approaching the respective State Governments. But the employees are very much apprehensive. They feel that now the main Corporation is being disrupted, there is a possibility of further unemployment.

I would only request the hon. Minister again to assure, not only the House but also the employees, that the Government will not drive away those employees, who were instrumental in building up this mighty Corporation, which is the pride of this country.

Shri S. K. Patil: May I make an humble submission that might perhaps cut short the discussion? The discussion is bound to traverse over something, which is not really intended by this Bill. If the hon. Members desire and if you permit that, in the next session we can have a general discussion of the DVC, apart from the Bill, for an hour or two hours. With your permission, that can be done.

[Shri S. K. Patil]

Otherwise, you will find that every speech will have nothing to do with the objects of this very particular Bill; it will be a rambling discussion, which will no doubt be very useful.

Shrimati Renuka Ray: (Malda) Apart from the discussion in the next session when the comprehensive Bill comes, if the hon. Minister is prepared to give us an assurance about a discussion, we shall certainly . . .

Mr. Deputy-Speaker: The question is this. There is a certain Bill before us. But the discussion that is taking place is besides the actual point that we are now having before us. The only object is discussing the DVC and the hon. Minister has given us a substitute, that is, if the House so desires, he has no objection to a discussion of the DVC report about the work there for two hours. So, if this can satisfy the hon. Members, I can promise them that we will have a discussion in the beginning of the next session.

Shrimati Renuka Ray: I humbly submit that much of the discussion that would take place would be about certain wrongs.

Mr. Deputy-Speaker: Then let us continue as much as members want. I have no objection.

Shrimati Renuka Ray: May I ask the hon. Minister for an assurance?

Mr. Deputy-Speaker: He cannot give an assurance now.

Shri A. C. Gaha (Barasat): May I submit that the hon. Minister's suggestion is quite practicable and may be accepted? But my only request is not to limit it to two hours. It may be necessary to extend it because DVC is an important matter. This is just an enabling Bill.

Pandit Thakur Das Bhargava: The Business Advisory Committee will decide it. The hon. Member can go there and get the time extended.

Shri C. K. Bhattacharyya (West-Dinajpur): The hon. Minister suggested that there need not be a rambling discussion and we may limit our comments to the points covered by the Bill. May I, on my behalf and on behalf of my friends, say that if definite proposals in the form of a Bill are placed before the House, we can concentrate our attention on those provisions and also give our opinion as to what we have to say for or against those provisions.

Shri B. Das Gupta (Purulia): I oppose the provision of this Bill. I think that in the present set up autonomous corporations, whole-time corporations with wide powers, wide range of activities and wide functions should be encouraged and should be set up. I think, with the completion of a project, the real work of development begins. While discussing this, we cannot deny that the function of the present Corporation was nothing more than managing the engineering works involved in the Damodar Valley project. At the same time, even with this function, I think there is want of planning behind this work.

For example, I may cite this. With the completion of every dam, there is unemployment. Scores of employees are discharged after the completion of a dam. The hon. Minister has admitted that about 600 or 700 employees are going to be discharged within a short time because of the completion of a dam. I think the plan should have been to make arrangements for employment beforehand, before giving them the notice of discharge or giving them the sack. These employees are experts in irrigation, they have been experts in building dams. They have acquired knowledge about control of water streams. Now, they will be left at large without any employment to swell the ranks of starving unemployed people. This should be taken into consideration. I think consideration of developing this Corporation on the lines of the T.V.A. should be taken in hand.

Regarding development work, you will find the electric wires uselessly running overhead. I live in an area which is within the area of operation of the D.V.C. I see that the wires running over my head and the energy therein are not being utilised properly to improve the work whether in the industrial field or in the irrigation field. I shall give one instance. We find that there is energy and wires carrying that energy. This is not being utilised for want of proper plan and proper imagination.

Regarding irrigation, my experience is, wherever the wire is passing, you may fix centrifugal pumps near by and draw water and supply water to the cultivators. By having hundreds of pumps, we may just remove the difficulties in irrigation in the area. That is quite possible, but that is not being done. If the corporation is moulded, is constituted with this view that it should have the function of development also, of utilising the power which it manages to generate, then I can assure you that in the matter of small irrigation there can be extensive arrangement, and it can help production like anything.

The time is limited. I am just taking one minute and I will finish. I request the hon. Minister to reconsider the whole thing on that basis and this corporation should not be disbanded now as it is being done. This corporation should be a whole-time corporation with autonomous power, with a wide range of functions, with a wide range of authority and with a wide range of power. If that is done, the development works in a given area can be entrusted to this corporation.

I must draw the attention of the hon. Minister to this fact that with the completion of the project, the real work of development begins and this corporation will be the fittest authority to utilise the power which it manages to generate. Let this corporation be vested with that function.

It will be easier for it. I hope the hon. Minister will take into consideration this aspect of the question, and in his future proposals he will give a place to this.

Shri A. C. Gaha: May I again suggest that the Minister's proposal may be accepted. It is a weary, tired and listless House. Nobody is hearing. It is no use discussing it in this way.

Mr. Deputy-Speaker: But I have to hear all right.

Shri A. C. Gaha: That is true. It should be also tiresome for you. I suggest the Minister's proposal may be accepted. After all, this is only an enabling Bill. It does not compel the Government to take any particular action.

Mr. Deputy-Speaker: Is he then moving for closure?

Some Hon. Members: Yes

Shri A. C. Gaha: Provided the Minister's proposal stands.

Mr. Deputy-Speaker: In regard to that I have said that I will use my influence to see that a discussion is allowed during the next session, early in the next session, for two hours on this Bill.

Shri S. M. Banerjee: May I submit it should be three hours, one hour for each stage?

Mr. Deputy-Speaker: That I cannot say. That we shall see then.

Shri A. C. Gaha: We can represent to the Business Advisory Committee.

Mr. Deputy-Speaker: Then the hon. Minister.

Shri Madhav Gupta (Calcutta-East): We might discuss the bare points, because the points which we want to point out will be too late for that discussion.

Mr. Deputy-Speaker: Then he will not participate in that discussion.

Shri Madhav Gupta: I want to point out one thing.

Mr. Deputy-Speaker: Perhaps he might like to participate then, and it might be more useful to bring out those points there. I will advise him to wait till then.

Shri Sadhan Gupta: Those points would be too late then.

Mr. Deputy-Speaker: Let us hear his point first, then.

Shri Sadhan Gupta: I would not bring forward any charge of corruption or nepotism or failure in this connection, but there is one urgent problem to which I want to draw the Minister's attention, and which cannot wait till the discussion.

Certain recruitments are being made. Unfortunately it appears that an advertisement has been issued by the Damodar Valley Corporation in such a way that the qualifications mentioned specifically apply only to three engineers who are alleged to be favourites. There is great discontent among the rest of the engineers, many of whom are senior to these three engineers. Yet, the qualifications have been specified in such detail that only three engineers answer them. The Minister has received a memorandum against this, and a copy has been sent to me also.

The urgency is that today is the last day for application for the posts. Therefore, I would request the Minister to look into it, and if necessary, postpone the time-limit for the application, if really it appears that something has taken place.

Shri S. K. Patil: I do not want to make a long speech. Since hon. Members have denied themselves the right to speak, I must not take up the time of the House. There are many things which have been raised by hon. Members. I would really like to make a detailed reply, but I must resist the temptation on this occasion.

The point was made by Shri Sadhan Gupta about some appointments of engineers etc. I can assure the House that this is a thing which neither the

Ministry nor I look into because this is an autonomous corporation, provided that if there is any miscarriage of justice or something wrong has been done, then we act as an appeal court, and surely, we shall look into it.

Sometimes, a very strange thing happens that we get these things from the columns of the papers or from people who have nothing to do with the D.V.C. If hon. Members will do me this much favour that as soon as anything comes to their knowledge, they would write to me or to my Ministry, there will be ample time for me to look into it and do something. Sometimes, I am merely asked on the floor of the House whether my attention has been drawn to this paper or that paper and so on and so forth. If there is anything of the type that Shri Sadhan Gupta has just now made out, whether it be in the matter of the appointments of engineers or anything of that character, we shall surely look into it and find out what exactly can be done. We are ourselves anxious that all our administration of the DVC should be above board, because, although we may act as an appeal court, yet its responsibility is there not only to the Ministry but also to this House. Therefore, we shall be very anxious, and if hon. Members know anything about it, the best course is, whether the House is sitting or not, that they should bring those things to my notice, and surely those things would be looked into and whatever is possible would be done.

I do not want to take up the time of the House any more at this stage.

Shri Sadhan Gupta rose—

Mr. Deputy-Speaker: Perhaps, if the hon. Member would have conveyed it in private, it would have had greater effect.

Shri Sadhan Gupta: On a point of personal explanation. As I stated, that complaint, as appears from the copy sent to me, was sent also to the Minister with a copy to me. Secondly

it came so late that it was not possible to take it up except on the occasion of this discussion. These were the difficulties why I could not first approach the Minister.

Mr. Deputy-Speaker: I shall now put the motion to vote.

The question is:

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

The motion was adopted.

Mr. Deputy-Speaker: Now, we take up the clauses. There is one amendment by Shri Ghosal. That is out of order.

Shri Ghosal (Uluberia): That is as regards delegated legislation.

Mr. Deputy-Speaker: It may not be strictly relevant here, or it may not be proper here to take that up. But I would draw the attention of the Minister to the fact that now it is an established practice that these rules are placed on the Table of the House, and they are subjected to modifications by Parliament. So, the Minister will see to that.

The question is:

"That clauses 1 and 2, the enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1 and 2, the Enacting Formula Schedule were added to the Bill.

Shri S. K. Patil: I beg to move:

"That the Bill be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

Mr. Deputy-Speaker: We disperse for the recess now. Hon. Members have put in strenuous work here, and they deserve that recess. Certainly, they carry my good wishes.

The House will now adjourn *sine die*.

Some Hon. Members: Our good wishes to you

17.44 hrs.

The Lok Sabha then adjourned *sine die*.

DAILY DIGEST

[Saturday, 21st December, 1957]

ANSWERS TO QUESTIONS—	Columns	Columns
S.N. Q. No.	Subject	
9.	Narsing Girjee Mills Ltd., Sholapur.	7011—13
PAPERS LAID ON THE TABLE		
The following papers were laid on the Table :—		
(1)	A copy of the Report of the Ad Hoc Committee on the Compensation to be paid on the Nationalisation of the Kolar Gold Mines.	7013—15
(2)	A copy of Report of the Air Transport Council on Indian Airlines Corporation's Fares and Freight Rates (May 1957).	
(3)	A copy of the Report of the Indian Government Delegation to the 40th session of the International Labour Conference (June 1957)	
(4)	A copy of Notification No. S.R.O. 3972, dated the 14th December, 1957 making certain further amendment to the Employees' Provident Funds Scheme 1952.	
(5)	A copy of each of the following Notifications under sub-section (4) of Section 43B of the Sea Customs Act, 1878 :—	
(i)	S.R.O. No. 3585, dated the 6th November, 1957.	
(ii)	S.R.O. No. 3586, dated the 6th November, 1957, containing the Customs Duties Drawback (Dye Stuffs) Rules, 1957.	
(6)	A copy of each of the following Notifications under sub-section (3) of Section 28 of the Public Debt Act, 1944 :—	
(i)	S.R.O. No. 2286, dated the 13th October, 1956, making certain further amendment to the Public Debt (Compensation Bonds) Rules, 1954	
(ii)	S.R.O. No. 2287, dated the 13th October, 1956, making certain further amendment to the Public Debt (Amnesty Certificates) Rules, 1954	
(iii)	S.R.O. No. 1156, dated the 13th April, 1957 making certain further amendment to the Public Debt (Compensation Bonds) Rules, 1954	
(7)	The Minutes of the Sittings (Third and Fourth) of the Committee on Absence of Members from the sitting of House, held during the Third Session.	
REPORT OF COMMITTEE ON SUBORDINATE LEGISLATION—PRESENTED.		
	Second Report was presented	7015
CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE		
	Shri S. M. Banerjee called the attention of the Minister of Commerce and Industry to the reported closure of Kanpur Cotton Mills Limited and the Atherton West Mills, Kanpur.	7015-16
	The Minister of Commerce (Shri Kanungo) made a statement in regard thereto	
LEAVE OF ABSENCE		
	Six Members were granted leave of absence from the sittings of Lok Sabha.	7017
AMENDMENT MADE BY RAJYA SABHA AGREED TO		
	The amendments made by Rajya Sabha to the Union Duties of Excise (Distribution) Bill, 1957 and the Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill, 1957 as passed by Lok Sabha, were taken into consideration and agreed to.	7018-19
BILLS PASSED		
	The following Bills were considered and passed :—	7020—7198
(i)	The Counties of Duffern's Fund Bill, 1957.	
(ii)	The Citizenship (Amendment) Bill, 1957.	
(iii)	The Mines and Minerals (Regulation and Development) Bill, 1957 as reported by Joint Committee; and	
(iv)	The Damodar Valley Corporation (Amendment) Bill, as passed by Rajya Sabha.	

**RESUME OF THE THIRD SESSION
OF SECOND LOK SABHA**

1. PERIOD OF THE SESSION		10. DISCUSSIONS HELD ON MATTERS OF URGENT PUBLIC IMPORTANCE .	1
11th November to 21st December, 1957		11. STATEMENTS MADE ON MATTERS OF URGENT PUBLIC IMPORTANCE—	
2. NUMBER OF SITTINGS	32	(i) Notices received .	59
3. NUMBER OF DIVISIONS HELD		(ii) Statement made .	10
4. GOVERNMENT BILLS—		12. QUESTIONS ASKED	
(i) Introduced	21	(i) Starred	1384
(ii) Laid on the Table as passed by Rajya Sabha	5	(ii) Unstarred	2138
(iii) Referred to Select Committee.	Nil	(iii) Short notice questions	9
(iv) Referred to Joint Committee of both Houses of Parliament	2	13. ADJOURNMENT MOTIONS—	
(v) Passed	29	(i) Received	23
(vi) Pending.	6	(ii) Admitted	Nil
5. PRIVATE MEMBERS' BILLS—		(iii) Consent withheld by Speaker	23
(i) Introduced	8	14. REPORTS OF PARLIAMENTARY COMMITTEES PRESENTED—	
(ii) Disposed of	6	(i) Business Advisory Committee	7
(iii) Pending	28	(ii) Report of the Committee on Subordinate Legislation (Second Report)	1
6. GOVERNMENT RESOLUTIONS— MOVED	Nil	(iii) Committee on Private Members' Bills and Resolutions	5
7. PRIVATE MEMBERS' RESOLUTIONS— MOVED	5	(iv) Committee on Petitions	1
8. GOVERNMENT MOTIONS —MOVED	4	(v) Committee on Absence of Members from the sitting of the House.	2
9. PRIVATE MEMBERS' MOTIONS—MOVED	4		