

Fourth Series, No.25

Saturday, March 22, 1969
Chaitra 1, 1891 (Saka)

LOK SABHA DEBATES

**Seventh Session
(Fourth Lok Sabha)**



सत्यमेव जयते

LOK SABHA SECRETARIAT

New Delhi

CONTENTS

No. 25, — Saturday, March 22, 1969/Chaitra 1, 1891 (Saka)

COLUMNS

Calling Attention to Matter of Urgent Public Importance Reported decision of Congress Party to consult Attorney- General on M. P. High Court's order in respect of Shri D. P. Mishra	1-27
Question of Privilege against Editor of 'Organiser'	27-28
Business of the House	28-32
Customs (Amendment) Bill	32-53
Clauses 2 to 7 and 1	32-37
Motion to Pass, as amended	38-53
Shri Shiv Chandra Jha	38-42
Dr. Ranen Sen	42-43
Shri Sitaram Kesri	43-44
Shri Madhu Limaye	44-48
Shri P. C. Sethi	48-53
Delhi Motor Vehicles Taxation (Amendment) Bill	53-82
Motion to consider	53-54
Shri Iqbal Singh	53-54
Clause 2, 3 and 1	54-62
Motion to Pass	62-82
Shri A. S. Saigal	62-64
Shri M. Meghchandra	64-65
Shri Randhir Singh	65-67
Shri George Fernandes	67-70
Shri Vikram Chand Mahajan	70-72
Shri Hardayal Devgun	72-77
Shri Iqbal Singh	77-82
Statutory Resolution re: Payment of Bonus (Amendment)— Ordinance— <i>Negative</i> . and	
Payment of Bonus (Amendment) Bill	82-135
Motion to Consider, as passed by Rajya Sabha	82-125
Shri Shri Chand Goyal	83-86
Shri Hathi	... 86-89, 120-24
Shri D. N. Patodia	89-95
Shri Vikram Chand Mahajan	95-98
Shri S. M. Banerjee	98-105

COLUMNS

Shri K. M. Abraham	...	105-06
Shri Hukam Chand Kachwai	...	106-10
Shri George Fernandes	...	110-15
Shri S. Kundu	...	115-20
Clauses 2 to 4 and 1		125-34
Motion to Pass		134
Shri S. M. Banerjee		134
Shri George Fernandes	...	134-35
Statutory Resolution re: Public Wakfs (Extension of Limitation) Amendment Ordinances— <i>Negatived</i> and Public Wakfs (Extension of Limitation)		
Amendment Bill	...	135-76
Motion to Consider, as passed by Rajya Sabha		135-73
Shri Shri Chand Goyal	...	136-37
Shri M. Yunus Saleem	...	138-41, 164-73
Shri J. Mohamed Imam	...	141-45
Shri Chengalraya Naidu	...	145
Shri Gayoor Ali Khan		146-49
Shri Kanwar Lal Gupta		150-55
Shri Randhir Singh		155-58
Shri S. M. Banerjee		158-61
Shri Shashi Bhushan		161-64
Clauses 2, 3 and 1		173-76
Motion to Pass		176

— — —

LOK SABHA

Saturday, March 22, 1969/Chaitra
1, 1891 (Saka)

The Lok Sabha met at Eleven of the
Clock

[MR. SPEAKER *In the Chair*]

CALLING ATTENTION TO MATTER
OF URGENT PUBLIC IMPORTANCE

Reported decision of the Congress Party
to consult the Attorney-General on Madhya
Pradesh High Court's order in respect
of Shri D. P. Mishra

श्री छदल बिहारी बाजपेयी (बलरामपुर) :
अध्यक्ष महोदय, मैं अबलम्बनीय लोक महत्व
के निम्नलिखित विषय की घोर गृह-कार्य मंत्री
का ध्यान दिलाता हूँ और प्रार्थना करता हूँ कि
बहु इस बारे में एक वक्तव्य दें :-

“मध्य प्रदेश उच्च न्यायालय द्वारा श्री
द्वारिका प्रसाद मिश्र के सम्बन्ध में दिये
गये आदेशों के कानूनी आशयों के बारे
में मन्त्रालयशादी से परामर्श लेने का
कांग्रेस दल का कथित निश्चय”।

THE MINISTER OF HOME AFFAIRS
(SHRI Y. B. CHAVAN) : The Central
Government have taken steps to obtain the
advice of the Attorney-General on the Con-
stitutional and legal issues involved in the
question whether, in view of the orders
passed by the High Court of Madhya

Pradesh in election case involving Shri D. P.
Mishra, the Governor, Madhya Pradesh,
could invite Shri D. P. Mishra, the present
Leader of the Congress Party in Madhya
Pradesh Legislative Assembly to form the
Ministry. The Governor has also wished
to obtain the opinion of the Attorney-
General on this matter. There is no ques-
tion of the Congress Party seeking the
advice of the Attorney-General.

श्री मधु लिमये (मुंगेर) : फूँठ। गलत।
बड़े चतुर आदमी हैं।

श्री छदल बिहारी बाजपेयी : अध्यक्ष महो-
दय, मुझे गृह मंत्री का वक्तव्य सुन कर आश्चर्य
भी हुआ और खेद भी हुआ। 20 तारीख को
कांग्रेस पार्लियामेंटरी बोर्ड की बैठक हुई, जिसमें
यह निश्चय लिया गया कि पंडित द्वारिका
प्रसाद मिश्र के सम्बन्ध में निर्णय करने से पहले
एटार्नी जनरल की राय ली जाये। यह निर्णय
कांग्रेस अध्यक्ष ने समाचारपत्रों को बताया।
मैं इंडियन एक्सप्रेस को उद्धृत करना चाहता
हूँ :

“The Congress President, Mr. S.
Nijalingappa, told newsmen that the
Board wanted to get the Attorney-
General's opinion about Mr. Mishra.”

इस आशय के समाचार और समाचारपत्रों
में भी प्रकाशित हुए। उन सब को दोहराने की
आवश्यकता नहीं है। अखबारों में यह खबर
प्रकाशित होने पर हम आपके पास गये और हम
ने कहा कि हम इस कार्यवाही के अविश्व को
पुनीजी देना चाहते हैं। पंडित द्वारिका प्रसाद

[श्री अटल बिहारी वाजपेयी]

मिश्र के सम्बन्ध में कांग्रेस पार्लियामेंटरी बोर्ड कुछ भी फंसला करे, लेकिन वह भारत के एटार्नी जेनेरल की राय नहीं ले सकता है। एटार्नी जेनेरल किसी पार्टी को सलाह देने के लिए नहीं बने हैं। वह भारत सरकार और पार्लियामेंट को सलाह दे सकते हैं। जब यह मामला उठाया गया, तब गृह मंत्री ने यह फंसला किया कि पार्लियामेंटरी बोर्ड के निर्णय ने कांग्रेस पार्टी को सकट में डाल दिया है और इसलिए अब भारत सरकार को एटार्नी जेनेरल की राय लेनी चाहिए।

मैं यह जानना चाहता हूँ कि एटार्नी जेनेरल की राय भारत सरकार ले, यह निर्णय कब किया गया, किस तारीख को किया गया, कितने बजे किया गया। क्या यह निर्णय कांग्रेस पार्लियामेंटरी बोर्ड के 20 तारीख के निर्णय से पहले किया गया? और अगर यह निर्णय उससे पहले किया गया, तो फिर इस सम्बन्ध में सदन को विश्वास में क्यों नहीं लिया गया? इस सम्बन्ध में हम लोगों ने जो अल्प-मूचना प्रश्न भेजे थे और जो ध्यानाकर्षण प्रस्तावों की मूचना दी थी, उन को गृह मंत्री ने स्वीकार नहीं किया, क्योंकि वह समझते थे कि कांग्रेस पार्लियामेंटरी बोर्ड ने उम समय तक इस बारे में फंसला नहीं किया है। लेकिन अब गृह मंत्री कहते हैं कि भारत सरकार के निर्णय के आधार पर एटार्नी जेनेरल से पूछा जा रहा है। मैं यह जानना चाहता हूँ कि वह निर्णय कब किया गया।

दूसरा प्रश्न यह है कि पंडित द्वारिका प्रसाद मिश्र के सम्बन्ध में भारत सरकार एटार्नी जेनेरल की राय ले, इसका क्या औचित्य है। पंडित द्वारिका प्रसाद मिश्र भारत के एक नागरिक हैं।

एक माननीय सदस्य : एक मामूली नागरिक हैं।

एक और माननीय सदस्य : एक डिसकवालिफाइड नागरिक हैं।

श्री अटल बिहारी वाजपेयी : उनका चुनाव रद्द हो गया। चुनाव में भ्रष्ट तरीके अपनाने के कारण मध्य प्रदेश के उच्च न्यायालय ने उनका चुनाव रद्द कर दिया। इस मामले में केंद्रीय सरकार तस्वीर में कहाँ खड़ी है? वह मुख्य मंत्री बनें या न बनें, मध्य प्रदेश के राज्यपाल उन्हें सरकार बनाने के लिए बुलायें या न बुलायें, इसमें केंद्रीय सरकार नहीं खड़ी है। अगर हाई कोर्ट का फंसला किसी और नागरिक के खिलाफ जायेगा, तो क्या केंद्रीय सरकार उस के बारे में भी इस तरह की राय लेने के लिए तैयार होगी? क्या केंद्रीय सरकार का फंसला गवर्नर के निर्णय पर आधारित है? मैं कहना चाहता हूँ कि केंद्रीय सरकार अपनी पार्टी के एक व्यक्ति के सम्बन्ध में निर्णय लेने के लिए एटार्नी जेनेरल के पद का दुस्प्रयोग कर रही है। इस तरह उस पद का दुस्प्रयोग करने का कोई कारण नहीं है। मैं पूछना चाहता हूँ कि पंडित द्वारिका प्रसाद मिश्र के सम्बन्ध में केंद्रीय सरकार के यह फंसला करने का आधार और औचित्य क्या है। क्या भविष्य में भारत के किसी भी नागरिक के सम्बन्ध में केंद्रीय सरकार इसी तरह एटार्नी जेनेरल की राय लेने के लिए तैयार होगी? अगर मेरी पार्टी के किसी व्यक्ति के सम्बन्ध में यह सवाल घाये कि वह मुख्य मंत्री बनें या न बनें, तो क्या हम भारत सरकार के जरिये एटार्नी जेनेरल की सलाह ले सकेंगे?

प्रश्न केवल का०नी नहीं है। प्रश्न सांविधानिक औचित्य, कांस्टीट्यूशनल प्रोप्रायटी, और राजनैतिक नैतिकता, पोलिटिकल मोरैलटी, का भी है। मध्य प्रदेश के हाई कोर्ट ने भ्रष्ट तरीके अपनाने के आधार पर एक व्यक्ति का चुनाव अवैध घोषित कर दिया है। हाईकोर्ट ने जो स्टे आर्डर दिया है, उसमें कहा गया है कि पंडित

द्वारिका प्रसाद मिश्र विधान सभा में बैठ सकते हैं, लेकिन वह कार्यवाही में भाग नहीं ले सकते हैं. बोट नहीं दे सकते हैं। क्या हाई कोर्ट के निर्णय के खिलाफ प्रयुक्त करने के लिए भारत सरकार एटार्नी जेनेरल की राय लेना चाहती है ?

श्री नरेन्द्र कुमार साल्वे (बतूल) : क्या इसका निर्णय हम लोग करेंगे ?

श्री अटल बिहारी वाजपेयी : अध्यक्ष जी-दय, जब गृह मंत्री ने यह मान लिया है कि एटार्नी जेनेरल की राय ली जा रही है, तो मैं आपके सामने अपनी प्रार्थना दोहराना चाहता हूँ कि इस सवाल पर सदन में बहस होनी चाहिये और एटार्नी जेनेरल को सदन के सामने बुलाया जाना चाहिए। संविधान के अनुच्छेद 88 के अनुसार एटार्नी जेनेरल सदन में आ सकते हैं. अपने विचारों से सदन को भ्रमगत कर सकते हैं और सदस्य उससे प्रश्न पूछ सकते हैं। मध्य प्रदेश के गवर्नर को भी एटार्नी जेनेरल की राय लेने का अधिकार नहीं है। वर एडवाकेट जेनेरल की राय ले सकते हैं. एटार्नी जेनेरल की राय नहीं। अगर एटार्नी जेनेरल की राय ली जानी है, तो केन्द्रीय सरकार के द्वारा ली जानी चाहिए। मेरी प्रार्थना है कि आप एटार्नी जेनेरल को सदन में बुलाने की हमारी प्रार्थना को स्वीकार करें।

MR. SPEAKER : Before the hon. Minister answers, I want to say some thing. Shri Vajpayee also wrote to me about that. There are four ways of calling the Attorney-General. Attorney-General can come if he wants to. The Government can call him if they want some clarification.

SHRI NATH PAI (Rajapur) : We want. (Interruptions).

MR. SPEAKER : I said there are four ways. I have mentioned only two. Why do you shut me out ? The other way is, if the House wants, they may call him. (Interruptions) I say, if the House wants, they

may call him. When I say, House, no shouting should take place. One is, he can himself come; the second, the Government can call him; and the third, the House can call him. There is a fourth way. I am coming to the fourth possibility. If the Speaker is in doubt about some legal aspect he can call. But now the Speaker is not involved in this I am sitting here as Speaker now. If the Speaker is involved in any legal point where he has to give a ruling or something where he is in doubt or where he has to give some sort of judgment naturally this can be done. But here there is no point on which I am asked to give any ruling here.

There is a controversy about Attorney-General being called by the Congress party which we are discussing now. (Interruptions) Hon. Members should hear me now.

SHRI PILOO MODY (GODHRA) : We shall keep quiet if you just phone him up.

MR. SPEAKER : The point that is now before the House is about the Congress Party or the Congress President asking for the opinion of the Attorney-General. The other things such as whether Shri D. P. Mishra will be Chief Minister or not are not before the House at all now. We are not discussing that question now. The question is whether the Congress Party can call the Attorney-General to give his opinion. That is the point now before the House. Therefore the question of my calling the Attorney-General does not arise. If the House wants, it can call him at any time it likes.

SHRI S. M. BENERJEE (Kanpur) : Then I move that the Attorney-General be called to this House.

SHRI SHEO NARAIN (Basti) : If the House wants, and not if the Opposition wants.

MR. SPEAKER : There is no motion now before me. When it comes we shall consider it.

SHRI CHENGALRAYA NAIDU (Chittoor) : On a point of order. Anybody has got a right to consult the Attorney-General in his private capacity. There is

[Shri Chengalraya Naidu]

no bar to the Attorney-General being called to work for anybody. The Congress Party has got a right to consult him.

MR. SPEAKER : There is no point of order. Now, the Home Minister may reply.

SHRI Y. B. CHAVAN : I really do not understand the controversy in this matter, because when the Governor himself expressed a desire to consult the Attorney-General ..

SHRI KNAWAR LAL GUPTA (Delhi Sadar) : Why not the Advocate-General? ..

SHRI Y. B. CHAVAN : I can understand his dislike of Shri D. P. Mishra. It is his right to do so. But when an intricate constitutional and legal issue is raised, shall we not as a House, and shall I not as an Indian citizen expect that he should consult a proper legal authority? What is wrong about it? The Attorney-General is certainly entitled to give his opinion, and the Government of India are entitled to get the opinion of the Attorney-General. It is wrong to say that the Governor has to consult only the Advocate-General, and it is not proper for him to get the opinion of the Attorney-General. The question has been asked why the Government of India decided to consult the Attorney-General. A situation was developing in the State, where a constitutional issue was likely to be raised.

AN HON. MEMBER : Mr. Shukla is there.

SHRI Y. B. CHAVAN : The Governor has, therefore, expressed a desire to consult the Attorney-General. And this House also expects me to express my opinion at any time. So, is it not right for me to get myself armed with the opinion of the Attorney-General in this matter? What is wrong about it? I think unnecessarily a controversy is being created. I think hon. Members will also be satisfied that whatever decision the Governor takes or we take in this matter is based on a proper constitutional and legal appreciation of the position by the Attorney-

General; it is good to be advised by a competent constitutional authority.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मेरे सवालों का जवाब नहीं दिया गया। मैं जानना चाहता हूँ कि एटार्नी जनरल की राय लेने का फैसला कब किया गया, किस तारीख को? क्या यह सच है कि कांग्रेस पार्लियामेंटी बोर्ड के फैसले के बाद किया गया?

श्री यशवंतराव चव्हाण : नहीं, मैं आप से कहना चाहूँगा, आप मेरे पर भरोसा करना चाहें तो करें, लेकिन आप संशय से काम करना चाहें तो आप अपने मालिक हैं, जो चाहें करें।

I discussed this matter with the Law Minister on the 19th instant. I do not remember exactly when the parliamentary board's meeting took place. I may tell my hon. friend this: if he wants to believe it he may believe it, otherwise not. In the parliamentary board I did say that in these matters Government would like to be guided by the Attorney General, and naturally when the Governor also expressed a desire to consult the Attorney-General, the Attorney-General came to be mentioned in the parliament board; he came to be mentioned only in this context.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, यह सच कह रहे हैं कि उन्होंने डिस्कस किया। मैं डिस्कशन की बात नहीं कर रहा हूँ। गवर्नमेंट आफ इंडिया का फैसला है या नहीं कि एटार्नी जनरल की राय ली जाय? किसी प्राइवेट मीटिंग में डिस्कशन से मतलब नहीं है।

SHRI Y. B. CHAVAN : I told him that I discussed it with the Law Minister on the 19th instant.

श्री अटल बिहारी वाजपेयी : किस तारीख का फैसला है? फाइल पर कोई नोटिंग है?

MR. SPEAKER : He must have taken the decision on the 19th perhaps.

SHRI S. KANDAPPAN (Mettur) : Why did he not take the House into confidence ?

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मैंने एक और प्रश्न पूछा था कि श्री डी० पी० मिश्रा के मामले में जो कांस्टीट्यूशनल प्रोप्राइटी, और पोलिटिकल मोरलिटी का पहलू है क्या गृह मंत्रालय ने या केन्द्रीय सरकार ने इस पर भी विचार किया है ? क्या एक भ्रष्ट भ्रादमी को मुख्य मंत्री बनाने पर केन्द्रीय सरकार तुली हुई है ?

SHRI Y. B. CHAVAN : I do not understand this. Is he afraid that the Attorney-General .. (Interruptions)

श्री नरेन्द्र कुमार साल्वे : प्वाइंट ऑफ ऑर्डर। अटल जी ने कहा है कि एक भ्रष्ट भ्रादमी को

श्री रवि राय (पुरी) : हाई कोर्ट ने कहा है।

MR. SPEAKER : If it is a point of order, I can allow him. But if he wants to put a question on the calling-attention-notice, then I cannot allow anybody else.

श्री नरेन्द्र कुमार साल्वे : अध्यक्ष महोदय, मेरा प्वाइंट ऑफ ऑर्डर यह है कि अगर ठुकम चंद कछवाय ऐसी कोई बात कहें तो मेरी समझ में आती है, बाबूराव पटेल ने उनको टार्जन कहा है अपने अखबार में। वह नहीं जानते हैं टार्जन कहना कितना अपमानजनक है ? अटल जी के लिए हम लोगों को सबको एक इज्जत है। वह एक सयमित रूप से यहां आपके सामने बात रखते हैं। आपने कह कि एक भ्रष्ट भ्रादमी को वहां का हम मुख्य मंत्री नहीं बनाना चाहते। वह भ्रष्ट हैं या नहीं हैं इस बात का फैसला अभी सुप्रीम कोर्ट से होने वाला है।... (श्वबधान)

श्री ठुकम चंद कछवाय : हो गया है...

एक माननीय सदस्य : जब तक सुप्रीम कोर्ट का फैसला नहीं होता तब तक वह भ्रष्ट है।... (श्वबधान)

श्री नरेन्द्र कुमार साल्वे : अध्यक्ष महोदय, मेरा आपसे निवेदन है कि अटल जी ने जो उन्हें भ्रष्ट करके कहा है उसको आप एकसंज कर दीजिए।

MR. SPEAKER : Will hon. Members kindly sit down now ? I thought the word 'bhrashtachar' was used for.. (Interruptions)

May I request all hon. Members to resume their seats ? Shri N. K. P. Salve wanted my ruling on the point he had raised...

SHRI NARENDRA KUMAR SALVE : I want your ruling.

MR. SPEAKER : I am giving my ruling. I thought that the word 'bhrashtachar' meant corruption or something like that. I do not know so much of Hindi...

श्री शिवनारायण : भ्रष्ट से मतलब करप्ट से है।

MR. SPEAKER : I do not want to learn Hindi at this stage. I would like to learn Hindi from him later on, but not while sitting in the Chair. I thought that the word 'brashtachur' meant corrupt practices.

SHRI RANDHIR SINGH (Rohtak) : He has said 'brasht'. He said 'corrupt person'.

MR. SPEAKER : I think he said 'corrupt practices'.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI) : He said corrupt, not 'corrupt practices'.

SHRI RANDHIR SINGH : He said 'corrupt person'.

MR. SPEAKER : I thought that he was referring to the High Court judgement.

SHRI NARENDRA KUMAR SALVE : The High Court has not said that he is corrupt. 'Corrupt practice' is something different from 'corrupt'.

MR. SPEAKER : I shall look into that then. I am not able to make that subtle distinction now about the language and what actually it means.

SHRI RANDHIR SINGH : It is pending in appeal. (*Interruptions*)

श्री शिवनारायण : सर, यह हाउस नहीं चलेगा। अगर यह हल्ला करते हैं तो इस हाउस की बर्किंग नहीं होने पायेगी। प्रंटल बिहारी को हम बोलने नहीं देंगे... (व्यवधान)

MR. SPEAKER : I am not able to judge what it implies. I know a little Hindi, but I am not such an expert in Hindi. I shall have to see that before his request for expunction is looked into. (*Interruptions*) When I am on my legs, I do not want to hear any further arguments.

I thought that the word '*brashtachar*' was being used every day for 'corrupt practices'; his elections has been set aside for corrupt practices...

SHRI PILOO MODY : What is wrong with calling him corrupt ?

MR. SPEAKER : The word '*bhrash-tachar*', . . . (*Interruptions*) If hon. Members do not want to hear me, I do not want to speak. Unless the House gives me a hearing I am not going to speak. If every minute I am going to be interrupted like this, then I am not going to speak. The House should hear me when I am on my legs. On the question of corrupt practice, the High Court gives a judgement and then the elections are set aside.

I remember that the election of Dr. Chenna Reddy was set aside, and he resigned within 24 hours of the High Court judgement, not the Supreme Court's judgement but the High Court judgement. I had also known cases there after the court judgement normally the people resigned. That is a different matter. I am not interested in whether one resigns or one does not resign. Here is a case where a Minister resigned immediately after the High Court judgement; he was hoping to come back after the Supreme Court judgement, but still he resigned after the High Court judgement.

A regards the difference between the words '*bhrash*' and '*bhrashtachar*', I am not very clear, and I shall slowly try to study it, and then only try to make up my mind; I am not able to say it just now. Let the hon Member please leave it at that. If as the hon. Member says what it means is something else than what is contained in the High Court judgement; then I shall see and the hon. Member has a point.

श्री नरेन्द्र कुमार साल्वे : उन्होंने भ्रष्ट कहा है.....

MR. SPEAKER : Let him not spoil the case. I have already made the point.

SHRI PILOO MODY : What is wrong with that ?

SHRI NATH PAI : Why not call a spade a spade ?

MR. SPEAKER : To say 'corrupt practice' and to call a man corrupt are slightly different ..

SHRI PILOO MODY : I want to know what is wrong with it I would like to seek a clarification from you. I do not know why we are discussing the matter at all. I do not see what is wrong in calling him corrupt. So, if you like, you better give your ruling on that. (*Interruptions*)

MR. SPEAKER : Let us not go into those controversies now.

श्री मधु लिमये (मुवेर) : अध्यक्ष महोदय, सविधान को धारा 76 (2) के तहत एटोर्नी जनरल के जो कर्तव्य हैं उनका जिक्र करने हुए कहा गया है कि राष्ट्रपति जिन मामलों के बारे में कहेंगे, उन मामलों के बारे में केन्द्र सरकार एटोर्नी-जनरल से सलाह ले सकती है। लेकिन जहाँ केन्द्र के हितों का और दूसरों के हितों का टकराव होगा—कान मंत्री भी इस बात को मानेंगे—एटोर्नी जनरल कोई सलाह नहीं दे सकता।

यह बात तो सलाह के बारे में हुई, लेकिन मेरा प्रश्न दूसरा है—मैं बानी-बारीकी में नहीं जाना चाहता, उसके बारे में एटोर्नी-जनरल सदन के सामने आकर कहें, वह बात दूसरी है, लेकिन इसमें उचित क्या है और अनुचित क्या है—इसका सवाल आ जाता है। अध्यक्ष महोदय, स्वयं आपने एक अच्छी परिपाटी इस सम्बन्ध में डाली है और आप हमेशा मुझको याद भी देते हैं कि आपने अदालत के फंसले के बाद तुरन्त अपना इस्तीफा दिया था और मैंने आपको एक पत्र भी लिखा था। आपने कहा था कि आपके मन में जो सन्देह था, वैसा नहीं हुआ, आपने अपना इस्तीफा वापस नहीं लिया। इसके अलावा चेन्ना रेड्डी का मामला आया, उनको भी हटाना पड़ा, इतना ही नहीं, जब राजा रामगढ़ के बारे में मैंने यह तथ्य सदन के सामने रखा कि कलकत्ता हाईकोर्ट ने उनके बारे में आलोचना की है, श्री हनुमंतया और दूसरे लोगों ने भी मेरी बात का समर्थन किया, कांग्रेस वर्किंग कमेटी में भी इसके बारे में हल्ला हुआ, सुब्रह्मण्य साहब को इस्तीफा देना पड़ा। यह सार्वजनिक सवाल है, कांग्रेस पार्टी का सवाल नहीं है। अन्त में मैंने सुना है कि कांग्रेस वर्किंग कमेटी ने भी इस बात को कुबूल किया है कि राजा को हटाना चाहिए। अध्यक्ष महोदय, ये तीन मसले हम लोगों के सामने हैं तो क्या बजह है कि सरकार एटोर्नी-जनरल की राय लेने और संवैधानिक प्रावित्तियों के धपले में जाने के बजाय सीधा निर्णय नहीं करती है। श्रीचित्य

को लेकर जिसके बारे में हाइकोर्ट ने कहा है कि उन्होंने भ्रष्ट व्यवहार का जुर्म किया है—भ्रष्ट का मतलब जो भ्रष्ट व्यवहार करता है वह भ्रष्ट है—करंट प्रेजिडेंस तो ऐसा जिसके बारे में कहा गया है और हाइकोर्ट के निर्णय के खिलाफ अभी तक सुप्रीम कोर्ट में कोई अपील भी नहीं है, अपील दायर भी नहीं की गई है, सुप्रीम कोर्ट ने कोई स्टे-आर्डर भी नहीं दिया है—इसलिये अन्तिम निर्णय इस वक्त हाइकोर्ट का है। हाइकोर्ट ने इनको इजाजत दी है कि 60 दिन में एक दिन वह विधान सभा में जा सकते हैं ताकि उनकी सदस्यता खत्म न हो, क्योंकि हमारे यहाँ भी और वहाँ की विधान सभा में ऐसा नियम है कि 60 दिन तक यदि कोई सदस्य न जाय तो उसकी सदस्यता खत्म हो जाती है...

SHRI NARENDRA KUMAR SALVE :
A correction—he can go any day.

MR. SPEAKER : That is accepted.

SHRI S. M. BANERJEE : He is shameless.

श्री मधु लिमये : हमको तो 60 दिन वाली बात का पता चला है। 60 दिन तक अगर कोई सदस्य गैर हाजिर रहे तो उसकी सदस्यता खत्म हो जाती है। वह न कार्यवाही में हिस्सा ले सकते हैं, और न बोल सकते हैं और न वोट दे सकते हैं, ऐसी हालत में क्या सरकार इस बात पर गौर फरमायेगी—मैं तो यह भी मानता हूँ कि जो सदस्य भी नहीं है उसको मुख्य मंत्री कैसे बनाया जा सकता है—164 (4) के अन्त-गंत—लेकिन ये सदस्य हैं और इनकी सदस्यता को बनाये रखने के लिये स्टे-आर्डर दिया गया है, लेकिन इन्हें डिस्क्वालिफाई भी किया है—ऐसी हालत में एक अच्छी परिपाटी ढालने के लिये क्या गृह मंत्री इस सदन में इस बात की घोषणा करेंगे कि श्री संजीवरेड्डी, चेन्ना रेड्डी और राजा रामगढ़....

SHRI NATH PAI : Do not group all of them together. Leave the Speaker out.

MR. SPEAKER : I will have to be left out once for all.

श्री मधु लिमये : अध्यक्ष महोदय, मैं एक अच्छी परिपाटी की चर्चा कर रहा हूँ, इसमें कोई बलतफहमी नहीं होनी चाहिये—मैंने तो पहले ही कहा है कि आपने एक अच्छी परिपाटी डाली है ...

श्री अटल बिहारी वाजपेयी : लेकिन मिश्र जी कहां डाल रहे हैं ?

श्री मधु लिमये : इसीलिये मैं कह रहा हूँ कि क्या गृह मंत्री घोषणा करेंगे, इस सदन को प्राश्वासन देंगे कि किसी भी हालत में जब तक सुप्रीम कोर्ट में उनको पूर्णतया निर्दोष साबित नहीं किया जाता, श्री डी० पी० मिश्र को मुख्य मंत्री बनाने की बात हम सोचेंगे भी नहीं। इससे सारा मामला खत्म हो जायेगा।

SHRI Y. B. CHAVAN : I am supposed to give clarification, not assurance, at this stage.

MR. SPEAKER : The call attention is about seeking the opinion of the Attorney-General. Now he is asking whether Shri D. P. Mishra will be allowed or not. That is a separate question.

श्री मधु लिमये : यह इसीमें से आता है, अध्यक्ष महोदय, तारांकित तथा अल्प सूचना प्रश्न पर जो सप्लीमेन्ट्रीज पूछे जाते हैं, उसी तरह यह उससे सम्बन्धित है। इस का जवाब इनको देना चाहिये, वरना चर्चा का कोई मतलब नहीं रह जाता।

MR. SPEAKER : Even if he wants to, he has to consult the Attorney-General and take legal opinion and then only can answer this question.

श्री मधु लिमये : मैंने श्रीबित्त्य का, प्रोप्रा-इटी का सवाल उठाया है। यह राजनीतिक

मूल्यांकन का सवाल है। मैं कानूनी बातों में नहीं जा रहा हूँ, सविधान में नहीं जा रहा हूँ—प्राप इतना सदन को प्राश्वासन दे दीजिये कि श्रीबित्त्य का स्थान रखते हुए मिश्र जी को मुख्य मंत्री नहीं बनायेंगे।

श्री अटल बिहारी वाजपेयी : प्राप यह कहिये कि श्रीबित्त्य का स्थान किया जायेगा या नहीं ?

श्री रणधीर सिंह : इसका होम मिनिस्टर से क्या ताल्लुक है ?

MR. SPEAKER : Shri Shiva Chandra Jha.

श्री शिवचन्द्र झा (मधुवनी) : अध्यक्ष महोदय,....

श्री मधु लिमये : अध्यक्ष महोदय, प्राप यह निर्णय नहीं दे रहे हैं, इससे सारे सप्लीमेन्ट्रीज हमेशा के लिये खत्म हो जायेंगे। मैं सार्वजनिक हित में इसका जवाब नहीं देता—ऐसा वह कह सकते हैं। प्राप कुछ परिपाटी तो रखिये।

श्री अटल बिहारी वाजपेयी : गृह मंत्री ने जो उत्तर दिया है, उसमें उन्होंने स्वीकारा है कि वह स्वयं संबधानिक पहलू के बारे में राय लेने जा रहे हैं। क्या मैं गृह मंत्री से पूछ सकता हूँ कि संबधानिक पहलू के साथ साथ कोई नैतिक पहलू भी है या नहीं ?

श्री मधु लिमये : अध्यक्ष महोदय, मेरे प्रश्न का कोई तो उत्तर आना चाहिये, यह बिलकुल नियम के अनुसार है, वह 'नयम के अनुसार जवाब दें। प्राप हमारे अधिकारों की रक्षा नहीं करेंगे, अध्यक्ष महोदय ?

अध्यक्ष महोदय : रक्षा तो करेंगे, माई।

श्री मधु लिमये : फिर तो मुझे समा त्याग करना पड़ेगा। मैं पचासों नहीं सालों उदहरण

दे सकता हूँ कि सम्बन्धित प्रश्न पूछे गये हैं। आप हमारे अधिकारों की रक्षा नहीं कर रहे हैं।

MR. SPEAKER : After all it is not that I prevent the Home Minister from answering. If he can answer it, that is a different matter. If he has consulted and if he is ready with the answer I am not preventing. I cannot also at the same time force him to say at this stage.

श्री मधु लिमये : वह ऐसा कहें कि सोच कर बाद में बालायेंगे।

श्री अटल बिहारी वाजपेयी : वह यह तो कहें कि नैतिक पहलू को ध्यान में रखा जायेगा।

SHRI RANGA (Srikakulam) : I do not know what he has said. If what he has said is within the Rules, then you will ask the Home Minister to answer.

श्री रवि राय : अध्यक्ष महोदय, मधु लिमये साहब ने जो प्रीक्विज का सवाल उठाया है, इसके बारे में वह कहें कि सोच रहे हैं, बाद में बतलायेंगे। कुछ तो कहें। कुछ भी नहीं कह रहे हैं, आप कुछ तो जवाब दिलाइये।

SHRI SHEO NARAIN : The Home Minister has no right to say thing about the election of a leader of a party in the Vidhan Sabha. If Shri Madhu Limaye wants, he must go to the Congress President and put this question to him.

MR. SPEAKER : The Home Minister said that he is consulting the Attorney-General about Shri Mishra's case.

SHRI P. VENKATASUBBAIAH (Nandyal) : On a point of order, Sir. As you have correctly said, it is whether the Congress Party has consulted the Attorney-General. Hon. Shri Madhu Limaye has raised another point which is not at all relevant to the calling attention that is before the House. So Sir, you have correctly given your ruling that is irrelevant and Home Minister need not answer.

MR. SPEAKER : I did not say that he need not answer. (Interruptions)

श्री मधु लिमये : यह इर्रिलेवंट कहाँ है ? इस तरह से इनकी बातों को मैं नहीं बलने दूंगा।

SHRI P. VENKATASUBBAIAH : I want your ruling whether this is very much relevant to the supplementary that has been asked by Shri Madhu Limaye. Is it at all relevant to the point under discussion ?

SHRI S. M. BANERJEE : On the same thing I have got a point of order. The calling attention is to call the attention of the Minister of Home Affairs to the reported decision of the Congress Party to consult the Attorney-General (that is one) about the legal implications of the orders passed by Madhya Pradesh High Court in respect of Shri D. P. Mishra. So, the main charge is that the Congress Party wanted to consult the Attorney-General which they say it cannot do as a political party because the Central Government can take it up and so on. The question put by my hon. friend Shri Madu Limaye arising out of the main answer and the question put by Shri Vajpayee are this : the Minister can refuse to answer the question on three grounds : if it is on public interest, or, if he does not want to say anything or he wants notice and so on. He could have asked for notice because this is a general question which has been asked, but the supplementary questions are very pertinent and very relevant, and you, as the custodian of parliamentary democracy, have to help the questioners. (Interruptions). I would request you to consider this : let the Minister ask for notice or anything like that, and then we can develop a discussion on that. (Interruptions)

SHRI NARENDRA KUMAR SALVE (Betul) rose—

MR. SPEAKER : Order, order. Let me first reply to the first point of order. Shri Venkatasubbaiah asked how that question put by Shri Limaye could arise: he said it is not relevant. The point is this. The main question was that

[Mr. Speaker]

it was the Congress party which was consulting the Attorney-General. This is the point which we are concerned with. Now, the Minister's reply was that it is not the Congress party but it is the Government that is consulting the Attorney-General. (Interruptions). Please do not disturb. After all, I do not remember all that has been said and I am not so intelligent. The point is, the Home Minister said that they are consulting the Attorney-General about the legal implications about Shri Mishra's case, the high court judgement and all that.

SHRI ATAL BIHARI VAJPAYEE : What about the moral aspect, implication ?

MR. SPEAKER : That is exactly what I am coming to. Apart from the legal implications, what about the moral implications of it ? He may or may not say about it, or he may say, "I want time" and all that. But the moral implication is also connected with the legal implication. (Interruptions) Order, order. No running commentary please. So I cannot compel them; I can not say it is irrelevant; it is implied, namely, the moral implication. The hon. Member has mentioned moral implication. The Minister may not say about the moral implications; or he may say he cannot answer, but that is a different matter.

SHRI Y. B. CHAVAN : As you have very rightly said, moral implications are also connected with the legal implication. But when we are trying to find out what the legal implications are, without knowing the legal implications, how can I explain the moral implication ?

MR. SPEAKER : Shri Shiva Chandra Jha.

श्री सधु त्रिमये : इनकी नैतिकता बिल्कुल सफ है। इनके कोई मूल्य नहीं, कोई नैतिकता नहीं।

MR. SPEAKER : Order, order. I have called Shri Shiva Chandra Jha.

SHRI PILOO MODY : I have never

heard of moral implications arising out of legal implications !

SHRI RANDHIR SINGH : Moral implications follow legal implications.

श्री शिव चन्द्र भा : अध्यक्ष महोदय, आपने बिल्कुल दुरुस्त कहा कि लीगल इम्प्लीकेशन्स के साथ ही मारल इम्प्लीकेशन्स सम्बन्धित हैं, दोनों को अलग करना बड़ा मुश्किल हो जाता है। अब मैं मंत्री महोदय के सामने सीधा सवाल रखने से पूर्व आपसे दो एक बातें कहना चाहता हूँ। सन् 1946-47 में गांधी जी डेढ़ दो महीने के लिए पटना में जाकर रहे थे तो बिहार की रूलिंग पार्टी की बातें उनके सामने आई थीं। उस समय बिहार के मुख्य मंत्री श्री बाबू थे। उनके मुतालिक बहुत भी बातें उनके सामने आई थीं। गांधी जी उन बातों पर विचार करने के बाद कन्विन्स हो गए थे कि श्री बाबू को मुख्य मंत्री के पद पर नहीं रहना चाहिए। तो गांधी जी की यह स्वाहृष थी कि ऐसे आदमी को इस प्रकार के पद पर नहीं रहना चाहिए जिसके खिलाफ जनता को आपत्तियां हों। यदि किसी के खिलाफ भ्रष्टाचार की शिकायतें हों तो फिर उस व्यक्ति को मुख्य मंत्री नहीं रहना चाहिए, ऐसी उनकी स्वाहृष थी। गांधी जी की दूसरी स्वाहृष यह थी कि आजादी के बाद कांग्रेस को डिजाल्व कर देना चाहिए और लोक सेवक दल के रूप में बदल देना चाहिए। तो गांधी जी की उन दोनों स्वाहृषों के विपरीत जाकर यह कांग्रेस कार्य कर रही है जिसका उदाहरण हमको अभी मध्य प्रदेश में मिल रहा है। मध्य प्रदेश की हाइकोर्ट ने श्री डी० पी० मिश्र के मुतालिक खिलाफ फैसला दिया है और वह फैसला अभी उसी रूप में है और यहां पर डेफेशन कमेटी का निर्माण हुआ है ताकि लोग डेफेण्ड करके इधर से उधर न जाय, आप मारल बातों पर विचार कर रहे हैं, इस प्रवृत्ति पर रोक लगाने की कोशिश कर रहे हैं। आप कहते हैं कि एटर्नी जनरल की सलाह कांग्रेस पार्टी ने नहीं मांगी है बल्कि सरकार ने मांगी

है और इस सरकार के दृष्ट मन्त्री डेफेशनस पर रोक लगाने की भी कोशिश कर रहे हैं, ऐसी हालत में मैं पूछना चाहता हूँ कि क्या आपके लिये यह उचित है कि जब तक श्री डी० पी० मिश्र पर लगाये गये ये चार्जज खत्म नहीं होते जाते, आप एटार्नी जनरल से सलाह माँगें और इस प्रकार के काम उठाएँ जिससे वहाँ की स्थिति और बिगड़े ? क्या आपका यह कार्य संविधान के अनुकूल होगा ?

SHRI Y. B. CHAVAN : I do not think we have done anything contrary to the Constitution. The other aspect of it, I have already answered.

श्री प्रकाशवीर शास्त्री (शायर) : पीछे हरियाणा में जब दल-बदलुओं को टिकट न देने का निश्चय किया गया था और इसी प्रकार से बिहार के कुछ शीर्षस्थ नेताओं पर जब इसी तरह के भ्रष्टाचार के आरोप कोर्ट के विचारधीन थे तो उनको भी टिकट न देने का निश्चय कांग्रेस ने किया था। उससे देश में ऐसी भा ना फैली थी कि कांग्रेस पार्टी और उसके बड़े-बड़े नेता राजनीति में स्वस्थ आदर्श उपस्थित कर रहे हैं। परन्तु मध्य प्रदेश में इन दोनों प्रवृत्तियों दल-बदलुओं की प्रवृत्त और भ्रष्टाचारियों को मन्त्री बनाने की प्रवृत्ति को प्रोत्साहन देने से ऐसा लगता है कि अपने बनाये हुए आदर्शों की स्वयं वही लोग हत्या कर रहे हैं जिन्होंने कुछ महीने पहले उन आदर्शों को उपस्थित किया था।

मैं जानना चाहता हूँ क्या यह सत्य है कि एटार्नी जनरल की राय लेने से पहले मध्य प्रदेश के एडवोकेट जनरल, श्री बितले से वहाँ के राज्यपाल महोदय ने इसी सम्बन्ध में पूछा था ? क्या श्री बितले की राय इस सम्बन्ध में वही थी कि जो कि हाईकोर्ट की राय है ? इसलिए केन्द्र गृह मन्त्री को विवक्त होकर एटार्नी जनरल से पूछना पड़ा, इस बात में कहीं तक सत्यास है ? श्री बितले की राय क्या थी

वह मैं जानना चाहता हूँ और क्या विवक्त होकर उसके बाद एटार्नी जनरल की सलाह लेनी पड़ी ?

दूसरी बात जो मैं विशेष रूप से जानना चाहता हूँ वह यह कि यों तो 67 के चुनावों के बाद से ही राज्यों में अस्थिरता की प्रवृत्त बढ़ती जा रही है जिससे जनतन्त्र के लिए एक समस्या उपस्थित हो चली है। इन सारी बातों और परिस्थितियों को ध्यान में रखते हुए क्या मन्त्रीय गृह मन्त्री इस प्रकार का कोई निश्चय लेने जा रहे हैं कि सभी राजनीतिक दलों या उन राजनीतिक दलों को जिनका कि जनतन्त्र प्रणाली में विश्वास हो, एक साथ बिटाकर भविष्य के लिए कुछ इस प्रकार की परम्पराएँ निर्धारित करें ताकि प्रतिक्रिया दल और विधान सभाओं में इस प्रकार की कठिनायाँ उपस्थित न हों ?

SHRI Y. B. CHAVAN : The hon. member has expressed his opinion about the general attitude of political parties. I do not think I need go into that aspect of it here. But as far as the allegation that we knew about the view of the Advocate-General of Madhya Pradesh and therefore we decided like that is not true. I have no information whether the Governor consulted the Advocate General or not. We have no information about his view. I am offering for the information of the House that he consulted the legal department of the Government and they advised him that the disqualification is not automatic. Even then he decided that it is much better that he should arm himself with the highest opinion he could get in the country.

SHRI NATH PAI : When Shri Chavan took us by surprise by blundering into the statement that till the legal implications are clear he cannot talk of moral implications, it was a case of being the devil's advocate. You would never have made such a statement. How *prima facie* absurd it is! Deep within you something was telling you that you are today upholding a weak case. For legal implications, he will be consulting the Atto-

[Shri Nath Pai]

ney General. May I know when he will be consulting for moral implications ? Who is the Shankaracharya whom he will be turning to ?

SHRI SHEO NARAIN : Mr. Nath Pai.

SHRI NATH PAI : I am prepared to give my humble opinion right now here.

Sir, in the first place, there was no need to consult the Attorney-General of India. There are two issues to be borne in mind. There has been a dangerous tendency on the part of the present Government. We have seen that what is meant for the country is often abused by turning it into an instrument of a particular party.

Once there was a serious allegation regarding a particular Minister in the then Government brought forward by my hon. friend, Shri Hem Barua. Instead of referring the matter promptly to the authorities what the then Prime Minister did was to ask the private opinion of a Judge of the Supreme Court, and then the retired Attorney-General of India said that the Supreme Court had been humbled and, what is worse, a Judge of the Supreme Court accepted to give an opinion at the behest of the Prime Minister of India.

Once again it is happening. Here is an individual in difficulty and the mighty Government of India thinks nothing wrong in calling the services of the Attorney-General to help him. What was it that you needed advice about ? Is not the issue very simple, very clear ? I do not want to cite article 88 and provision of article 76. It is quite clear and you have tried to sum it up. I want to ask Shri Chavan, what was in doubt, what was not clear, what needed to be enunciated, what needed to be explained and what needed to be expounded ? Here is a citizen of India some people called him *mannoll nagarik*. He is today declared unseated by the highest judiciary of the State. What do we do in a crisis ? Many hon. Members, coming up to Shastriji, have cited the practice which they are pretending to follow. Five leaders of Bihar Congress were

not given seats. Because of what were they not given seats ? No legal implications were involved, but morally they were found to be unworthy and therefore you denied them the ticket (*Interruptions*).

Why are you having different standards ? You had one standard for Mr Chenna Reddy and you are having another standard for the mighty D. P. Misra. He is a very strong powerful element. He has a big say in making Prime Minister in India. So the standard that is applied in Bihar or in the Haryana or in the case of Chenna Reddy can be thrown to the wind. The very act of consulting, the very act of calling in the Attorney-General of India is a gross disrespect of the Constitution of India.

The Home Minister said that the Congress Party did not consult; it is the Government of India. Thank you for this kind mercy. We are yet spared this humiliation that the Congress did not summon the Attorney-General to the AICC and ask him 'चला बताओ माई क्या तुम्हारी राय है।'

We are grateful for this kind mercy, that things have not come to that stage. But the issue was very clear. It is not clear that the man has been unseated and the ground given by the Judge is "guilty of corrupt practices."

AN. HON. MEMBER : No.

SHRI NATH PAI : This is the finding.

श्री विमूढ विश्व (मोहिहारी) : इनकी पार्टी के लोग बिहार में ये जिनके बारे में मञ्जोलकर साइब विचार कर रहे हैं। तो उनको इन्होंने टिकट क्यों नहीं मना किया ?

श्री नाथ पाई : जो न्यायाधीश के निर्णय में है वही मैं जिक्र कर रहा हूँ।

SHRI NATH PAI : In that case, on three grounds I want to seek clarification. First of all, will the office of the Attorney-General be available to me if I want to consult him ? Supposing tomorrow I am unseated, will Shri Chavan proclaim that in

order to find the legal implications of Shri Nath Pai being unseated he is asking the advice of the Attorney-General ? When I asked the then Prime Minister, Pandit Nehru, when he referred the case to a Judge of the Supreme Court for private opinion, whether that service of the Supreme Court Judge was available to me, he laughed at me by saying : "I do not know what the Judge of the Supreme Court will do if Shri Nath Pai writes, but I wrote and he accepted." Shri Setalvad wrote one of the finest theses on this, that this was humiliation of Supreme Court, insult of the Supreme Court and gross impropriety. In the first place, are the services of the Attorney-General of India available to citizens in the cases they claim to be in doubt ? How does the Government of India concern itself with the ambitions or the difficulties of an individual. Shri D. P. Mishra is nothing more than an individual. You have told us that he has been elected a leader. First you do one wrong morally and then to uphold that moral wrong of electing a man declared corrupt you commit a political impropriety. Shri Chavan is nodding his head in anger.

SHRI Y. B. CHAVAN : I am not angry.

SHRI NATH PAI : I am very happy it was only a disapproval; okay. Thirdly, should we not create precedents that people unseated by the courts will not be allowed to be heads of governments ? Or are we encouraging this kind of unholy tendency, whatever the courts say, so long as political purposes are furthered to hell with the courts, we shall go ahead ? Finally, in regard to defections Shri Chavan had stated: let us try to create healthy precedents. I want to know whether what has happened is a healthy precedent. I want replies to these four specific questions.

SHRI Y. B. CHAVAN : I do not know as a matter of fact, how many questions he asked. First of all, he asked me: whom are you going to consult on moral values, Sankaracharya ? I never consult Shankaracharya in these matters. My main difficulty has arisen because on this particular issue they have conveniently convinced themselves that there is no legal issue involved. Well,

certainly, they are entitled to hold that view. But it is very correct that when an issue is raised, when legally there are two views on a particular matter...

SHRI NATH PAI : What is the issue ?

SHRI Y. B. CHAVAN : I did mention that the Madhya Pradesh Legal Ministry did give the view that the disqualification is not automatic. Under these circumstances it is very right for the Governor to ask for some legal advice, which is available.

श्री रवि राव . वेन्ना रेड्डी के बारे में बताइये ।

SHRI NATH PAI : Why was it not done in the case of Dr. Chenna Reddi ?

SHRI Y. B. CHAVAN : Because, Dr. Chenna Reddi himself decided to resign. So, there was no question of our taking any view in this matter. If at that time you had asked me to take the view of the Attorney-General, possibly I would have done that also. I really do not understand one thing. Why are they afraid of consulting the best legal consultant in the country ? If it is possible and if we have got the advice, what is wrong with it ? Are they afraid of the opinion of the Attorney-General ?

श्री हुड्डन चन्द्र कछुबाय (उज्जैन) । हमारे बारे में राय लेंगे ?

SHRI Y. B. CHAVAN : I am afraid they are trying to put the cart before the horse. The advice of the Attorney-General on the legal implications has to be considered before a decision is taken.

SHRI NATH PAI : What about my second question ? I raised four specific questions. He has touched only the first, that according to him there is an issue and so he has taken the legal opinion. I would say that it was a tragedy that he consulted the Law Ministry, he took Shri Govinda Menon into confidence and sought his opinion. He may hold a different view and he is entitled to hold that view.

SHRI Y. B. CHAVAN : I did not say the Law Ministry of the Government of India ; I said the Law Ministry of Madhya Pradesh.

SHRI NATH PAI : What did you do on the 19th ?

SHRI Y. B. CHAVAN : On the 19th I discussed the matter with the Law Minister.

SHRI NATH PAI : Since he said in Parliament the other day that a public document before the Supreme Court cannot be placed on the Table of the House since then I am worried about him. Now, coming back to my question, what about an answer to them. He can say "No". Can he give an assurance to all future contestants that in case they lose the election or a case and they want the services of the Attorney-General, will it be made available to them ? 'Are we not going to make an evil out of all this ? Should we not show some semblance of political decency ?

SHRI Y. B. CHAVAN : The rules about consulting the Attorney-General are obvious Any State Government or a layman can consult him provided it is not against the interests of the Central Government. Further, the Attorney-General is entitled to give his private opinion also ; nobody can come in the way. If the Government of India feel that it is a question which is likely to be raised in this House, or is likely to come up in the course of administration, it is certainly entitled to seek that opinion.

SHRI NATH PAI : How is D. P. Mishra or his election . . .

MR. SPEAKER : This is over. I am going to the next item (Interruptions)

11.50 hrs.

QUESTION OF THE PRIVILEGE AGAINST EDITOR OF "ORGANISER"

MR. SPEAKER : On the 18th March, 1969, Shri P. Venkatasubbaiah had sought to raise a question of privilege regarding certain comments published in the "Organiser" dated the 15th March, 1969. I had

then said that I would ask the Editor to state what he had to say in the matter.

I have now received a letter dated the 21st March, 1969 from the Editor of the "Organiser" in which he has stated *inter alia* as follows :

"I must say I am very sorry that that half-sentence crept into the piece.

We are sorry for that comment more so because we know Shri Venkatasubbaiah to be a distinguished leader, an accomplished Parliamentarian and, above all, a Hindu proud of his Hinduism."

In view of this, I think the matter may be dropped. I take it that the House agrees.

11.5 hrs.

BUSINESS OF THE HOUSE

MR. SPEAKER : Before we take up the other business, I would like to say that today we are sitting because the BAC decided that the Budget Demands could not be postponed. We will have to take up to the Demands on Wednesday ; so, we had only two days—Monday and Tuesday—and there were the Ordinances, which we had to pass. In addition to the Ordinance, the Assam Reorganisation Bill is also there. It is supposed to be very important. Members came and said that it must be finished now so that the Rajya Sabha could take it into consideration before they adjourned. So, we decided in the BAC that these Ordinances, three and four of them are there like the wafis Ordinance and the special powers to the military, could be finished very quickly because all the Members thought that they were not very controversial and on Monday afternoon we could take up the Assam Reorganisation Bill, devote the whole of Tuesday to it and finish it on that day so that on Wednesday we could take up the discussion on the Demands. I hope, hon. friends will help me in finishing these things.

Shri Goyal was very particular in helping us in the BAC saying that these were not very controversial and we could finish them if only we cut down one or two hours on each of them. But I would appeal to Shri Goyal also to forego some of his time. Of course, he has a constitutional right to move opposing all these Ordinances. He has moved it; he has made use of the constitutional rights that is there. There is nothing wrong in that. It is a matter of principle and you have a right to oppose the Ordinance. But whether it is opposing one Ordinance or two or three Ordinances, the principle is the same. So, I would appeal to him to oppose strongly one Ordinance and save the time on the rest so that others also could fight on merits and we could finish them by Monday evening.

SHRI S. K. TAPURIAH (Pali) : He will withdraw one and let them also withdraw one or two.

श्री अटल बिहारी वाजपेयी (बलरामपुर) : अध्यक्ष महोदय, मेरा निवेदन है कि भगले सप्ताह में मध्य प्रदेश के बारे में हाउस में चर्चा करने के लिए कोई समय निश्चित किया जाय। राज्यपाल ने निर्णय कर दिया है कि मध्य प्रदेश विधान सभा को भंग नहीं किया जायगा और उससे एक बड़ी प्रवांछनीय स्थिति बहाल हो गयी है है इसलिए थोड़ा समय इस पर आपको भगले सप्ताह देना होगा।

SHRI S. M. BENERJEE (Kanpur) : My motion also.

श्री रणधीर सिंह (रोहतक) : एग्जीक्यूटिव प्राइंसिपल कमीशन के बारे में हाउस में चर्चा करने के लिए अवश्य कुछ समय निकाला जाय।

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT (SHRI RAGHU RAMAIAH) : With your permission, Sir, I rise to announce that Government Business in this House during the week commencing from Monday the 24th March, 1959, will consist of:-

(1) Consideration of any item of Govern-

ment Business carried over from today's Order Paper.

(2) Consideration of a motion for concurrence for referring the Indian Medicine and Homeopathy Bill, 1968, to a Joint Committee.

(3) Consideration and passing of the Constitution (Twenty-Second Amendment) Bill, 1969, as reported by the Joint Committee, on Tuesday, the 25th March.

From 26th March to 28th April, 1969, the House will take up the discussion and voting of the Demands for Grants in respect of the Budget (General) for 1969-70.

SHRI RANGA (Srikulam) : The needs of Madhya Pradesh have already been mentioned to you by Shri Atal Behari. I would like to appeal, through you, to the Government to find some time, if necessary by the House to sit a little longer, to discuss the question of prices for wheat which have been announced by the Agricultural Prices Commission. Already some daily papers begun to write editorials in support of cheaper wheat and subsidisation of the urban people and so on. Let them, therefore, make available some time for that.

SHRI S. K. TAPURIAH : We can sit tomorrow.

MR. SPEAKER : Before I allow Members to speak one by one, I may say that after all this cannot be decided here. There will be two days before we take up the Demands. If you cut into the time for the Demands, it is not the Government that loses. But it is the Opposition that loses the privilege of discussing the Demands. If you want to discuss Madhya Pradesh, Telengana, this and that--we have only 1½ days--perhaps, Governments will be happy because it will cut into the demands. I will have a meeting of the Business Advisory Committee and I appeal to leaders of the parties to come to that meeting and discuss what should be discussed and when to discuss. If you cut into demands, into Government time, actually, it is Opposition which stands to lose.

[Mr. Speaker]

because they can pinpoint something during the discussion or the demands. I will have no objection. Nothing should be raised here. I will call a meeting of the Business Advisory Committee and I appeal to the leaders of the parties to come. Normally, many of them are not coming. I would appeal to them to come and discuss all the aspects, what to discuss and when to discuss, I am sure, the Government will not oppose that. We need not take more time of the House in raising all these things here.

SHRI S. M. BANERJEE : May I make a submission ?

MR. SPEAKER : No please. Once I hear you, I will have to hear everybody else.

SHRI S. M. BANERJEE : I am not demanding any discussion.

MR. SPEAKER : No, no. I am appealing to you also to come to the meeting. I will hear you there.

SHRI S. M. BANERJEE : I just want to remind you that Home Minister has not made a statement on taking back the temporary employees ..

MR. SPEAKER : Order, order; nothing more now.

SHRI RANDHIR SINGH : The Agricultural Commission's Report is very important and that should be discussed.

MR. SPEAKER : That also will be considered in the Business Advisory Committee. You can also come on behalf of the Congress Party. Now, we go to next item

SHRI HEM BARUA (Mangaldai) : Prof. Samar Guha has tabled a motion demanding discussion on the urban development of Greater Calcutta and you promised that that discussion will be allowed.

MR. SPEAKER : I am glad you have raised it. I allowed that when West Bengal

was under the President's rule. I allowed a number of motions about U. P., West Bengal, Bihar and Punjab also. Of course, it is an important subject. I admit; I do not belittle it. But now, naturally, let it go to the Government, to the Assembly and all that. If we take it up now, I will be in trouble. (Interruptions) I am not going to reply to anything. The supplementary questions to the Speaker are becoming too many now.

SHRI M. N. REDDY (Nizamabad) : What about sending a Parliamentary Delegation to Telangana to make an on-the-spot study ? What happened to that ?

MR. SPEAKER : Now, we go to next item.

11.58 hrs.

CUSTOMS (AMENDMENT) BILL— CLAUSE— 2 *Contd*

MR. SPEAKER : We now take up further clause-by-clause consideration of the Bill. We are on clause 2.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P C. SETHI) : I have to reply to the amendments moved.

Sir, the hon. Member, Shri Lobo Prabhu, has moved an amendment to clause 2 and he wants that instead of "any" the word "identifiable" should be used. As for as this particular article is concerned, it is with regard to imported goods. It does not apply to any goods manufactured, in India. Therefore, there would be no harassment to anybody who is dealing in the Indian goods and he is not to make any declaration. But only such goods which are of foreign-make or imported will be covered under this. This position is amply clarified. Even where goods are notified, it has been said that imported articles of this variety would be subject to confiscation. Therefore I hope, the doubt expressed by my hon. friend, Shri Lobo Prabhu, will be clarified from this.

12 hrs.

In his second amendment, which the hon. Member has moved with regard to section 11c, he desires that upto a market price of Rs. 1,000/- there should be no declaration and the goods should be allowed to be sold freely. Here our difficulty was this. It has also been complained by several hon. members that the pavement dwellers and many petty shopkeepers were dealing with imported articles and other things. It will be difficult to trace them if we accept this amendment. It will be gratifying to note that, after the promulgation of the Ordinance, goods worth Rs. 1.7 crores have been seized; whatever was being sold on pavements is not being sold now..

SHRI N. K. SOMANI (Nagaur) : This is incorrect.

SHRI P. C. SETHI : It is not possible to completely eliminate it, but certainly the move is in that direction. Therefore, it would not be possible for me to accept this amendment.

As far as his amendment with regard to deletion of sub-paragraph 3 is concerned, this sub-section is for taking a voucher for shifting the goods or giving intimation of the shifting of the godown from one place to another. This is also in respect of imported articles, as this voucher is not to be countersigned when the goods are moved from one place to another in day time. Even for imported articles, this voucher is necessary, otherwise, it will be difficult to arrest the person or seize the goods whenever they are in transit. That is why this paragraph is there. It is not to apply to indigenous articles. Therefore, the deletion of this paragraph would not be desirable.

As far as deletion of sub-paragraph 6 of 11 is concerned, I would like to say this. (*Interruptions*). The transport voucher has to be signed by the party itself. It is only when goods like bullion are transported after 8 P.M. the countersignature of the officer is necessary; otherwise, it is not necessary. The transport voucher has to be signed by the party itself so that, whenever they are caught, we know who are doing it. So, as

far as objection to this part is concerned, it has been met.

I now come to the amendment moved by Mr. Somani. He said that this limit of 50 kilometres should be applied to all parts of the country. As far as imported articles are concerned, it applies all over the country, including the Indo-Nepalese border. This limit of 50 kilometres is with regard to export or smuggling of silver alone. It was found that silver was being smuggled from the western coast in Bombay or in the eastern coast in Tamil Nadu. Therefore, it has been made applicable here. But I am prepared to accept his amendment to this extent that from 50 kilometres we will extend it to 100 kilometres. We have also taken powers to make use of this, if necessary, even with regard to the articles which are smuggled on the borders of other countries adjoining us; the powers have been taken to make use of this wherever we feel the necessity that this limit has also to be promulgated in the border areas adjoining other countries like Indo-Nepal or Indo-Pakistan border on the Rajasthan side or any other side. Therefore, as and when we feel the necessity, we will make use of the powers which have been taken under this.

SHRI N. K. SOMANI : What is going to happen to Delhi ? Traffic goes from Delhi in all directions. (*Interruptions*).

SHRI P. C. SETHI : Wherever smuggling takes place, we are trying to prohibit its movement so that the smugglers are not free to do it. That is why even sales worth Rs. 2,500 are permitted, but if anything more than that is sold, then he has to give verification of the person to whom he sold. Unless the payment is received by cheque, he has to give proof that he has sold to a genuine person.

SHRI N. K. SOMANI : Sir, the Minister has agreed to extend the limit . . .

SHRI P. C. SETHI : I there is any explanation required, I will give it later on. There is another amendment of hon. Member Shri Somani. As far as 50 kilometers is concerned, I am accepting his

[Shri P. C. Sethi]

amendment of 100 kilometers. Then, with regard to this question of 6 per cent shortage, as far as that is concerned, if silver wares or silver articles are there, on account of refining they lose certain weight. He has to declare not the silver articles or silver ware but he has to declare silver and therefore this question does not arise. But even then, even if it arises in genuine cases, there has been a provision to allow such shortages to the party if the party satisfies that this is a shortage which has arisen on account of this particular fact. Therefore, Sir, there is no need to amend this article. These are the only amendments which have been moved and I have explained the position with regard to these amendments and I have nothing more to say. I have already moved an official amendment which has been taken up. So, with this, I request the House to adopt the Bill.

SHRI LOBO PRABHU (Udipi) : The Minister has said that he is accepting the amendment of Mr. Somani. I am glad about it because it is Mr. Somani's amendment. But I am not glad because it is against the very policy of our party that this control should be extended. Now, the point is this. If you accept to increase the limit, I want to know whether you have got customs officers between 50 and 100 kilometres. It is no good having a barrier there which cannot be policed by your officers.

SHRI P. C. SETHI : We are taking powers to extend it to 100 kilometres. We have already started with a limit of 50 kilometres. Now we are taking these powers to extent it to 100 kilometres. The staff and other officers will have to be increased. Even mobile units will be provided. We are thinking of having helicopters and fast motor boats etc. to check these things.

SHRI LOBO PRABHU : You cannot take motor boats on the land.

SHRI P. C. SETHI : As far as the coastal part is concerned, the officers will have to be increased to check these things.

MR. SPEAKER : There is the Mini-

ster's amendment, amendment No. 23. I will put it to the vote of the House.

The question is :

Page 6,—

for lines 43 and 44, *substitute—*

"behalf to satisfy himself as to the identity of the purchaser or the transferee, as the case may be, and if after an inquiry made by a proper officer, it is found that the purchaser or the transferee, as the case may be, is not either readily traceable or is a fictitious person," (23)

The motion was adopted.

MR. SPEAKER : Are you accepting any other amendment ?

SHRI P. C. SETHI : There is an amendment to Clause 11H (c).

SHRI N. K. SOMANI : It is amendment No. 19.

DR. RANEN SEN (Barasat) : The Minister says that the limit will be 100 kilometres. Mr. Somani's amendment says, 50 kilometres. He is not accepting Mr. Somani's amendment as such.

Mr. SPEAKER : There must be some amendment. Either his, or some other amendment must be there.

SHRI P. C. SETHI : The amendment is :

Clause 2 - page 4, lines 18 and 26,

for "fifty" substitute "one hundred".

MR. SPEAKER : You can give it in writing.

SHRI N. K. SOMANI : I made an amendment even on the Floor of the House yesterday stating that the word "not excoo-

ding fifty kilometres" should be substituted by "not exceeding hundred kilometres".

MR. SPEAKER : You should give or the Minister should give in writing. From oral speeches you make, what am I to put to the vote ? Speeches are made by Ministers or somebody else. How can you put the speech to vote ?

SHRI P. C. SETHI : I beg to move :

Page 4, lines 18 and 26,

for "fifty" substitute "one hundred"

MR. SPEAKER : The question is :

Page 4, lines 18 and 26,

for "fifty" substitute "one hundred"

The motion was adopted.

MR. SPEAKER : Now, I shall put the amendments of Shri Lobo Prabhu and Shri N. K. Somani to vote.

Amendments Nos. 4 to 11 and 19 to 22 were put and negatived.

MR. SPEAKER : The question is :

"That clause 2, as amended, stand part of the Bill".

The motion was adopted

Clause 2, as amended, was added to the Bill.

Clauses 3 to 7 were added to the Bill.

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

SHRI P. C. SETHI : I beg to move :
"That the Bill, as amended, be passed"

MR. SPEAKER : Motion moved :

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

श्री शिवचन्द्र झा (मधु बनी) : अध्यक्ष महोदय, मैं इस विधेयक का विरोध करता हूँ । इसका मैंने इन्ट्रोडक्शन स्टेज पर भी विरोध किया था । वैसे इसके स्टेटमेंट ग्रॉफ़ ग्राबर्जेंट्स एण्ड रीजंज में कहा गया है कि स्मगलिंग को रोकने के लिए, चोरी का माल जो हिन्दुस्तान में लाते हैं या बाहर हिन्दुस्तान के माल बो ले जाते हैं, उनको रोकने के लिये यह विधेयक है । लेकिन यदि ग्रॉफ़ इसकी लिखावट को देखें तो साफ़ हो जाएगा कि चोरी से माल लाने और ले जाना, स्मगलिंग माल को लाने और यहां के माल को विदेशों में स्मगल करने का जो घन्था है, उसको कानूनी रूप इस विधेयक द्वारा दिया जा रहा । यदि मैं कहूँ कि स्मगलिंग को लीग-साइज किया जा रहा है तो यह भी कोई गलत बात नहीं होगी, कोई एग्जेंशन नहीं होगा । कैसे उसको कानूनी रूप दिया जा रहा है उसके बारे में दो तीन बातें मैं ग्रॉफ़के सामने रखना चाहता हूँ । इसमें पहले तो यह कहा गया था कि पचास किलोमीटर तक । लेकिन अब इन्होंने इसको बढ़ाकर एक सौ किलोमीटर कर दिया है । आप समझ सकते हैं कि यह कितना बड़ा दायरा होता है । इतने बड़े दायरे में स्मगलिंग की अब छूट होगी । एक सौ किलोमीटर तक की छूट होगी ।

दूसरी छूट को ग्रॉफ़ देखें । ग्रॉफ़ जानते ही हैं कि स्मगलिंग का कोई माल लाएगा तो उसको वह डाक बगनों में नहीं रखेगा, सरकट हाउस में नहीं रखेगा, मिनिस्टर की कोठी में ले जा कर नहीं रखेगा । मोटे तौर पर अपने घर में ही उसको वह रखेगा । यदि कोई ग्रॉफ़सर देखने के लिए आएगा तो वह कहेगा कि यह माल मेरे घर में है और यह मेरे परसनल यूज के लिए है । तब उस पर यह कान लागू नहीं होगा । यह भी एक बड़ी छूट है । परसनल यूज के लिए हो और रेजीडेंस में हो तो उसको छूट इसमें मिली हुई है । एक तो यह प्वाइंट सुल जाता है स्मगलिंग के लिए ।

[श्री शिव चन्द्र भा]

इसके बाद ध्राप देखें कि यदि वह कह देता है कि उसके घर में नहीं है, परसनल यूज के लिए भी नहीं है, और यह कह देता है कि मुझ को गिफ्ट में मिली हैं, दान में मिली है, सक-संशन में उत्तराधिकार के रूप में मिली है तो भी उसको यह छूट प्राप्त होगी। यह भी एक बहुत बड़ा फाटक स्मगलिंग का खुल जाता है।

इन सब छूटों के बाद जब कानून लागू होने लगता है तो मन्त्री मन्मोदय ने उसकी सीमा इतनी ऊंची कर दी है कि स्मगलिंग के बहुत ज्यादा मौके मिल जाते हैं। तब यह लागू होगा जब स्मगलड गुड्ज की कीमत पचास हजार रुपये से अधिक होगी। पचास हजार रुपये तक की इस में छूट है। ध्राप सोच सकते हैं कि पचास हजार रुपये की रकम कितनी बड़ी रकम होती है। हिन्दुस्तान और नेपाल की सीमा पर जो चीजें स्मगल होती हैं उनमें घड़ियां हैं, ट्रांजिस्टर हैं, चीनी हैं, कैरोसिन घायल है। पचास हजार का यह सब मान हो तो ध्राप धंदाजा लगा सकते हैं कितना ज्यादा माल हो सकता है। रकम कम करने की छूट भी सरकार तीन बार से रही है।

अब ध्राप देखें कि ध्राप क्या कहते हैं। अफसर के पास बाकायदा वह फार्म में भर कर इतिला देगा कि ये सब चीजें मेरे पास हैं। अफसर जब इन्स्पेक्ट करने के लिए जायेगा और अगर वह यह पायेगा कि जितना हिसाब किताब उसने दिया है, वह ज्यादा है लेकिन वास्तव में सामान कम कीमत का है तो वह भड़ाई हजार तक फिर उसको छूट देगा। पन्द्रह हजार का वह हिसाब अगर देता है, लेकिन वास्तव में वह माल कम का है तो उसको भड़ाई हजार की छूट मिल जायेगा और भड़ाई हजार कस्टम्ज सेल्ज और ट्रांस्फर के रूप में उसको छोड़ दिया जाएगा। यह एक दिन के लिए है। दूसरे दिन यदि इन्स्पेक्टर फिर जाता है तो उसको फिर

भड़ाई हजार रुपये तक की छूट देने का उसको हक है। इसका मतलब यह हुआ कि एक के बाद दूसरी छूट ध्राप देते जा रहे हैं और इससे स्मगलिंग करने के लिये, तस्कर व्यापार करने के लिये और भी ज्यादा मौका मिलता जाता है। इससे तो तस्कर व्यापार का क्षेत्र वृहद ही होता है।

ध्राप जानते ही हैं कि हिन्दुस्तान में एक सौ करोड़ रुपये प्रति वर्ष के हिसाब से माल स्मगल किया जाता है। एक तिबारी कमेटी बनी थी। उसने इस स्मगलिंग की समस्या का अध्ययन करने के लिए एक स्टडी की थी। उसने कहा था कि एक सौ करोड़ रुपया प्रति-वर्ष के हिसाब से कस्टम्ज टैक्स का सरकार को नहीं ध्राता है। स्मगलिंग को रोकने के लिए भारत सरकार 5 प्रतिशत खर्च करती है यानी एक परसेंट से कम खर्च करती है। जितना माल स्मगल हो कर ध्राता है उसका केवल पांच प्रतिशत ही सरकार डिटेन्ट कर पाती है। यदि सरकार वास्तव में चाहती है कि स्मगलड गुड्ज भारत में न लाई जायें और यहां की गुड्ज ब हर स्मगल न हों तो मैं जानना चाहता हूं कि तिबारी कमेटी ने जो सुभाव दिये थे, उन पर धमल क्यों नहीं हुआ। आपके पास लांचिज होनी चाहिये थी, वीहिकल्ज होने चाहिये थे, ध्रापको एफिशेंसी बढ़ानी चाहिये थी। मैं जानना चाहता हूं कि इन सब के मुताल्लिक सरकार ने क्या कदम उठाये हैं ?

मैं सुभाव देना चाहता हूं कि पन्द्रह हजार की जो सीमा ध्राप रखते हैं, उसको न रखकर ध्राप पांच सौ रुपये तक की ही रखें। तभी छोटी छोटी स्मगलड गुड्ज जो हैं, चोरी छिपे लाई गई चीजें जो हैं, उनको ध्राप पकड़ सकते हैं और बहुत दूर तक सरकार स्मगलिंग को रोक सकती है। सजा के रूप में कोई सफाई नहीं की गई है। औरिजनल बिल में भी यह

नहीं हैं। कल या परसों के भ्रष्टचारों में हमने पढ़ा था कि दिल्ली की एक कोर्ट ने एक पठान को स्मगलिंग करने के अपराध में एक साल की सख्त सजा दी थी। यदि सरकार वास्तव में चाहती है कि तस्कर व्यापार बन्द हो तो इसके लिए सख्त से सख्त सजा देने का इन्तजाम होना चाहिए।

यह जो तस्कर व्यापार चलता है इससे सरकार को पैसा भी नहीं आता है और सरकार भी घाटे में रहती है। तिवारी कमेटी ने जो इसके मुताल्लिक सिफारिशों की थीं उन पर सरकार ने कुछ कार्रवाई नहीं की। उसका नतीजा है कि सरकार को यह विधेयक लाना पड़ रहा है। मैं चाहता हूँ कि ये जो सब बातें हैं इनके लिए सरकार को धारो जांच करने के लिये एक कमेटी मुकर्रर करनी चाहिए जो तमाम बातों की, शुरू से ले कर आखिर तक जांच करे। अगर ऐसा किया गया तभी जा कर कुछ सफलता मिल सकती है।

उसमें एक और बड़ी बात भी है। सरकारी अधिकारी जो हैं, जो प्रशासन है इसको अधिक मुस्तैदी बरतनी चाहिये। साथ ही साथ जो भी कदम सरकार भ्रष्टाचार को रोकने के लिये और तस्कर व्यापार को रोकने के लिए उठा रही है और जो भी काम इस सम्बन्ध में सरकार कर रही है, उसको सफलता तभी प्राप्त हो सकती है जबकि जो भ्रष्टाचार है उनमें भी एक भावना पैदा हो कि हम इस तरह की चीजों को रोके। इसके बारे में भी एक सक्चुरल होना चाहिये। जो तस्कर व्यापार को रोकने वाले हैं वे भी भ्रष्ट हो जाते हैं तो कैसे इसको रोका जा सकता है। इसके बारे में भी आपको कुछ करना होगा।

जो कुछ मैंने कहा है यदि इसको किया जाएगा तभी इस सीमा शुल्क विधेयक का कुछ फलसब हो सकता है, बर्ना जिस रूप में अभी तस्कर व्यापार हो रहा है उसी रूप में यह

होता रहेगा। अगर ऐसा नहीं होता है तो मैं समझूंगा कि सरकार स्मगलिंग को बढ़ावा ही देने जा रही है, औपचारिक रूप से देने जा रही है, कानूनी रूप से देने जा रही है। उसका क्षेत्र और भी बृहद आप कर रहे हैं। जो हमारा उद्देश्य है। चूँकि वह इससे पूरा नहीं हो रहा है, इस वास्ते मैं इस विधेयक का पुरजोर विरोध करता हूँ और चाहता हूँ कि सरकार इसको अभी भी वापिस ले ले, अभी भी कोई देरी नहीं हुई है। सारे हिन्दुस्तान में इसको सक्चुरल करके वह विचार लोगों के जाने।

12.19 hrs.

DR. RANEN SEN : During the first reading stage, I had sounded some warning about some of the loopholes and some lacunae that were present in this amending Bill. It seems that in spite of the good intentions this Bill will not serve the purpose which it is supposed to serve. But I am not that sort of opposed to this Bill because in spite of these loopholes, there are certain things which Government could keep in mind in order to make this Bill successful to a great extent, namely that they should try to catch not only the small fry who are in the network of smugglers but also the big people who are running this racket.

It is often seen that not only some of the big officers- I do not say all the officers are bad are somehow or other directly or indirectly connected with the racket, but unfortunately certain people connected with the ruling party, who are luminaries of the party, are also somehow or other directly or indirectly connected with the big people who are running the racket. If this Bill to serve any purpose, the whole administration has to be streamlined. Secondly, a sense of moral values has to be created inside the country; for this the Government should show the way.

Therefore, the big people in the political field should refrain from keeping contacts with the people connected with big business operating this racket. It was evident during discussion that in the name of fighting control or doing away with controls, our esteemed friend, Shri Lobo

[Dr. Ranen Sen]

Prabhu, wanted to do away with controls he was saying that the big business wants to dispense with all this control. They want even this so called control that tries to stop smuggling to go.

I want to draw the attention of the Minister to this state of affairs. Encouragement should be given to honest officers so that they can catch the smugglers and lay their hands on the big people behind this racket. A proper atmosphere should be created in the country by Government for this purpose. I support the Bill.

श्री सीताराम केसरी (कटिहार) : अध्यक्ष महोदय, मैं कस्टमज़ (एमेंडमेंट) बिल का समर्थन करते हुए अपने कुछ विचार प्रकट करना चाहता हूँ।

मेरे दोस्त ने कहा है कि इस तरह के कानून बना कर स्मगलिंग को प्रोत्साहन दिया जाता है। मैं उन्हें बताना चाहता हूँ कि जब तक जनता किसी कानून को नहीं मानती है, जब तक जनता में उस के प्रति आस्था नहीं होती है, तब तक उस कानून का कोई महत्व नहीं होता है। किसी भी सामाजिक सुधार के लिए, या करप्शन को चूक करने के लिए, अगर कोई कानून बनता है और मेरे दोस्त उसका समर्थन नहीं करते हैं, बल्कि उसके खिलाफ अपनी आवाज बुलन्द करते हैं, तो देश पर उस का प्रभाव अच्छा नहीं पड़ता है।

मेरे दोस्त, श्री शिव चन्द्र भा, ने बड़े बड़े व्यापारियों द्वारा स्मगलिंग किये जाने पर रोक लगाने के लिए कहा है। मैं मानता हूँ कि उन पर नियंत्रण लगाने के लिए हर तरह की व्यवस्था होनी चाहिए। लेकिन हमें इस बात का भी ध्यान रखना चाहिये कि नेपाल और गोआ के माध्यम से बहुत बड़ी संख्या में छोटी छोटी चीजें इस देश में आती हैं और कलकत्ता जैसे नगरों के बाजारों में सस्ते दामों पर बिकती हैं। इस प्रकार हमारे देश में, हमारे नौजवानों और

छात्रों में, विदेशी चीजों के लिए एक क्रेज़ सा पैदा हो गया है। इस बात की आवश्यकता है कि इस देश के लोगों के विदेशी चीजों के प्रति इस मोह को दूर किया जाये। इस उद्देश्य की पूर्ति के लिए अगर इस कानून के पक्ष में माहौल और वातावरण नहीं बनाया जायेगा, तो उसको कैसे कार्यान्वित किया जा सकेगा। सामाजिक और आर्थिक सुधारों के लिए इस प्रकार के कानूनों का समर्थन किया जाना बहुत आवश्यक है।

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, प्रथम वाचन के समय मेरे भाषण को बीच में ही रोक दिया गया था। आज मैं अपने मुद्दों को पेश करना चाहता हूँ।

उस रोज मैं यह भ्रज कर रहा था कि नेपाल के साथ 1966 में जो मॅमोरेंडम आफ अंडरस्टैंडिंग हुआ था, उसके बारे में इम्पोर्ट कंट्रोल हैंडबुक में उल्लेख तक नहीं है। मेरा पहला सुझाव यह है कि वर्तमान अनुच्छेद 176 में निम्न प्रकार परिवर्तन किया जाये :

"Imports and exports of goods from and to Nepal are allowed without import and export control restrictions provided they are either the produce or manufactures based principally on raw material of respective countries. However, synthetic fabrics worth upto Rs. 90 lakhs and stainless steel products worth upto Rs. 30 lakhs would be allowed to be imported into India free of duty every year in terms of the agreement of 18th November, 1968 but these goods would have to be stamped by the Customs Department or S. T. C."

असल में यह करार मुझे पसन्द नहीं है, लेकिन चूँकि सरकार यह करार कर चुकी है, इस लिये उसके दायरे में जो कुछ किया जा सकता है, उसको दृष्टि में रखते हुये मैं यह सुझाव दे रहा हूँ।

विदेशों के साथ भारत का जो निर्यात-व्यापार होता है, उससे हमें विदेशी मुद्रा मिलती है, जिसकी हमें निहायत आवश्यकता है। आप जानते हैं कि प्रो कपड़े के निर्यात से हमें काफी विदेशी मुद्रा मिलती है, लेकिन अब वह प्रो कपड़ा नेपाल के जरिये विदेशों में जा रहा है, जिसके कारण हमें विदेशी मुद्रा नहीं मिल रही है। मैं मन्त्री महोदय का ध्यान इस बात की तरफ दिलाना चाहता हूँ कि जनवरी, 1967 में हमारे यहां से 1,04,00,000 मीटर प्रो कपड़ा नेपाल में निर्यात होता था, लेकिन नवम्बर, 1968 तक, यानी सत्रह-अठारह महीनों में, वह करीब करीब तीन गुने से भी ज्यादा हो गया, अर्थात् 3,55,00,000 मीटर हो गया। नेपाल में कोई ब्लिचिंग हाउस नहीं है। वे लौंग प्रो कपड़ा ले कर क्या करते हैं? मैं कहना चाहता हूँ कि वे इस कपड़े को अपने इस्तेमाल के लिए नहीं ले रहे हैं, बल्कि वे इसको विदेशों में बेचते हैं, जिसके परिणामस्वरूप हमें जो विदेशी मुद्रा मिलनी चाहिये, वह नहीं मिलती है। सरकार को इस बारे में भी विचार करना चाहिए।

सरकार ने इस विधेयक में चार स्थानों पर अपने हाथ में बहुत ज्यादा अधिकार ले लिये हैं, जिनका सम्बन्ध नियम बनाने से है। सेक्शन 11बी में सरकार ने यह अधिकार अपने हाथ में ले लिया है कि वह ऐसी चीजों की लिस्ट प्रकाशित करे, जिनके तस्कर व्यापार का खतरा है। मैंने सरकार को नेपाल के बारे में जो पत्र लिखा था, उसमें मैंने कई चीजों के नाम गिनाये थे, जिनकी पैदावार अब नेपाल में होगी—नेपाल के कच्चे माल के आधार पर नहीं, बल्कि विलायत से कच्चा माल ला कर वे लोग ये चीजें बनायेंगे। मैंने इस सम्बन्ध में पत्र-व्यवहार की जो किताब छापी है, जिसकी नकल मैंने आपको दी है, उसके पृष्ठ 68 पर जो चीजें बताई गई हैं, सरकार ने नोटिफिकेशन में भी करीब करीब उसी तरह की चीजें हैं।

क्या बजह है कि सरकार नेपाल की सीमा पर यह कानून लागू नहीं कर रही है? सरकार ने इस बारे में अपने हाथ में अधिकार ले लिया है, लेकिन हमको कैसे पता चलेगा कि उस अधिकार का ठीक इस्तेमाल होगा? सरकार ने सेक्शन 11 एच में 100 किलोमीटर की बात मान ली है। लेकिन जमीन की सीमा पर वह लागू होगा या नहीं, इस बात को सरकार ने अपने हाथ में रखा है। क्या मन्त्री महोदय यह स्पष्ट आश्वासन देंगे कि वह एक नया नोटिफिकेशन निकाल कर इस खंड को, प्राविजन को नेपाल की सीमा पर और दूसरी जमीन की सीमा पर, जिस को लैंड बांडर कहते हैं, लागू करेंगे?

किन चीजों को छूट मिलनी चाहिए, यह तय करने का अधिकार भी सरकार ने अपने हाथ में रखा है। सरकार को इस बारे में कुछ तो वर्गीकरण बताना चाहिये था। मैं समझता हूँ कि इस प्रकार बहुत ज्यादा अधिकार अपने हाथ में लेना अच्छा नहीं है। मैं कोई कानूनी आपत्ति नहीं उठा रहा हूँ, बल्कि मैं प्रीबियर की दृष्टि से कह रहा हूँ। इस बारे में कुछ वर्गीकरण जरूर बताना चाहिए कि किन चीजों को छूट दी जायेगी और किन चीजों का समावेश किया जायेगा। इन सब बातों का खुलामा होना चाहिए।

सरकार ने वर्तमान कानून के तहत नेपाल के माल को केवल कस्टम ड्यूटी से छूट दी है, लेकिन विदेशों से आयी चीजों के बारे में जो इतिला देने की बात है, उसके सम्बन्ध में कोई छूट नहीं है। मैंने श्री मोरार जी देसाई को 17 मार्च को जो पत्र लिखा है, उसके बारे में मन्त्री महोदय कार्यवाही करें और फंसला करें। आज क्या होता है कि दूसरे देशों से जो माल लाया जाता है, उस पर नेपाल वाले एक मुहर लगा कर यह घोषित करते हैं कि वह नेपाली माल है। नेपाल से जो माल आता है, उस पर कोई

[श्री मधु लिमये]

प्रतिबन्ध या रोक नहीं है। या तो सरकार एस० टी० सी० की मार्फत वह माल मंगवाये और या उन पर कस्टम्ज डिपार्टमेंट की मुद्र लगवाये। लेकिन सरकार ऐसा नहीं कर रही है।

इसका नतीजा क्या होगा ? जिस उद्देश्य को लेकर आपने यह कानून बनाया है, वह बिल-कुल असफल हो जायेगा। जो तस्कर व्यापार करने वाले हैं, उनका यह कहना है कि हमने यह माल नेपाल से मंगवाया है, बस मामला यहीं खत्म हो जाता है।

इस विधेयक का दूसरा मकसद है—चांदी का जो निर्यात चल रहा है, उसको भी रोकना। अब मैं मन्त्री महोदय को जांच के लिए एक विषय दे रहा हूँ। मुझे पता चला है कि बंबई के बाजार में यह भ्रमवाह फैली थी कि 23 दिसम्बर को आपका प्राइनेन्स प्रायेगा—इससे चांदी के दामों में उतार-चढ़ाव होने लगा, तब कुछ लोगों ने जिनको पता था कि प्राइनेन्स 3 जनवरी को घाने वाला है, उन्होंने बहुत सस्ते में चांदी खरीदी और जब मंहगी हो गई और लोगों को ऐसा लगा कि प्राइनेन्स नहीं घा रहा है, तब बेच डाली। उसके बाद 3 जनवरी को यह प्राइनेन्स घाया और इसका नतीजा यह हुआ कि दाम 38 रु० एक किलो के पीछे गिर गये। इसके बारे में इकानामिक टाइम्ज कहता है—

"The sharp fall in silver and the rise in gold prices are a direct result of the ordinance."

तो क्या आप इस बात की जांच करेंगे कि प्राइनेन्स 3 तारीख को घा रहा है, इस गुप्त बात का कुछ लोगों को कैसे पता चला और जिस को लेकर चांदी में उन्होंने जो व्यवहार किया, उससे लाखों रुपये इन लोगों ने कमाये ? बजट के बारे में कोई चीज गुप्त नहीं रहती, प्राइ-

नेन्स निकलता है, वह गुप्त नहीं रहता, मेरी समझ में नहीं आता कि सरकार को क्या हो गया है। इस सादर मैंने लन्दन इकानामिस्ट में पढ़ा था कि हाउस आफ कामन्स में भी बजट लीकेज का मामला घाया था और सबूत न दिये जाने पर भी उन्होंने इस सवाल को एक विशेष कमेटी के पास भेजा है। इस समय मैं मन्त्री महोदय से प्रार्थना करता हूँ कि क्या इस तरह से तेजी-मन्दी को लेकर और प्राइनेन्स के निकलने की तारीख की जानकारी के आधार पर लाखों रुपये का व्यवहार हुआ है और कुछ लोगों ने मुनाफा कमाया है उसकी वे जांच करेंगे ? वह इसका अपने उत्तर में खुलासा करें।

अन्त में मैं यह कहना चाहता हूँ कि इस विधेयक के उद्देश्यों से मैं सङ्मत हूँ, लेकिन मुझे इस बात को लेकर घोर आपत्ति है कि सरकार ने इस कानून के अन्दर नियम बनाने के नाम पर, आयात-निर्यात को नियमित करने के नाम पर बहुत ज्यादा अधिकार अपने हाथ में ले लिये हैं। क्या सरकार इस सम्बन्ध में जो भी नियम उनको बनाने हैं, जल्द बना कर सदन के सामने लायेगी ताकि सदन को उनके ऊपर बहस करने का मौका मिले ?

SHRI P. C. SETHI : Sir, the hon. Member, Shri Shiva Chandra Jha, has raised a point about the limit. It is a limit of Rs. 15,000 and not Rs. 50,000. This limit of Rs. 15,000 is in respect of silver. Silver is a specified goods where we had come to the conclusion that silver is being smuggled through the western coast, and therefore, the limit was put on it. When silver is now smuggled out, it is smuggled out either in the form of bars or in the form of coins. The price of a bar is over Rs. 15,000. Therefore, we put in this restriction that if anybody is moving silver worth more than Rs. 15,000, he will have to give the details of the movement accompanied by a transport voucher. Therefore,

first of all, I would like to clarify that it is not Rs. 50,000, but it is Rs. 15,000.

The limit of Rs. 2,500 put on the sale of silver is for petty sales of silver which is not being smuggled out. It is either smuggled out in the form of bars or in the form of coins, and enough precautions have been taken with regard to that.

Secondly, the hon. Member also asked what has been done with regard to the Tiwari Committee's report. The other day also, I told the House that we have examined the Tiwari Committee's report. Out of a total of 210 recommendations in Part I, we had accepted in full 136 recommendations. In Part II, out of a total of 167, we have agreed in full to 114 recommendations. We have agreed, partially or with modifications, to 41 recommendations in Part I and 41 recommendations in Part II. Only about 30 recommendations in Part I and 12 in Part II have not been accepted.

श्री शिवचन्द्र झा : अध्यक्ष महोदय, तिवारी कमीशन की इन्डीपेन्डेंट ट्रिब्यूनल के मुतालिक जो सिफारिश है, क्या उसको मन्ज़ूर किया है ?

SHRI P. C. SETHI : I do not have all the details with me at the moment with regard to the detailed recommendations point by point. I have given the total number of recommendations which the Government have accepted and we are trying to implement them.

Shri Jha also asked about gifts. So far as gifts and goods for personal use are concerned, the freedom is given only to avoid harassment to genuine persons. They will not be required to declare such articles like a watch or other goods meant for personal use. But the moment they sell anything the provisions of the Act would come into play.

Dr. Ranen Sen made certain good suggestions. Nobody can dispute that the administration has to be streamlined, that moral virtues have to prevail and a consciousness has to be created. To the best of our capacity, we would try to inculcate these things in the officers and we would

certainly like to streamline the administration.

I am thankful to Shri Sitaram Kesari for the support he gave to the Bill during the first reading and now. I am thankful to other hon. members also who have supported the Bill.

Mr. Limaye raised the question about Indo-Nepalese border. He has been raising it for some time now and I appreciate his anxiety that steps should be taken to check smuggling across this border also. Under the 1960 treaty, goods originating in either country would be freely exported from or imported into the other. One can interpret origination in a country to mean goods completely manufactured out of indigenous raw materials or goods manufactured out of imported raw materials. Mr. Limaye's contention is that this treaty applies only to goods manufactured out of indigenous raw materials completely. But a view has been taken that anything which is manufactured in India or Nepal, even if it is based on imported raw materials, can be imported or exported freely under this treaty. This has been examined. We were also anxious that if there is any undesirable smuggling going on along this border, it should be stopped. A team of our officers went to Nepal and it was agreed that with regard to fabrics and stainless steel articles, imports will be restricted to the extent of the quantum of these goods which were imported during 1967-68. The details are being worked out whether these goods which would be imported from Nepal should be accompanied by a transport voucher or whether that should be stamped, so that anything which comes over and above that can be checked. All these details will be worked out. Our relations with Nepal are very friendly and whatever we want to do in this respect, we want to do with their cooperation and assistance, not unilaterally. I would assure him that we would make all possible efforts to clarify all these points. His Majesty's Government are certainly prepared to cooperate with us and with their cooperation, I am sure we would be able to check smuggling, if there is any, on this border.

[Shri P. C. Sethi]

So far as the extension of the limit of 50 or 100 kms is concerned, we have promulgated it only for specified goods, i. e. silver. There is no such limit for other articles of foreign origin, even if they come from Nepal, if they are not manufactured in Nepal. For such articles, it applies to the whole of India, including the Indo Nepalese border. For the present, as far as smuggling of silver from India is concerned, it was found that it was being done only through the western coast. Therefore, the area of 50 kilometres, which the House has now very kindly increase to 100 kilometres, is with respect to silver and therefore we have promulgated it only in that area. If necessary arises to promulgate it even on the Indo-Nepalese border in respect of certain articles certainly we would not hesitate to do it.

श्री मधु लिमये : माफ कीजिए, मेरी बात आर समझे नहीं। मैंने व्यापार मन्त्री के सामने यह बात रखी थी कि नाइलान फैब्रिक जो कि जापान का बना हुमा होता है, उसके ऊपर मोहर लगती है—मेड इन नेपाल। वह नेपाल में बनता ही नहीं है लेकिन उस पर लिखा होता है—मेड इन नेपाल। घाप किसी भी एक्सपोर्ट से पूछिए तो वह बतायेगा कि इस बुनाई व गुरावता का कपड़ा न तो हमारे देश में बनता है और न नेपाल में ही बन सकता है।

दूसरी बात यह कि स्काच विदेशों से आती है लेकिन वह मेड इन नेपाल हो जाती है। इसीलिए मैंने कहा कि लैंड बार्डर के बारे में घापको निर्णय करना पड़ेगा। संचि की बात तो अलग है। ट्रीटी में यही है कि ड्यूटी नहीं लगेगी। लेकिन ये दोनों चीजें तो अलग अलग हैं। इसके बारे में घाप सोचिए।

SHRI P. C. SETHI : We will certainly go into this question. The question of Scotch Whisky was also raised by Shri Tenneti Viswanatham the other day. To-

day I have seen the bottle myself. The label in the centre says that it is made in Nepal. We would certainly examine that point and try to do our best.

श्री मधु लिमये : घापकी सेवा में करड़ा भी भेज दूंगा, उसका कोट बना लीजियेगा।

श्री सीताराम केसरी : नेपाल स्काच लिखा होगा तो कोई नहीं खरीदेगा।

SHRI S. M. BANERJEE : Sir, if you will kindly permit me I shall lay a bottle of whisky on the Table of the House.

श्री मधु लिमये : चांदी के बारे में जांच करने के लिए कहा है। तेजी और मन्त्री को ले कर उसमें पैसा कमाया गया है।

SHRI P. C. SETHI : The hon. Member has raised a point about the fall in the prices of silver. It is true that this Bill came before the House in the month of December but on account of pressure of work the House could not pass it. When it was before the country those people dealing in silver knew about it. That is why we had to take the extreme steps of promulgating an ordinance. Naturally, the fall in the price of silver was on account of this ordinance. This is why we wanted to arrest smuggling.

श्री मधु लिमये : वह हम नहीं कर रहे हैं। मैं कह रहा था कि अघ्यादेश 23 दिसम्बर को हुमा नहीं। उसके बाद 3 जनवरी तक तीस चढ़ाव—उतार वायलेंट फ्लक्चुएशन्स, होते रहे—कुछ लोगों को पता था कि तीन तारीख को होगा, तो तीन तारीख के बाद उसका साजमी नतीजा होगा कि चांदी के मूल्य में कमी आयेगी तो 23 दिसम्बर और तीन जनवरी के बीच में जितने ट्रान्जेक्शन्स हुए हैं उसमें जानकार लोगों ने पैसा कमाया है। इस बात की जांच होनी चाहिए।

SHRI P. C. SETHI : If the hon. Member would give us some more information

we shall certainly go into it. But *prima facie* there does not appear to be any case.

MR. SPEAKER : The question is :

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

The motion was adopted.

12.45 hrs.

DELHI MOTOR VEHICLES TAXATION (AMENDMENT) BILL

THE DEPUTY MINISTER IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS, AND IN THE MINISTRY OF SHIPPING AND TRANSPORT (SHRI IQBAL SINGH) : Sir, on behalf of Shri Raghuramaiah, I beg to move :

"That the Bill further to amend the Delhi Motor Vehicles Taxation Act, 1962, be taken into consideration."

I would like to take this opportunity to explain a few salient points of this Bill. The Delhi Administration proposed that the tax on motor vehicles may be increased by 25 per cent. It is considered necessary to raise additional revenue for distribution to the local bodies which find it difficult to allocate sufficient funds for the proper maintenance of roads or to meet the development expenditure on roads and bridges. The proposed increase will yield Rs. 30 lakhs per year, which will be spent on roads, bridges and maintenance of roads.

The second important feature of this Bill is that the rebate of 10 per cent, which was available to the present owners of vehicles who deposited the tax in a single annual instalment, is being withdrawn. This will also bring a revenue of Rs. 5 lakhs, which is included in the Rs. 30 lakhs.

The Delhi Administration decided in February 1968 that road tax on motor vehicles should be increased and the increased revenue should be spent on the mainten-

ance of roads in the Union Territory. It was already approved by the Lieutenant-Governor and the Metropolitan Council. The Chief Executive Councillor also pressed for this. That is why we are moving that the Bill may be taken into consideration.

MR. SPEAKER : The question is :

"That the Bill further to amend the Delhi Motor Vehicles Taxation Act, 1962, be taken into consideration."

The motion was adopted.

MR. SPEAKER : We will now take clause by clause consideration. I find that there are no amendments to clause 2. I will put it to vote.

SHRI S. M. BANERJEE (Kanpur): Sir, a feeling is sought to be created that this Bill is not controversial. I consulted my Delhi friends who have gone through this and they say that it is a taxation measure which should be opposed. They are not in favour of this Bill and there is no unanimity about it.

MR. SPEAKER : He can oppose it. Nobody prevents him from doing it. Now I will put clause 2 to the vote.

SHRI SHRI CHAND GOYAL (Chandigarh) : Does it mean that this Bill be passed without any discussion ?

MR. SPEAKER : No, not at all. There are number of amendments. I am only appealing to the hon. Members to help me by being brief. I cannot prevent them from speaking. Because there is no amendments, I am putting clause 2 to the vote. The question is :

"That clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3-(Substitution of new Schedule for Schedule I).

SHRI LOBO PRABHU (Udipi) : Sir, before moving my amendments, I would like to say that I have been asked by my party to speak on the Bill. The Bill appears very innocuous. It is also very neat. It just proposes to increase all taxes by 25 per cent. It also proposes to abolish the discount of ten per cent allowed on annual payments.

Apart from this, this Bill is related to two objectives, neither of which is clear. The first objective is to bring the rates of taxes on vehicles in Delhi in line with the taxes in other States which are stated to be lower. Yesterday I enquired from the Ministry through the library the names of States where the rates are lower. As far as I know, no information is available on the subject. So, the Ministry is only proceeding on the assumption that the rates in neighbouring States are lower. As far as I know, in Mysore State the rates are lower than the rates proposed here. In any case, this business of raising taxes because the rates are higher in some States is not at all conscionable.

The second objective given is that the proceeds of increased taxes are required for maintaining the roads in Delhi. The figure of tax as stated in the Home Ministry budget shows that the expenditure is nearly equal to the tax. But we have to remember that the tax on vehicles is not the only tax paid by road transport. It has to pay tax on vehicles and tax on petrol to the Central Government.

It has been established that during the last ten years while the rise from all revenues on road transport adds up to Rs. 450 crores, the expenditure is only in the neighbourhood of Rs. 120 crores; in fact there is a difference between an increase of Rs. 300 crores in taxes and an increase of Rs. 50 crores in the expenditure on roads. So, it is a fiction that the tax can be related to the expenditure on the road and, like the earlier objective of relating the tax to that of the neighbouring States, I would like the Minister to give precise figures of what is going to be realised from all their taxes in Delhi and what is going to be spent on

roads. I am quite sure that there is going to be a big gap.

In any case, this tax cannot be taken into consideration in isolation; it has to be considered in relation to the whole question of road taxes. In this connection there is an agitation going back to many years and certainly to 1966 when the Keskar Committee was appointed. To this committee the Federation of Indian Chambers of Commerce and Industry (FICCI) presented the evidence that tax on road transport added up to 54.5 per cent of the operation costs.

On the chassis the tax was Rs. 2,450, on the tyres it was Rs. 1,600 and on petrol it was up to 80 per cent of the cost of petrol. To that cost only additions have been made since then. The House is aware that the Finance Minister has proposed to impose a tax of 7 paise on a litre of petrol, which means that instead of 80 per cent being the tax on the cost of petrol it may be something in the neighbourhood of 85 per cent. In respect of the prices of vehicles also there has been a constant rise in prices and the Estimates Committee found that for cars made in this country, which are a kind of a yardstick, there is a difference rising from 45 per cent to 75 per cent between the costs here and the costs in the countries where these cars originate.

So, road transport is suffering from this burden. This burden has been calculated to be equal to 7 paise per tonne-mile. This has to be contrasted with 5 paise per tonne-mile charged by the railways for the same items. The Government takes 7 paise only in taxes while it is providing rail freight at 5 paise inclusive of any tax that there may be. Is it fair to road transport that at a level where Government is making profits from rail freight, which is five-sevenths the tax on road transport, taxes do not stop but even go beyond? And that proportion has increased.

This story can go on but I am coming now to the current year. In June the previous Minister of Transport, Dr. V.K.R.V. Rao, said it at Bangalore that the taxes had reached a limit any they should be frozen. In August he sent a letter to all Chief

Ministers including, I have no doubt, the Home Ministry, which represents the Chief Minister of Delhi, that there should be a freeze on taxes; there should be no more taxes. Again, as late as November, he repeated this that it would be unfair that taxes should be increased. He was repeating what was found by the Keskar Committee about the effect of these taxes.

MR. SPEKAER : It is only about Delhi taxation. You are covering the whole ground.

SHRI LOBO PRABHU : Please excuse me because this issue is very important.

This is what the Keskar Committee found in respect of taxes :-

"The Committee's finding is that the existing level of taxation, Central and State, acts as a disincentive to the growth of road transport. It is accordingly urged that some relief should be given or at least no further changes should be made in the existing level of taxation except after mature consideration and with reference to the opinion of the proposed expert advisory body."

That is the position regarding general taxation.

Now, I come to my amendments and to the effect of the taxes in Delhi, particularly. I would like, first of all, to point out that these taxes do appear as a kind of measure against the rich. But this is far from the truth. You will find that the taxes are heavy in respect of commercial vehicles. In the country as a whole, there are 60,000 buses and 2 lakhs lorries employing about 3 million people. One can work out the proportionate number in Delhi. On these commercial vehicles including small scooters, there is a much higher tax than on cars. What happens is, the tax which you impose is not paid by the commercial body but it is added to the price and paid by the common people. The bus fare will rise in view of the Finance Minister's proposal to increase

the tax on petrol by 7 p. There is going to be a substantial increase all over the country. This will be a loss, first of all, to the nationalised State enterprises which they will recover by increasing the bus fare, certainly, equal to the tax and, probably, much more than that. It must be noted by a socialist Government that the increase in bus fares is, not compensated by any dearness allowance because that is not included in the cost of living index. You please remember, the tax you impose on petrol or on road transport is largely a tax on the poor.

I would beg of the Minister to consider this. I would request him to lower the tax limit for scooters and motor-cycles which are used by the common people. If this is not done, a little tax that you are going to realise, Rs. 35 lakhs, is going to cost a great deal more to people and to Delhi transport. I do not know whether the figure has been worked out. It will cost much more to Delhi transport.

Coming to my second amendment, a saving of Rs. 2½ lakhs by abolishing the concession on annual payments, I would like to point out that against the saving, you will have to increase your staff. By taking annual renewals, you avoid a lot of work and staff. It is a convenience. I, therefore, suggest, although you are estimating a saving of Rs. 5 lakhs, please be content with Rs. 2½ lakhs and maintain the concession at a lower level, if you like, at 5 per cent.

I beg to move :-

Page 2, line 14,-
for "Forty" substitute-
"Thirty-two" (1)

Page 2, line 15,-
for "Twenty" substitute-
"Sixteen" (2)

Page 2, lines 29 and 30,-
for "One hundred and seventy-five"
substitute "One hundred and
sixty" (3)

[Shri Lobo Prabhu]

Page 5,—

after line 36—insert—

“NOTE. 2—When the tax is paid for the whole year, a rebate of 5 per cent, of the rates specified in this Schedule shall be allowed.” (4)

MR. SPEAKER : Shri George Fernandes—not here; Shri Abdul Ghani Dar—not here. So, the amendments of Shri George Fernandes and Shri Abdul Ghani Dar are not moved. Now, I call the Minister.

SHRI IQBAL SINGH : Regarding the first point made by the hon. Member about the taxes in the neighbouring States, if you compare with the taxes in Delhi, I would like to give the figures of taxes on 9-tonne trucks and more than that. In Punjab, it is Rs. 594; Rajasthan—Rs. 2200; Uttar Pradesh—Rs. 1762 and Delhi—Rs. 600. Now, we are going to increase it from Rs 600 to Rs. 700.

Regarding the total taxes of all the State and Central taxes on truck, in Punjab, it is Rs. 11,897;—Rajasthan—Rs.13,368; Uttar Pradesh—Rs. 14,370 and Delhi—Rs.10,562. So far as the buses are concerned, 52-seater or more than that, in Punjab, it is Rs, 2,750; Rajasthan—2600; Uttar Pradesh—Rs. 2655 and Delhi—Rs. 2220. Now, it is going to be increased to Rs. 2775.

SHRI LOBO PRABHU : What are the taxes on cars ?

SHRI IQBAL SINGH : That also I can give. In Delhi, it is much less. Regarding the total taxes on State and Central passenger buses, in Punjab, it is Rs. 26,452; Rajasthan Rs. 26,302. U. P. Rs. 18,257; Delhi Rs. 12,296. So, if you make a comparison, you will find that the taxes in Delhi are less than in the neighbouring States. I am not comparing with Mysore State because Mysore is not a neighbouring State of Delhi at least.

The second point was regarding scooters and others . . .

13 hrs.

SHRI LOBO PRABHU : Can you give the details about cars ?

SHRI IQBAL SINGH : The taxes on cars are these. I will give the figures of neighbouring States. In U. P. it is 1016, in Punjab . . .

SHRI LOBO PRABHU : You are making a mistake. About cars, they are only 102; it cannot be 1,000. In U. P. it is Rs. 80 and here you have made it Rs. 100/-

SHRI IQBAL SINGH : In U. P., upto 1016 Kilograms it is Rs. 60 and more than 1016 Kilograms, it is Rs. 1270, and beyond that it is increased step by step . . .

SHRI LOBO PRABHU : It cannot go up from 60 to 1200.

SHRI IQBAL SINGH : There are mini-cars and different other cars. Here also if you see the schedule, there are different taxes for different type of cars . . .

MR. SPEAKER : But it cannot be from 60 to 1200

SHRI IQBAL SINGH : Another point that you have made is how much the whole taxes which we have levied under this Act have come. Last year it was distributed among all the three municipal committees or local bodies. We have distributed Rs. 80 lakhs to the Delhi Municipal Corporation, Rs. 23 lakhs to the New Delhi Municipal Committee and Rs. 2,12,000 to Delhi Cantonment Board. This is according to the mileage. But the total cost on the roads is much more. In the next, years Budget we have provided for Rs. 5,15,00,000. It has increased from Rs. 2,10,00,000, to Rs 5, 15, 00,000. It is a big increase, while the increase from taxes on motor vehicles is only Rs. 30 lakhs. The total maintenance and development cost on the road has increased. This year also it is going up . . .

SHRI LOBO PRABHU : Your Minister's

own statement is that taxes should be frozen. Why have you changed this policy ?

SHRI IQBAL SINGH : Taxes should be frozen. That is a bigger issue. We are asking all the States to have them at a certain level. Moreover, you must take into account the fact that this recommendation has come from the Delhi Metropolitan Council.

MR. SPEAKER : There are two members who want to speak on the Bill in general. So, I will give them a chance later, namely, to Mr. Meghachandra and Mr. Devgun . . .

SHRI A. S. Saigal (Bilaspur) : I would also like to speak.

MR. Speaker : All right; you can also speak.

Now I put the amendments of Shri Lobo Prabhu to the vote of the House. *Amendments Nos. 1 to 4 were put and negatived.*

MR. SPEAKER : Mr. Fernandes and Mr. Abdul Ghani Dar are not present.

The question is :

“That Clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

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

SHRI IQBAL SINGH : I beg to move :

“That the Bill be passed.”

MR. SPEAKER : Motion moved :

“That the Bill be passed.”

After Lunch at 2.00 P.M. Mr. Meghachandra, Mr. Devgun and Mr. Saigal would

speak. In 15 to 20 minutes, this should be finished.

Now we adjourn for Lunch and meet at 2.00 P. M.

13.05 hrs

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at nine minutes past Fourteen of the Clock.

[SHRI THIRUMALA RAO in the Chair]

DELHI MOTOR VEHICLES TAXATION (AMENDMENT) BILL—*Contd.*

MR. CHAIRMAN : We are now in the third reading stage of the Delhi Motor Vehicles Taxation (Amendment) Bill.

Shri Saigal. Speeches may be brief.

SHRI HARDAYASL DEVGUN (East Delhi) : In 15 minutes we have finished the earlier stages. So more time may be allowed.

MR. CHAIRMAN : when he speaks, we will see.

श्री अ. सि० सहगल (बिनामपुर) : मभापति महोदय, दिल्ली मोटर वैहिकल्स (अमेंडमेंट) बिल, 1969 जो यहाँ पर रक्मा गया है, मैं उन पर अपने विचार रखना चाहता हूँ। पंजाब में जो टैक्सेशन है उस को देखते हुए, हरियाणा में जो टैक्सेशन है उस को देखते हुए, उत्तर प्रदेश में जो टैक्सेशन है उस को देखते हुए, दिल्ली का जो टैक्सेशन था वह बहुत कम था इस में दो रायें नहीं हैं। लेकिन जो यह टैक्सेशन आ रहा है उस में उस की बर्किंग कंडिशन क्या होगी और जो पैसिजर्स ट्रैबल करेंगे या जो मुद्दस भेजे जायेंगे, उन की हालत क्या होगी इस का पता बाद में चलेगा। किन्तु परसैंट वैहिकल्स के

[श्री श्री० सि० सहगल]

घोनार्स है जो उन को चलाते है और कितना टैक्स बढ़ा देतेहैं, यह उन के देखने की बात है लेकिन मैं यहां जरूर कहना चाहूंगा कि जो दूसरी स्टेट्स की वेहिकल्स यहां पर आती है उन पर भी यदि आप इस तरह का टैक्स बढ़ा देंगे तो यह बड़ी मुश्किल बात हो जायेगी। आपको यह देखना होगा कि जो ट्रक्स दूसरे प्रान्तों में टैक्स देते है और दिल्ली आते है या दिल्ली के ट्रक्स दूसरी जगह गुड्रज ले कर जाते है, उन पर टैक्सों का भार न पड़े। आप तो जानते ही हैं कि आजकल रेलों से ट्रक्स का कम्पीटीश चल रहा है। आज कल माल प्रसबाव विशाखा-पलनम, मद्रास आदि तक यहां से जाता है। दूसरी जगहों से भी जाता है। इतना ही नहीं बम्बई तक भी ट्रक्स आते है। हमें देखना होगा कि इंटर स्टेट टैक्सिस की वजह से ऐसा न हो कि जो ट्रक्स आदि के घोनार्ज है उनको घाटा हो उन पर टैक्सेशन ज्यादा हो जाए और वे एक प्रान्त से दूसरे प्रान्त में ट्रक्स को न ले जा सकें।

बैसे आप टैक्स को इतना ज्यादा नहीं बढ़ा रहे हैं। दूसरे प्रान्तों में टैक्स ज्यादा है। लेकिन फिर भी आप इस बात का ध्यान रखें कि दूसरे प्रान्तों में इसका असर न पड़ने पाए। वहां पहले से ही टैक्सिस ज्यादा है।

मैं चाहता था कि आपके डिपार्टमेंट की तरफ से एक चाट हमारे सामने रखा जाता जिसमें यह बताया जाता कि कहां कहां कितना कितना और कौन कौन सा टैक्स है। अगर इस तरह का टैचा रखा जाता तो हमें पता चल सकता था कि हम कहां पर कितना ज्यादा या कितना कम टैक्स दे रहे हैं।

इस बिज का पेश करने के लिए प्रेजिडेंट की मंजूरी चाहिए थी जोकि ले ली गई थी। मैं इस बिज का समर्थन करता हू। मैं आशा करता

हू कि जो खयालात मैंने पेश किये है, उन पर गौर फरमाने की मन्त्री महोदय कृपा करेंगे।

SHRI M. MEGHACHANDRA (Inner Manipur) : Even at this stage. I want to oppose the Bill. If this Bill is passed, it will be setting a very bad example. The argument is advanced that taxes in different States on motor vehicles are higher than what are Prevailing in Delhi ; therefore, in the Union Territory, these rates should be upgraded. If this process goes on, where will be the end ? There will be no limit. Taxes will go on increasing in other States. This example will be followed by the States and the Union Territories and in this way, the burden on people who have Motor vehicles will go on increasing.

As the House knows, Central levies on lubricants, accessories and motor parts are going up year by year. This question of tax on motor vehicles must not be Judged independently but along with those levies. What I had expected from Government was that Government as such would bring forward a Bill laying down the Principles for taxing motor vehicles. There is entry 35 in the Concurrent List as to the Seventh Schedule, and I think that Parliament can make legislation and lay down the principles for such kind of taxation. But on State legislature or Parliament has made such a legislation. As a result, the States and the Union Territories go on raising the taxes.

In this connection, I would like to draw the attention of the House to the proceedings of the Transport Development Council and that council has very clearly said that the existing rate of taxation on Motor vehicles should stay and the time has now come to cry a halt to this process of raising the taxes. I know that Government are increasing the taxes every time, and if this process goes on, then the other States will follow suit and as a result the burden on the people will be very much.

As such, I appeal to the hon. Minister even at this stage to drop this amendment.

It is one thing to discuss the principles ; it is one thing to discuss about the concessions, whether the rebate should be 10 per cent or 5 per cent or 7½ per cent, but to say that the tax will be raised by 25 per cent in a blanket manner is very bad, and that will have a very bad impact. I am told that in other territories also, this process is going on. I have learnt that even in Manipur they are raising the tax on motor vehicles. I should like to submit that this Parliament should not set this example, and I would request that the present schedule should stay and the schedule that is given in clause 3 of this amending Bill should be scrapped.

With these words, I oppose the Bill.

श्री रणधीर सिंह (रोहतक) : मैं इस बात की तो तारीफ करता हूँ कि अब अगर कोई दस दिन के लिए भी कार के लिए टोकन लेना चाहेगा तो उसको टैक्स कम देना होगा। पहले ऐसा होता था कि उसको पच्चीस रुपये देने पड़ते थे चाहे वह एक महीने के लिए गाड़ी को चलाय या दस दिन के लिए। अब इसको आप ने कम कर दिया है। एक महीने तक के लिए इस दर को आपने कम कर दिया है। यह अच्छी बात है।

लेकिन आपने इस में रिबेट खत्म कर दिया है। यह दस परसेंट हटाकर देना था। मैं चाहता हूँ कि इस पर गौर किया जाए। अगर प्राइमरी साल के लिए भरना चाहता था तो उसको आप रिबेट देते हैं। इससे ट्रांसपोर्ट ओनर्स को, कार ओनर्स को तो इंसेंटिव मिलता ही था लेकिन साथ साथ गवर्नमेंट को भी लाभ होता था। दुनिया भर की बिले से बचा जा सकता था।

पेमेंट बर्गरह के भगड़े चलते थे। मैं चाहता हूँ कि रिबेट वाली बात को आप देखें। रिबेट खत्म नहीं होना चाहिये। यह टूकानबारी की बात है, कमिश्नर बात है, फायदे कि बात है।

आपने जो 25 परसेंट की इनक्रीज की है वह ज्यादा है। चाकू अगर लगाना था तो एक दम नहीं लगाना चाहिये था। इतना एक दम

बढ़ा नहीं दिया जाना चाहिये था। आप दस परसेंट बढ़ाते। मैं चाहता हूँ कि इस पर भी आप गौर करें।

मैं मानता हूँ कि बढ़ाना जरूरी था क्योंकि और स्टेट्स में बहुत ज्यादा है। लेकिन एक बात मैं जरूर कहना चाहता हूँ। जहां आप बसिस पर और दूसरी ट्रांसपोर्ट पर टैक्स बर्गरह बढ़ा रहे हैं वहां आप ट्रैवलिंग पब्लिक के भाराम का भी कुछ खयाल करें। उनको भी कुछ एमेनेटीज दें। कार्ट्ट ड्रैगिंग भी होती है। मैं चाहता हूँ कि उन में तथा इन बसिस में जो लोग सफर करते हैं उनके लिए आप कुछ एमेनेटीज भी ज्यादा बढ़ायें। टैक्सिस आप बढ़ाते जाते हैं, पैसेंजर टैक्स भी आपने बढ़ा दिया है, दूसरे टैक्स भी बढ़ा दिये हैं, टोकन टैक्स भी बढ़ा दिया है। जिन को खाल आप उतार रहे हैं उनका भी आप ध्यान रखें। पब्लिक सफर करती है, गरीब लोग सफर करते हैं फिर वे मजदूर हों या शहरी लोग हों या देहात वाले हों। उनको कुछ फॅसिलिटीज भी आप दें। पानी की फॅसिलिटी दें। शौंइज उनके लिए बनायें। जहां से बसे छूटती हैं, वहां आप इनका इंतजाम करें, सड़कों के किनारे स्टैंडिज हैं, वहां उनके लिए आप शौंइज बनाये, उनको फॅसिलिटीज दें। इनकी हालत बढ़ी डिप्लोरेबल है। पानी में, बारिश में, गर्मी में, लू में ठंडक में लोगों को घंटों खड़े रहना पड़ता है।

एक बात मैं और कहना चाहता हूँ और फिर खत्म करूंगा और वह यह है कि बहुत सी प्राइवेट टैक्सियां चलती हैं, दिल्ली में भी चलती हैं और उनको चलाने के लिए लाइसेंस बर्गरह लेने पड़ते हैं। तो जब आप टैक्सी बर्गरह के लाइसेंस दें तो खाल तौर पर आप फीजी प्राइमियों को उनके लाइसेंस दें। दूसरे मैं यह कहना चाहूंगा कि हरिजनों को ज्यादा से ज्यादा लाइसेंस बर्गरह दें। टैक्सी के परमिट जो आप देते हैं तो खाल तौर पर हरिजनों के जो गरीब लोग हैं और फीज के खाल तौर पर जो अफसर

[श्री रणधीर सिंह]

लोग हैं उनको दें। लम्बी रूट्स पर टैक्सी धापकी चलती है। यहां से जयपुर जाती है, यहां से बम्बई जाती है और दूसरे जो ट्रिस्ट्स सेन्टर्स हैं वहां पर जाती है, तो उसके लिए फीज से जो निकले हुए भ्रफसर है उनकी तरफ ध्यान दें। मैं पर्टीकुलरली यह चाहता हूँ कि 50 परसेन्ट परमिट ध्राप ऐसे लोगों को दें। उन बेचारों को नौकरी नहीं मिलती है। जब लड़ाई होती है तो उनको फ्रन्ट पर भेज दिया जाता है और जब वे वापस ध्राते है तो पटरियों पर डाल देते है। इसलिए परमिट देने के मामले में ध्राप फौजी भ्रफसरों, फौजियों और हरिजनों की तरफ ध्यान दें।

खास तौर पर मैं यह चाहूंगा कि आपके रुपये का जो बहुत मिसयूज हो रहा है, उसको खत्म किया जाए। बहुत से ध्रादमी प्राइवेट कारों को बतौर टैक्सी इस्तेमाल कर रहे हैं। इसकी एक नहीं तो सैकड़ों मिसाले मिलती हैं। दिल्ली में तो है ही लेकिन छोटे छोटे शहरों में भी हैं। तो उनके लिए स्पेशल स्कूएड आप मुक़रर करे और जो रुपये का लीकेज होता है दुनिया भर का ध्रापके टैक्सेशन और रजिस्ट्रेशन वगैरह में और जो पैसा ध्रापको नहीं मिलता है, उसको चेक करने के लिए एन्फोर्समेंट स्टाफ रखा जाय। मैं चाहूंगा कि इन बातों की तरफ ध्राप ध्यान दे। मैं ध्रापका बड़ा मशकूर हूँ कि ध्रापने मुझे समय दिया। मैं पुरजोर शब्दों में इस बिल की ताइद करता हूँ और हिमायत करता हूँ।

श्री आर्ज करनेम्बीज (बम्बई-दक्षिण) अध्यक्ष : महोदय, मैं इस विधेयक का पूरा पूरा विरोध करने के लिए खड़ा हुआ हूँ। अध्यक्ष महोदय, इसमें जो ध्राज टैक्स है, 25 फीसदी इस क़ानून के द्वारा बढ़ाने की बात हो रही है और साथ ही साथ यह भी मैं इस सदन को बताऊ कि दिल्ली में जितनी गाड़ियां चस रहीं हैं, उन गाड़ियों के लिए दूसरे किस्म के जो टैक्स चिबे

जाते हैं जैसे उदाहरण के लिए, अध्यक्ष महोदय, लाइसेंस भी हैं, परमिट भी हैं, टेम्परेरी परमिट भी है और इंसपेक्शन फी भी हैं, तो इन तमाम चीजों को 25 फीसदी बढ़ाने का फैसला हो चुका है। यह विधेयक यहां पास होने के बाद भ्रगले यहिने की पहली तारीख से ये तमाम टैक्स बढ़ाकर लोगों को गाड़ी चलाने में विशेषकर जो दिल्ली में ट्रक्स चलाते हैं और जो बड़े बड़े वेहीकिल्स चलते हैं, कुछ लोगों के उपर यह बोझ डालने वाला काम होने वाला है। निजी गाड़ियों के उपर, अध्यक्ष महोदय, कितना भी टैक्स ध्राप बढ़ाते या कम्पनियों की गाड़ियों पर कितना भी टैक्स ध्राप बढ़ाते, तो उसमें मुझे कोई एतराज न होता। जो निजी गाड़ी वाले ध्रादमी होते हैं, वे या तो कम्पनी के पैसे से चलाते है या फिर इस तरह का जो पैसा रहता है, उससे वे चलाते हैं वरना वह ध्रादमी गाड़ी ध्रापनी नहीं रखता। लेकिन जो गाड़ियां साब-जनिक इस्तेमाल के लिए चलती हों चाहें वे ट्रक्स हों या टैक्सी हों, उनके लिए इस क़ानून के द्वारा 25 फीसदी का टैक्स बढ़ाना मैं समझता हूँ कि बहुत ही भारी और बहुत बड़ा जुल्म है। दो दिन पहले महाराष्ट्र में ट्रक ध्रापरेट्रसं न हड़ताल की और इसी यहिने फिर सारे देश में ट्रक ध्रापरेट्रसं की हड़ताल होने वाली है। मैं सदन को बताऊ कि 28 तारीख को यानी शुक्रवार के दिन हिन्दुस्तान के बड़े बड़े शहरों में जितनी टैक्सियां है उनकी हड़ताल होगी और दिल्ली में भी टैक्सियों की हड़ताल होगी और लोक सभा के सदस्यों को सदन में ध्रापने के लिए उस दिन पंदल ही ध्रापना पड़ेगा।

एक आननीय सबब : पंदल ध्रा जाइए।

श्री आर्ज करनेम्बीज : उस दिन ध्रापको पंदल ही लाएंगे। हिन्दुस्तान के बड़े बड़े शहरों में हड़ताल होगी, कलकत्ते से, बम्बई से और मद्रास टैक्सी वाले उस दिन दिल्ली ध्राएंगे

घोर सैकड़ों की तादाद में हमारे इस सदन के सामने उस दिन प्रदर्शन करेंगे। आपने बजट के अन्दर मोबिल प्रायल घोर पेट्रोल पर टैक्स बढ़ाया है और हर साल 10 फीसदी से 15 फीसदी आप मोबिल प्रायल घोर पेट्रोल पर टैक्स बढ़ाते हैं, घोर स्पेयर पार्ट्स पर जो मोरारजी भाई ने एक्साइज ड्यूटी बढ़ाई है, तो वह तो बढ़ोतरी हो जाएगी। इससे चाहें बम्बई की प्रिमियर फोटोमोबाइल हो या बिरला की हिन्दुस्तान फोटोमोबाइल हो या मद्रास का अशोक या जो कोई भी स्टैंडर्ड कम्पनी वाले हों ये लोग एक्साइज ड्यूटी बढ़ने के कारण अपनी गाड़ियों के दाम बढ़ाएंगे। अब अध्यक्ष महोदय सोचिये कि इस विधेयक को पास करके आप टैक्सी के ऊपर, परमिट के ऊपर घोर जो व्हील टैक्स होता है, उसको बढ़ाने का काम आप कर रहे हैं लेकिन किराया जो है वह जैसा था वैसा रहेगा। टैक्सीवालों की जो कमाई थी वह वही रहेगी। मोरारजी भाई ने एक तारीख से इसको बढ़ाया है और इस विधेयक को पास करके अगले महिने की पहली तारीख से घोर ज्यादा टैक्स बढ़ाने का काम हम करेंगे। गाड़ी चलाने का खर्च तो आपने बढ़ा दिया लेकिन कमाई जैसी की तैसी रहेगी क्योंकि जो मोटर का फेयर होता है वह तो वही रहेगा घोर फेयर घोर गाड़ी चलाने के खर्च का कोई विधता नहीं रहता है। कमाई घटने के बाद, अध्यक्ष महोदय, दूसरी तरफ पिटाई हमारी होगी घोर कष्ट होगा क्योंकि चीजों के दाम बढ़ेंगे। हिन्दुस्तान में जो खाने पीने की चीजें हैं, जीवन आवश्यक वस्तुएँ हैं, जिनके दाम लगा तार हिन्दुस्तान में बढ़ रहे हैं, इन टैक्सों के बाद घोर ज्यादा दाम उन चीजों के बढ़ाने का आप काम कर रहे हैं जिन दामों के बारे में हम सभी लोग एक साथ मिलकर चिन्ताते हैं। इस तरह से आप देखें कि टैक्सी वाले जो हैं, एक तरफ तो उनकी कमाई घटती है घोर दूसरी तरफ जो उनकी रोटी घोर रोजी का खर्च है, उसको बढ़ाने का काम आप करते हैं घोर दोनों तरह

से पीसने का काम आप करते हैं, घोर इस कानून के अन्तर्गत जो आप टैक्स बढ़ाते की बात कर रहे हैं, इनका विरोध करना बहुत आवश्यक है। यह कह कर काम नहीं चलेगा कि सिर्फ 25 फीसदी हम लोप बढ़ोतरी कर रहे हैं घोर 100 रुपये का 125 रुपये ही कर रहे हैं। इन चीजों का असर पड़ता है। जब टैक्स बढ़ते हैं तो वहीं तक सीमित नहीं रहते हैं। उनका असर पड़ता है। आज नहीं तो कल होगा, कल नहीं तो परसो होगा। टैक्सी का किराया बढ़ाना पड़ेगा। जब पेट्रोल का दाम बढ़ेगा, घोर चीजों के दाम ज्यादा बढ़ेंगे घोर स्पेयर पार्ट्स के दाम ज्यादा बढ़ेंगे तो फेयर्स भी ज्यादा बढ़ेंगे और टैक्सी का किराया भी बढ़ेगा घोर यह चक्कर चलता ही रहेगा घोर यह हम सब लोगों को पीसता रहता है। इस पर कहीं न कहीं रोक लगाने की आवश्यकता है। बोर्ड इस कानून के समर्थन में कुछ भी कहे, लेकिन हम इस कानून का कतई समर्थन नहीं कर सकते। इसका विरोध आज हम यहां कर रहे हैं घोर मैं इस सदन को नोटिस देना चाहता हूँ कि 28 तारीख को इसका विरोध हम सबको के ऊपर भी करेंगे।

SHRI VIKRAM CHAND MAHAJAN (Chamba) : Mr. Chairman, Sir, this Bill has raised the taxation still further on transport vehicles. What we see is that, as Mr. George Fernandes has said already - and I am only repeating it - tax on petrol and mobile oil has already gone up. Now we are increasing the tax on tokens also and registration fee also. What is happening is that we are raising taxation all round and ultimately the effect would be on the passengers who use the buses or the taxis. The buses are used normally by the poorer section of the people and the result is that if we raise the taxes they will raise their fares specially when you have raised the taxation all round Surely, then, you do not expect a truck operator to run in a loss. So, the ultimate effect would be on the poorer sections of society.

Similarly, taxation has gone up on trucks and so the effect would be on the goods that are carried by them. The freight will

[Shri Vikram Chan Mahajan]

go up and this will start a vicious circle of increase in prices all round because everyone will try to absorb the increased tax in some form or the other and the easiest form is to raise the price, and that is, to raise the fares, raise the freight and who suffers? It is the common man, and the vicious circle starts like this.

The argument that has been given in the Bill is that because the taxation is lower in the Union territories, we should raise it up to a standard which is prevalent in the other States. My submission would be that we should set an example of reducing the taxation so that the other States could follow our example and say that because the Centre is reducing the taxation the States also should do the same. But, on the contrary we are following the reverse policy namely, because the States have raised their rate of taxation, that their rates are higher. therefore, we would also like to raise the taxes. If you take this analogy a little further what will happen is this: if those very States raise the rates still further, we will also be raising the rates. Is that the theory of taxation? The theory of taxation is not based on that ground, that because others impose a heavier taxation we should also do the same. The theory of taxation is based on the ground that the expenses are higher or that resources are needed for the development of the nation. Then one can follow the principle of higher taxation. The only argument now given is that this will benefit the local bodies. Will it benefit them and in what way would it do so? Will they increase the beneficial works? Will they start more welfare projects? Is that the reason why they need more funds? Or, is it because they want to appoint 10 more public servants or officers, or to increase the wages, that they want this? Is that the line of argument? In the budget, the argument put forward for imposing new taxes is that it is to meet the higher establishment charges. We could have achieved the same result by reducing the losses on public sector undertakings. Therefore, it is no argument to say that the increase is meant to give more funds to local bodies.

SHRI IQBAL SINGH : This money wo-

uld be given to the local bodies for road construction, road repairs and bridges.

SHRI VIKRAM CHAND MAHAJAN : Any bridge worth the name would cost lakhs of rupees and I challenge any local body to build a bridge costing Rs. 5 lakhs. They always beg for money from the Centre or State Government. Therefore, this is no ground. There is no reason to increase tax on tractors. How can you increase farm production if you do not reduce the price of tractors and if you levy higher tax on the normal working of tractors? It would have been much better if the Centre had brought forward a proposal to reduce the tax. He says, this money will be given to local bodies. We know how local bodies manage their finances.

I can only support one provision in the Bill which provides that if a motor vehicle is used for a period shorter than a quarter, the tax will be at one-twelfth of the annual rate for each complete month or part thereof.

श्री हरबयास बेवगुल (पूर्व दिल्ली) : सभापति महोदय, भ्राज की परिस्थिति में किसी भी टैक्स का समर्थन करना बड़ा मुश्किल है। विशेष रूप से दिल्ली के लोगों पर टैक्स लगे, यह भ्राज की परिस्थितियों में अच्छा नहीं। यहां लोग बहुत ही दुखी हैं और उन के लिए निर्वाह करना भी मुश्किल है। परन्तु जो परिस्थितियां हैं उन पर ध्यान देना भी बहुत आवश्यक है।

पहली बात तो यह है कि यह टैक्स लगाया जा रहा है दिल्ली की सड़कों को सुधारने के लिए और उनको बेहतर बनाने के लिए। यह जिम्मेदारी दिल्ली कारपोरेशन नई दिल्ली म्युनिसिपल कमेटी और कन्ट्रोलमेंट बोर्ड की है। दिल्ली कारपोरेशन पर 1967 से पहले दस साल तक कांग्रेस का अधिकार रहा और कांग्रेस ने इसे दिवालिया बना दिया। 1967 के चुनाव में जनसंघ ने जब इस पर अधिकार किया, तो उस पर 11 करोड़ रुपये का बाटा था। यह स्थिति थी कि कर्मचारियों को वक्त पर तनखाह नहीं मिलती थी। ऐसी

स्थिति में केन्द्रीय सरकार भी इस बात पर विचार कर रही थी कि कार्पोरेशन रहे या उस को तोड़ दिया जाये। और इसी आधार पर दिसम्बर, 1966 में उसने एक रेड्डी कमीशन मुकर्रर किया। उस कमीशन ने कार्पोरेशन की आर्थिक स्थिति पर विचार करने के बाद अपनी इन्टेरिम रिपोर्ट दी, जिसमें उसने यह सिफारिश की कि कार्पोरेशन को नये टैक्स लगाने चाहिए एन्टरटेनमेंट टैक्स, एड्केशन टैक्स लगाना चाहिए और हाउस टैक्स को 11 प्रतिशत से बढ़ाकर 15, 20 और 27 प्रतिशत कर देना चाहिए। उसने यह सिफारिश भी की कि यदि कार्पोरेशन को जिन्दा रखना है तो उसको दो करोड़ रुपये फोरन ग्रान्ट के रूप में दे दिये जाये और छः करोड़ रुपया का इन्ट्रेस्ट-फ्री लोन दिया जाये। फरवरी, 1967 में उस रिपोर्ट पर हस्ताक्षर हो गये और होम मिनिस्ट्री ने उसको प्रकाशित कर दिया।

उस रिपोर्ट के हिसाब से कार्पोरेशन को दो करोड़ रुपये ग्रान्ट के तौर पर और छः करोड़ रुपये इन्ट्रेस्ट-फ्री लोन के रूप में मिलने चाहिए थे। लेकिन 1967 के चुनाव में नतीजा उल्टा हो गया कांग्रेस हार गई और कार्पोरेशन पर जनसंघ का अधिकार हो गया। लोकतन्त्र में इससे बड़ी बेईमानी और कोई नहीं हो सकती है कि एक कमीशन की रिपोर्ट को जिसे सरकार ने मन्जूर कर लिया हो, उठा कर ताक पर रख दिया जाए कोल्ड स्टोरेज में डाल दिया और सरकारी अधिकारी उस पर से अपने हस्ताक्षर वापस ले लें क्योंकि कार्पोरेशन पर एक विरोधी बल का अधिकार हो गया है।

इसके बाद सरकार ने मोरारका कमीशन बिठा दिया। मोरारका साहब जनसंघ के विरोधी हैं और वह चुनाव में हार गये थे। उनकी अध्यक्षता में एक और कमीशन बना दिया गया। उस कमीशन में भी यह सिफारिश की कि हाउस टैक्स बढ़ा दिया जाए। प्रोफेशनल टैक्स लगाया जाए और अन्य टैक्स लगाए

जाएँ। परन्तु जनसंघ ने इस बात को ध्यान में रखा कि दिल्ली की जनता पर, और विशेष रूप से गरीब जनता पर, कोई नया बोझ न पड़े। इन सिफारिशों के बावजूद उसने 1800 रुपये की रेटेवल बैल्यु तक के मकानों का हाउस टैक्स 11 परसेंट से घटाकर 10 परसेंट कर दिया। दिल्ली में लाखों लोग साइकिल चलाते हैं। उन पर एक रुपया सालाना टैक्स था। कार्पोरेशन ने उसको भी हटा दिया।

लेकिन सवाल यह है कि अब कार्पोरेशन को कैसे चलाया जाए। केन्द्रीय सरकार उसको मदद नहीं देती है। जो सिफारिशें उसने मन्जूर कर ली थी, उनके मुताबिक उसने रुपया नहीं दिया उसने रेड्डी कमीशन की रिपोर्ट को रद्द कर दिया। मोरारका कमीशन ने सिफारिश की थी कि केन्द्रीय बिलडींगों पर 100 प्रतिशत सर्विस चार्जिज दिये जाये और दो डार्ई करोड़ रुपये के ब्लेम्ज को तय करके नुरन्त भ्रदा किया जाये। लेकिन यह भी नहीं किया गया। इस स्थिति में दिल्ली की सड़कें किस तरह से ठीक की जायें, किस तरह से यह सब काम हो, यह सोचने की बात है। अगर यह सब काम न किया जाये, तो केन्द्रीय सरकार तो कार्पोरेशन को तोड़ने के लिए तैयार है।

केन्द्रीय सरकार का ध्याग्रह है कि दिल्ली पर और टैक्स लगाये जायें जो दो कमीशन मुकर्रर किये गये, उनका ध्याग्रह है कि टैक्स बढ़ाये जायें, प्रोफेशनल टैक्स लगाया जाये नाई, चाय बेचने वाले, बकील बर्गरह सब पर टैक्स लगाया जाए। लेकिन जनसंघ ने दिल्ली में इन टैक्सों को लगाने का और विरोध किया है और जनसंघ ये टैक्स लगाने के लिए तैयार नहीं है। अगर उसने कोई टैक्स लगाने का समर्थन किया है, तो वह उन लोगों पर, जो बीस बीस हजार रुपये की गड़ियाँ रख सकते हैं।

श्री जार्ज करमैन्डीब : टैक्सी वाले?

श्री हरबयाल देवगुण : मेरे पास ये पि.गर्ज है, जिनसे पता चलता है कि दिल्ली में टैक्सी पर टैक्स सारे देश से कम है।

श्री रणधीर सिंह : क्या ग्रानरेवल मेम्बर अपनी पार्टी का प्रचार कर रहे हैं या बिल पर बोल रहे हैं ?

श्री हरबयाल देवगुण : माननीय सदस्य भी तो यही करते हैं। यहां पार्टी के प्रचार के लिए ही तो आये हैं, श्रीर किस लिए आये हैं ?

टैक्सी वालों पर भी यह टैक्स बढ़ाने से पहले दिल्ली में उनके रेट बढ़ाये गये। उनके किराये बढ़ाने के बाद ही उन पर यह दो रुपये महिने का एडीशनल बोझ डाला गया। टैक्सी वालों के किराये बढ़ाये गये और स्कूटर वालों के किराये बढ़ाये गये और फिर उन पर यह थोड़ा बोझ डाला गया। लगभग दो लाख मकानों का हाउस टैक्स 11 प्रतिशत से घटाकर 10 प्रतिशत कर दिया गया है। साइकिल टैक्स माफ किया गया है किसी पर भी प्रोफेशनल टैक्स नहीं लगाया गया है। शिक्षा के लिए टैक्स नहीं लगाया गया है।

लेकिन हमने यह भी देखना है कि दिल्ली की ज़रूरतें पूरी नहीं हो रही हैं। दिल्ली की आबादी बहुत तेजी से बढ़ रही है। 1941 से 1961 तक दिल्ली की आबादी 750 प्रतिशत बढ़ी है। मास्टर प्लान बनाने वालों के कहने के मुताबिक 1981 तक दिल्ली की आबादी 55 लाख होनी चाहिए, लेकिन जिस हिसाब से वह बढ़ रही है, उसको देखते हुए वह 1981 तक 67 लाख तक हो जायेगी। दिल्ली की आबादी इस लिए बढ़ रही है कि यह देश की राजधानी है और सारे देश का इस पर अधिकार है, सारे देश के लोग यहां आते हैं।

जब हम दिल्ली के लिए विधान सभा की मांग करते हैं तो केन्द्रीय सरकार की ओर से कहा जाता है कि दिल्ली के एसेम्बली नहीं मिल सकती, क्योंकि यह देश की राजधानी है, इस

पर सारे देश का अधिकार है। लेकिन जब दिल्ली की ज़रूरतें पूरी करने के लिए और सड़कों इत्यादि के लिए केन्द्र से रुपया मांगा जाता है, तो केन्द्र इन्कार कर देता है और कहता है कि दिल्ली से रुपया पंदा करना चाहिए। जिस पर सारे देश का अधिकार है, उस दिल्ली को बढ़ी उदारता के साथ रुपया देना चाहिए, ताकि वह अपनी ज़रूरतें पूरा करके देश की सेवा कर सके।

SHRI LOBO PRABHU : In the current budget of the Home Ministry there is an increase of Rs. 7 crores for Delhi.

श्री हरबयाल देवगुण : दिल्ली के लिए पिछले चार साल से, केवल 23 करोड़ रुपया दिया जा रहा है। माननीय सदस्य बजट में देख सकते हैं कि पिछले साल, उससे पहले साल और इस साल भी उसको केवल 23 करोड़ रुपया दिया गया है।

इसकी आबादी जिस अनुपात से बढ़ रही है उतना रुपया इसे नहीं दिया जा रहा है। इसके बावजूद पिछले दो सालों में आने देखा होगा कि दिल्ली का नक्शा बदल रहा है, इसकी सड़कें सुधर रही हैं, सड़कों को चौड़ा किया जा रहा है और ऐसी-ऐसी सड़कें जो पिछले 20 सालों से चलने के काबिल नहीं थी, जिन पर टैक्सी वाले जाने के लिए तैयार नहीं होते थे, आज सुधर गई हैं अथवा सुधर रही हैं।

एक विशेष बात इस मौके पर कहना चाहता हूँ। यह बिल जो आज इस सदन में विचारधीन है एक वर्ष पहले मेट्रोपोलिटन कौन्सिल में पास हुआ था। आज यहां इसे आगे घन्टे में पास किया जा रहा है, क्योंकि पार्लियामेंट के पास इतना समय नहीं है कि दिल्ली के इतने महत्वपूर्ण बिल पर विस्तार पूर्वक विचार करने का अवसर दे सके। सारे देश की समस्याएँ इस के सामने हैं, इस लिए बातों से पार्लियामेंट का समय बचाना चाहिये ताकि पार्लियामेंट अन्य कामों को देख सके। ऐसी व्यवस्था होनी चाहिए

कि दिल्ली का बिल दिल्ली की मेट्रोपोलिटन कान्सिल में ही पास हो। इसके लिए दिल्ली की मेट्रोपोलिटन कान्सिल को विधान सभा का रूप दिया जाय। अगर ऐसी व्यवस्था होती तो एक साल पहले वह इसको लागू कर सकते थे। यहां पर यह बिल एक साल तक इस लिए लटका रहा कि दिल्ली की मेट्रोपोलिटन कान्सिल को बिल पास करने का और उसे अन्तिम रूप का अधिकार नहीं है। यह अधिकार पार्लियामेंट के पास है और पार्लियामेंट के पास इतना समय नहीं है कि दिल्ली की समस्याओं पर, दिल्ली के बिलों पर विस्तार पूर्वक विचार कर सके। दिल्ली की समस्याओं के लिए, दिल्ली के बिलों के लिए दिल्ली की मेट्रोपोलिटन कान्सिल का स्तर बढ़ाना चाहिए, दिल्ली को राज्य के रूप में मानना चाहिए। ताकि यदि वह कोई बिल अपने यहां पास करना चाहे, तो वह उसे पास करके तुरन्त लागू कर सके।

संसद-कार्य विभाग और नौवहन तथा परिवहन मन्त्रालय में उप-मन्त्री (श्री इकबाल सिंह) : सभापति महोदय, जंसा सरदार अमर सिंह जी सहगल ने कहा है कि दिल्ली में दूसरे सूबों के मुकाबले ज्यादा टैक्स नहीं है—इस सिलसिले में मैंने कुछ बातें पहले श्री लोबो प्रमजी के जवाब में कही थी। उस वक्त मेरे पास दो फिगर्स नहीं थी, जिसके लिये मुझे अफसोस है, अब मैं उन फिगर्स को दे सकता हूँ। मैं अजं करना चाहता हूँ कि जहां तक स्कूटर का टाल्लुक है, यू पी० में स्कूटर पर टैक्स 32 रु० था, यहां पर भी 32 रु० था लेकिन अब हम यहां पर 40 रु० कर रहे हैं। जहां तक पंजाब का टाल्लुक है—वहां पर यह टैक्स 50 रु० है।

श्री लोबो प्रभु : यहां स्कूटर पर बड़ा रहे हैं ?

श्री इकबाल सिंह : 40 रु० कर रहे हैं। जहां तक कार का टाल्लुक है, उसका टैक्स अलग अलग सूबों में अलग अलग ढंग से है।

मसलन यू० पी० में किलोग्राम के हिसाब से लगता है। जो कार 1016 किलोग्राम तक है, उस पर 60 रु० है, 1270 किलोग्राम तक 80 रु० है और 1778 किलोग्राम तक 100 रु० है और उससे ज्यादा पर 120 रु० है। इस के मुकाबले में दिल्ली में इस वक्त कार का टैक्स सिर्फ 80 रु० था, जो अब बढ़ कर 100 रु० हो जायगा।

श्री लोबो प्रभु : लेकिन उनका 60 या जो आपने 100 कर दिया है।

श्री इकबाल सिंह : अगर आप छोटी और बड़ी कार को ले, तो फर्क नहीं है।

श्री लोबो प्रभु : आपने सबसे छोटी कार का भी 100 रु० कर दिया है।

श्री इकबाल सिंह : पंजाब में यह टैक्स प्रादमी के हिसाब से लगता है, छोटी कार पर कम और बड़ी कार पर ज्यादा है, 93 रु० से लेकर 125 रु० तक लगता है। इसके अलावा इन सूबों में दूसरे टैक्सेज भी लागू हैं, जैसे पेंसेजर टैक्स है, इन सब को देखते हुए दिल्ली में टैक्सेज सब से कम हैं और यही वजह है कि इन को बढ़ाने की बात मोची गई।

श्री मेघ चन्द्र जी ने कहा है कि मणिपुर में भी हम इन टैक्सेज को बढ़ाने जा रहे हैं। मणिपुर की कान्सिल के तरफ से हमारे पास प्रपोजल धाई है, उस पर हम अभी गौर कर रहे हैं। लेकिन वहां की लोकल बाडी की तरफ से कोई प्रपोजल आये तो आप खुद गौर कर सकते हैं कि हम उनको कितनी देर तक कह सकते हैं कि नहीं करेगे। जो उनकी लोकल बातें हैं, उनके मुताबिक हमें उनको मानना पड़ता है। लेकिन अभी तक हम ने उसको नहीं माना है। अगर वह फिर हम से कहेंगे तो हमें उनके मुताबिक गौर करना पड़ेगा।

श्री रणधीर सिंह ने 10 परसेन्ट रिबेट

[श्री इकबाल सिंह]

के बारे में जो कहा है, वह ठीक है। इसकी बाबत जंसा मैंने पहले बताया था, इसको वापस लिया जा रहा है, क्योंकि इससे टैक्स में ज्यादा नुकासान होता है। दिल्ली की सड़कों को बेहतर बनाने के लिये हमें रुपया चाहिये, इस लिए इस रिबेट को वापस लेना मुनासिब समझा गया है। श्री लोबो प्रभू जी ने कहा है कि अब इस काम के लिये ज्यादा भ्रामदमियों की जरूरत पड़ेगी। मैं उनसे भ्रजं करना चाहता हूं हि इससे कोई फर्क नहीं पड़ेगा। जो साल का टैक्स भ्रदा करना चाहता है, उसको लेने से हमें इन्कार नहीं है, लेकिन रिबेट के हट जाने से इस पर कोई खास फर्क नहीं पड़ेगा। जितने भ्रदामी पहले काम करते थे, उतने ही अब काम करेंगे। पहले भी ज्यादा भ्रदामी क्वार्टली टैक्स भ्रदा करते थे, भ्रधे साल का या पूरे साल का कम लोग देते थे, इस लिये इस में आदमियों का खर्च नहीं बढ़ेगा।

टैक्सी-परमिट्स एक्स सर्विसमैन को दिये जाने चाहिये यह भ्रच्छा सुभाव है, इसकी बाबत हम दिल्ली एडमिनिस्ट्रेशन को कहेंगे। पंसेन्जर्स भ्रमेनिटीज की बाबत भी हम उन से कहेंगे- जितना ज्यादा से ज्यादा वह कर सकते हैं, जरूर करें।

फरनांडीज साहब ने कहा कि इस टैक्स का बोझ छोटे लोगों पर ज्यादा पड़ेगा। भ्राप जानते हैं कि हर टैक्स का बोझ कुछ न कुछ काम करने वालों पर जरूर पड़ता है, लेकिन इस का बोझ इतना ज्यादा नहीं है, जिसको वह न उठा सकें। मैं यहाँ भ्रापकी एक गलतफहमी को दूर करना चाहता हूँ - इस में सिर्फ टोकन टैक्स बढ़ा है, दूसरे टैक्सेज नहीं बढ़े हैं। इस का काम करने वालों पर इतना ज्यादा भ्रसर नहीं पड़ेगा कि वह किराये बढ़ा देंगे। कोई यह कहे कि तेल की कीमत बढ़ गई है, उस से किराये बढ़ेंगे - तो वह दूसरी बात है, लेकिन इस का

बोझा किराये पर नहीं पड़ेगा। भ्रापको यह भी देखना है कि यू० पी०, पंजाब और हरियाणा में जो टैक्स पंसेन्जर गाड़ियों पर लागू हैं, उन से यह टैक्स ज्यादा नहीं है, उन के टोटल टैक्सेज के मुकाबले यहाँ पर टैक्सेज बहुत कम हैं।

महाजन जी ने ट्रैक्टर पर टैक्स लगाये जाने का जिक्र किया है। मैं उन से भ्रजं करना चाहता हूँ कि जो ट्रैक्टर देहातों में काम करने के लिये हैं, जमींदारों के काम के लिये हैं, किसानों के काम के लिये हैं, उन पर कोई टैक्स नहीं लगाया गया है, लेकिन जो ट्रैक्टर का इस्तेमाल व्यापार के लिये करना चाहेंगे, उन पर भ्रज भी टैक्स लगता है और उस पर यह टैक्स जरूर बढ़ाया गया है.

श्री प्रकाशबीर शास्त्री (हापुड) : ट्रैक्टर की ट्राली पर तो भ्रापने टैक्स लगा दिया है, जो किसान भ्रपने लिये इस्तेमाल करता है।

श्री इकबाल सिंह : उस पर टैक्स नहीं है।

श्री प्रकाशबीर शास्त्री : उत्तर प्रदेश में है।

श्री इकबाल सिंह : मैं उत्तर प्रदेश की बात नहीं कर रहा हूँ, मैं दिल्ली की बात कर रहा हूँ। जो ट्राली का इस्तेमाल व्यापारी बंग से कोई चीज लादने और उस से पंसा कमाने के लिये करते हैं, उस पर टैक्स है। लेकिन जो किसान उस ट्राली का इस्तेमाल भ्रपने लिये करेगा, उस पर टैक्स नहीं है।

देवगुणा जी ने दिल्ली के बारे में बहुत सी बातें कही हैं। वह कहते हैं कि दिल्ली की कोई मदद नहीं की जाती। मैं उन से भ्रजं करना चाहता हूँ कि इस टैक्स के नीचे जो रुपया इकट्ठा होता है, पहले 1 करोड़ 20 लाख होता था और अब तकरीबन 1 करोड़ 50 लाख होगा, वह रुपया तीन लोकल-बाडीज में बांटा

(Amdt.) Bill

जाता है - दिल्ली म्युनिस्पल कारपोरेशन, नई दिल्ली म्युनिस्पल कमिटी और कंस्ट्रक्शन बोर्ड, ताकि वे अपनी सड़कों को बेहतर बना सकें और नई सड़कें बना सकें। जैसा मैंने पहले बताया था, वह रूपया पहले भी उन को दिया जाता रहा है और इस साल उन को और ज्यादा मिलेगा। टैक्स कलेक्शन के खर्च को काट कर बाकी सब रूपया उन को दे दिया जाता है।

वह कहते हैं कि सेन्ट्रल गवर्नमेन्ट दिल्ली की मदद नहीं करती। मैं उन की जानकारी के लिए बताना चाहता हूँ - पिछले साल सड़कों के लिए जो मदद उन को दी गई है - वह भी 2 करोड़ 10 लाख रुपये और इस साल यानी 1969-70 में जो मदद उन को दी जाने वाली है - वह है 5 करोड़ 15 लाख रुपये।

तीन करोड़ रुपये ज्यादा एक साल में ही मिले। जहां तक दिल्ली म्युनिस्पल कमिटी की बात कही गई, उसको पिछले साल एक करोड़ 5 लाख रुपये मिले थे और इस साल तीन करोड़ 76 लाख मिलेंगे। अब अगर यह मदद नहीं है, इसके बाद भी कहा जाये कि कोई मदद नहीं हुई तो फिर मेरे पास कोई जवाब नहीं है। सिर्फ एक साल पहले से तीन करोड़ रूपया ज्यादा आपको देने का फंसला है।

श्री हरबयाल बेबगुल : आप टोटल एलो-केशन को देखें तो 23 करोड़ 40 लाख पिछले साल भी था और वही अब भी है। इस रुपये को हम चाहे सड़कों पर खर्च करें या किसी और चीज पर, वह बात भ्रमल है।

श्री इकबाल सिंह : यह बिल सड़कों की बाबत है। सड़कों की बाबत में वह सकता है कि पिछले साल के मुकाबले इस साल तीन करोड़ ज्यादा मिला है। इसके बाद भी अब कहा जाये कि कुछ नहीं मिला तो मेरे पास उसका जवाब नहीं है।

(Amdt.) Bill

श्री रणधीर सिंह : ट्रैक्टर को मोटर से भ्रमल कर दीजिए।

श्री इकबाल सिंह : मैं रणधीर सिंह जी की जानकारी के लिए बतलाना चाहता हूँ कि अगर ट्रैक्टर खेती के लिए होगा तो वह पहले से ही निकला हुआ है, उस पर कोई टैक्स नहीं होगा। हां, अगर वह कारोबार के लिए होगा तो उस पर टैक्स रहेगा।

इन शब्दों के साथ मैं प्राणा करता हूँ कि यह सदन इस बिल को पास करेगा।

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

14.52 hrs.

STATUTORY RESOLUTION RE: PAYMENT OF BONUS (AMENDMENT) ORDINANCE AND PAYMENT OF BONUS (AMENDMENT) BILL

MR. CHAIRMAN : Now we shall take up the next item. Shri Goyal.

SHRI S. KUNDU (Balasore): Sir, before Shri Goyal starts, may I make a humble submission? I filed an amendment after 3 P. M. to the Payment of Bonus (Amendment) Bill which we are going to take up after this Resolution of Shri Goyal. If you permit it, it could be circulated.

MR. CHAIRMAN : I do not know the subject matter of your amendment. It has to be considered whether it is admissible or not. On a mere technical ground, that you have filed it a bit late, it will not be disallowed. But you should allow some time to the Chair to consider it. I shall consider it later when I see it.

SHRI S. KUNDU : All right.

AN HON. MEMBER : What is the time for this ?

MR. CHAIRMAN : The allotted time is four hours for both the Resolution and the Bill. I do not think we shall require so much time. The Speaker had appealed this morning and the result of his appeal is seen in the quick passage of the Delhi Motor Vehicles Taxation (Amendment) Bill. We have saved some time on that. If we are able to save some time on this, the Demands for Grants (General) will be taken up in time. If Members co-operate, I think, everyone will have time.

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I beg to move :

"This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969."

In deference to the wishes of the hon. Speaker and the House I would not take as much time on this as I took in opposing the first Ordinance. I would remind the House that the Rajya Sabha was adjourned *sine die* on the 28th December, 1968 and this Ordinance was promulgated on the 10th January, 1969. So, while issuing this Ordinance, the President or, so to say, the Council of Ministers was very well aware that House was going to be reconvened within a short period. I would submit that this method of issuing the Ordinance on flimsy pretexts brings the law into contempt.

As I explained the other day, the architect of the Constitution, Dr. Ambedkar, while dealing with article 123 made it very clear that when a certain need arises suddenly, or when there are emergent circumstances or, as Mr. Seervai put it, when a certain piece of legislation is struck down by the Supreme Court or High Courts, then in order to circumvent or to remove the effect of the judgment, the Government can be said to be justified in promulgating an Ordinance. But I would like to submit that, in this case, the judgment of the Supreme Court was delivered long ago. I could

understand if this Ordinance had been issued within a fortnight or within a week of the judgment of the Supreme Court. As far as I can remember, the judgment in the case of the Metal Box Company was delivered in August, 1966 and the Ordinance was issued in 1969. Practically, after 2½ years the Ordinance was issued. So, the apprehension that the framers of the Constitution had in their mind that the provisions of article 123 might be abused and that the executive may encroach upon the right of the legislature, the right of Parliament, that is the exclusive right of framing the laws, has come true. Since the Government has not explained the reason as to the urgency or as to the emergency in which this Ordinance has been issued, I oppose it tooth and nail and submit, only on this ground, that this is a constitutional inroad on the power of the executive to interfere with the exclusive functioning of legislature, of Parliament, so far as legislation is concerned.

So far as the object of the Ordinance or the Bill is concerned, it is a limited one. What happened was that there was a dispute between the workers and the industrialists as to which amounts are to be deducted from the gross profits in order to find out the amount of bonus. After deducting those amounts, 60% of the surplus is distributed among workers as bonus. What happened was that the industrialists got a rebate on account of this amount which they distributed by way of bonus and, therefore, the dispute was whether that amount could be deducted from the gross profits of the next year. The Supreme Court gave the judgment in favour of the industrialists saying that they were justified in deducting a notional amount which may not be substantial or the actual amount.

This is in order to circumvent that judgment of the Supreme Court that this Bill is being brought forward. So far as the objective is concerned, I whole heartedly support it because I believe that it is the right of the employees to share this profit. The reason is that the industrialists get it because of this bonus that is the amount of rebate is available because of giving bonus.

Therefore, that which has been earned on account of the employees, is certainly the share of the employees and it should be distributed among them.

15 hrs.

MR. CHAIRMAN : Your objection is to the promulgation of the Ordinance, but you support the Bill on its merits. Is that the position ?

SHRI SHRI CHAND GOYAL : Yes Sir; that is the position. Because these two items are being discussed together, I am also making my submission on the Bill.

I will make it clear that I wholeheartedly support the objective of the Bill. But I would also invite the attention of the Government and of the hon. Minister to another aspect, namely, that instead of resorting to piecemeal amendment of the Bonus Act, he should bring forward an exhaustive amending Bill on the subject. There are a number of other problems which are agitating the workers. One of the problems is that there should be no ceiling on the gross profit and the whole of it should be distributed amongst the labour rather than a percentage being kept to themselves by the industrialists. There is another aspect and that is that bonus has two characters. In cases where there is a difference between the actual wage and the living wage, bonus has the character of a supplementary wage or a deferred wage. So long as we are not able to fill this gap between the actual wage and the living wage, bonus has the character of serving as a supplementary wage or as a deferred wage. We should keep this in mind. We know that at present there is a wide disparity existing between the actual wage and the living wage and, therefore, any reduction from the amount of bonus which the labour is entitled to get, will be unjustified. When the actual wage and the living wage become one, then this bonus has the character of profit-sharing. Therefore, we should keep these two conceptions of bonus in mind, the character of a deferred or supplementary wage, and the character of profit-sharing when the actual wage coincides with the living wage. I would in-

voke the attention of the hon. Minister to certain lacunae which are existing at the moment in the present Bonus Act. They have to be removed at an early date by bringing forward another piece of amending legislation which should be in the nature of an exhaustive amendment. Here I would give two or three suggestions. One is as I have already submitted, that there should be no ceiling, so far as surplus for bonus is concerned. Secondly, at the moment there is the practice of tampering with the number of employees for the application of certain labour laws. This has also to be given proper attention. Then, the labour does not have the right of going behind the Balance Sheet, of looking into the accounts, of challenging the propriety or impropriety or certain accounts. Therefore, provisions have also to be made to enable the labour to go behind the Balance Sheets and to challenge the expenditure wherever it is improper. Therefore, I would appeal to the hon. Minister to bring forward an exhaustive legislation incorporating all these suggestions which I have made.

MR. CHAIRMAN : Resolution moved :
 "This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969".

THE MINISTER OF LABOUR AND REHABILITATION (SHRI HATHI) : Sir, I beg to move :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration".

Sir, I do not want to go into the whole scheme of the bonus, the concept of bonus what practice prevailed before the Bonus Act, how the Bonus Commission was appointed, etc. I do not go into these details at this stage. I would only say broadly that the Bonus Act contemplates a particular method of calculating the available surplus. And, from the gross profit, certain items have to be deducted. One of the items to be deducted is the direct taxes.

(Shri Hathi)

Here, there was, in a way a difference between the calculation which the employers made and the calculation which other people made according to us, and also according to the workers. It had been urged on behalf of the workers that in Section 6 (c) the word 'is liable to pay' connotes the tax payable by the employer actually. The employers have on the other hand said that the tax to be deducted as per section 6 (c) is a notional tax and not actual tax which may be higher than the actual tax which actually the industrialist pays because according to them the calculation should ignore the tax rebates admissible to the employer under the Income-tax Act on the amount of bonus paid to the employees.

The latter view has been upheld by the Supreme Court though the national tribunal has upheld the workers' plea in the case of Indian oxygen. But the Supreme Court held that this means notional tax and not the actual tax. And they also said that the intention of the Parliament seems to be that it is notional tax and not actual tax. As a result of this the tax deduction would be a notional amount, higher than the actual tax and the tax rebate admissible to the employer, under the Income-tax Act and the benefit will fully go to the employer. The House is already aware that there is another decision of the Supreme Court where section 34 (2) was struck down. Under this, the workers could get higher bonuses than that admissible under the general formula of the Bonus Act. That was struck down. Therefore the workers were agitating long before this matter went before the Indian Labour Conference and the Standing Labour Committee and we were thinking as to what could be done. But in the meantime came the decision in respect of Metal Box.

I might only correct the impression of Shri Goyal that it was not in the year 1966 that it came; it was in 1968 that the Supreme Court gave the decision.

It is not that it was given in 1966 and we had waited for 4 years and then brought the ordinance. It was only in August,

1968 that it came. Then the workers naturally agitated and they were rightly agitated over this question. There was great unrest among the workers. Well, we tried to talk to them, to persuade them, and ultimately this ordinance had to be promulgated. It is not a day too late that the ordinance was brought or promulgated.

SHRI S. M. BANERJEE (Kanpur) : May I just interrupt ? The Supreme Court judgment was in 1968 or 1966 ?

SHRI HATHI : It was in August, 1968.

If Shri Shri Chand Goel had only read the Statement of Objects and Reasons, he would have found the date of the Supreme Court judgment mentioned there.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : It has not been supplied to us. That is why this difficulty is there.

SHRI HATHI : The only thing is that the civil appeal was of 1966, though it was decided in 1968. What the Supreme Court said was that from the Act it did not appear that the intention of Parliament was that it should be the actual tax. I may draw the attention of the House to the fact that when the Bonus Bill of 1965 was being discussed in the House, Shri N. Dandekar had moved an amendment in order to clarify the point, and he wanted that it should be the notional tax and not the actual tax. That amendment was rejected after the then Labour Minister had made the following statement :

"Regarding the other point about the tax concessions contained in the Bonus Bill, we have considered that point also. Having given so much concession for improving the industries, we thought that this may not be allowed to the management. Therefore, I am not in a position to accept any of these amendments".

That was the intention of the Government and we also thought the interpretation will be there that when it is said that a tax is payable it means that the person is actually paying it. But the Supreme Court has held that it is a national tax. The reason why we did not accept that amendment was that on the basis of the Bonus Commission's report itself, we had made several concessions to the employers. For example, the Bonus Commission had given 7 per cent on the return on paid-up capital; the Act gives them $8\frac{1}{2}$ per cent; where the Bonus Commission had given 4 per cent on reserves, we had given 6 per cent.

AN HON. MEMBER : Why did they do it ?

SHRI HATHI : The Bonus Commission had suggested that for rehabilitation, the rebate on tax should be covered, but we said that at that time it was all right but after having given this, there was no need to give them more for rehabilitation purposes. Therefore, we did not want to give it. Therefore, we have said that the tax concessions will not go to the employers but to the workers. That was our idea. But that having been turned down, I have brought forward this amending Bill and I commend it for the acceptance of the House.

MR. CHAIRMAN : Motion moved :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration".

SHRI D. N. PATODIA (Jalore) : This particular piece of legislation is, as pointed out by earlier speakers, in replacement of an ordinance that was promulgated on the 19th January, 1969. The effect of this Bill will be that the total amount of available surplus for distribution of bonus will, after the ordinance, be increased by the amount of tax rebate available to the employees by way of payment of tax in the preceding year.

Before I go into the merits of this particular piece of legislation, I would like

briefly to speak on the circumstances under which this ordinance and this Bill has been introduced.

I am in entire agreement with what my hon. friend Shri Shri Chand Goyal has said, that it was nothing but an attempt on the part of the executive to have more powers for Government. The explanation given by the hon. Minister does not meet with satisfaction. The facts are clear. The judgment of the Supreme Court was delivered in August, 1968. After that, till 20th December, the Rajya Sabha was in session. On 10th January, the ordinance was promulgated. On 17th February, again, the Lok Sabha and the Rajya Sabha met in session. How does the hon. Minister explain this particular point of time, namely 10th January, which was selected for promulgating the ordinance? After the judgment of the Supreme Court, the Government had as many as four months available to them; until 20th December, they could have brought forward the legislation before this Parliament. Till 20th December, it was not a matter of importance for them; they could wait till that date; having waited for so long, they could have waited till 17th February also. After all, the heavens were not going to fall. Therefore, this type of explanation given by the hon. Minister is not at all satisfactory. Therefore, I feel that resorting to the promulgation of an ordinance in this manner should be discontinued and this practice should not be resorted to again. This is nothing but an expression of the timidity on the part of Government. For, this particular point was raised in the Rajya Sabha also. The hon. Minister himself had stated while replying to the debate there :

"The Supreme Court's decision in the Metal Box Case, however, showed that the language of the statute did not bring out the above intention. As the Parliament was not in session, the workers were agitating and there were demands that the whole Act should be overhauled and these benefits have been denied to them and something should be done. It was, therefore, that an ordinance was promulgated."

[Shri D. N. Patodia]

The reason for the promulgation of this ordinance, therefore, was not the urgency of it but the agitation of the workers. Probably, at that particular point of time, the agitation grew in momentum and Government were timid enough to succumb to the workers and satisfy the workers. Otherwise, there was no justification whatsoever.

After the judgment was passed in August 1968 since they did not think of bringing forward a Bill until 20th December, they could have waited till 17th February.

Having made these observations, I would now like to speak on the merits of the Bill itself. Before I come to the amendments as suggested in the Bill, although the hon. Minister did not go into the details himself, I would like briefly to go into the background and history of the bonus system. Until 1948-49, the payment of bonus by the employers was only a gratuitous payment, and it was always paid out of the surplus available with the employers; it was neither a part of the claim of the employees nor was it a regular wage. During the Second World War, in the case of certain textile workers, some portion of the profits was paid, but that again was only out of the profit. In 1948-49, for the first time, in respect of the textile workers, the industrial court suggested that a portion of the surplus profit should be distributed amongst the workers. Here again it was only a share out of the profit, and it was not obligatory on the part of the employers to pay, if there was no profit. But in December, 1961, for the first time the Bonus Commission was set up by Government which submitted its report in 1964 after three years. On the basis of that report, an ordinance was promulgated which ultimately became the Bonus Act of 1965. The Bonus Commission made so many wide-ranging changes in the definition of bonus, in the applicability of it and the manner in which it was to be calculated. For the first time, the definition of bonus was completely changed. Payment of bonus was made compulsory by the employers to the employ-

ees at a minimum of 4 per cent irrespective of whether there was profit or loss. It was made part of the regular wage; it was no more payable only out of surplus. This was one very important basic change in the definition introduced by the Bonus Commission.

SHRI S. XAVIER (Tirunelveli) : Four per cent of what ?

SHRI D. N. PATODIA : Of the wage.

The second important change was that the Act was made applicable to all establishments employing 20 or more workers. By this wide application, a very large number of employees was covered. The third important change was that every employee drawing upto Rs. 1,600 per month was covered by this.

But the most important change was that while calculating bonus, it was provided for in the Commission's recommendation, and in the Bill also, that DA will also be calculated. Until that time, bonus was payable only on the basic wage, but after the passing of the Bonus Act in 1965, DA was included for the purpose of calculating the quantum of bonus.

I will illustrate the effect of this. Take the case of a textile worker in Bombay whose basic wage is Rs. 50. He was entitled to a DA of Rs. 180 per month. According to the new formula, if the bonus is paid at the minimum rate, he would be entitled to Rs. 111, equivalent to two months basic pay; if it was paid at the maximum rate, he would be entitled to Rs. 552, that is, 11 months basic pay. This was the fourth important change. After all these changes were made, the Bill was brought forward and enacted.

With this background, I come to the provisions of the Bill. I would like to say that with the provision of payment of minimum 4 per cent, there was simultaneously another provision made in the Act that 60 per cent of the total surplus avail-

able should be distributed to the workers in the form of bonus and 40 per cent retained by the employers for various purposes like gratuity, rehabilitation, reserves, renovation etc. How was this percentage fixed? Why 60 per cent for the employees and 40 for the employers?

SHRI GEORGE FERNANDES (Bombay South): Because the workers produce the wealth.

SHRI D. N. PATODIA: There were certain basic reasons for it. While fixing this percentage which was lower in the case of the employer and higher in the case of employees, due consideration was given to the fact that in the matter of notional calculation of tax for the purpose of distribution, the employers will be making certain savings. The explanation given by the hon. Minister while referring to the previous discussions in the House was again confusing because this particular point was already dealt with not only by the Supreme Court but also by the Bonus Commission itself. There was no ambiguity about it. I would like to quote what the Commission has observed in this respect:

"The fixing of a certain proportion of the available surplus to be distributed as bonus subject to a minimum and maximum in the formula which we recommend would lead to an equitable result....."

mark the words 'would lead to an equitable result'—

"We recommend that this proportion should be 60 per cent. The balance left with the concern would be 40 per cent and this would be increased by the saving in tax on bonus payable."

That was how it was made equitable; 60 per cent given to the workers, 40 per cent retained by the employers, because the 40 per cent will have a tendency to get increased after taking into account the savings in the tax which the employers will be obtaining in the matter of payment of bonus.

Then they say further:—

"The aggregate balance thus left with the industry is intended to provide for gratuity and other necessary reserves, requirements of rehabilitation in addition to the provisions made by way of depreciation in prior charges, annual provision required, if any, for redemption of debentures and return of borrowings."

"Payment of super profits tax if any and additional return on the capital."

It was very clear and a very thorough description was given explaining why 60% was retained for the employees and why 40% was retained for the employers. Now the Supreme Court has also accepted this particular view as expressed by the Bonus Commission. Although the hon. Minister has quoted one part of the Supreme Court judgment, let me quote the other part. It has explained this while dealing with the clause in which this Bonus Act prohibits calculation of rehabilitation charge at the time of calculating the available surplus. It explains why rehabilitation is a prior charge partly because there were complaints that it was being ill-used and partly also because it knew that the rebate under the Income Tax Act on the bonus given would go to the employer with which he can recoup the depreciation which would be larger than the one allowed under Sec. 132 of the Income Tax Act. There is no ambiguity. (1) It clearly says that the total advantage to the employer will be more than 40% which will be used for several purposes. (2) It says that the total tax savings will in any case be larger than the saving compared to Section 32 of the Income Tax Act. Therefore at this stage to make any argument that this was not understood properly and therefore this amendment has been brought is not proper.

We would always welcome any proposal which gives better wages, better standard of living to the workers but it ought to be necessarily in the interests of social justice and equity. While bringing this amendment, have the Government taken care to see that it meets the demand of justice and

[Shri D. N. Patodia]

equity? The hon. Minister has said that whereas the Bonus Commission has suggested lower rates of depreciation and other things, the Act provides for higher rates. But he forgets that those rates suggested by the Bonus Commission were in the context of the rates that prevailed in the country in 1962-63? And the rates allowed by the Act were in the context of the situation prevailing in 1965. Is he not aware that compared to 1965, the rate of interest has considerably gone up to-day and the rates which are provided for in the Act are not enough to meet the situation to-day? With regard to the rates of depreciation, the rates of return on capital—all these rates, I hope the Government would do well at least to clarify to the House. They are not adequate in the context of the situation prevailing to-day. It is no argument to say that employers are benefited by way of higher percentage of reductions made available in the Act because those percentages are very much lower in the context of the situation prevailing to-day. Therefore, if there is any case, there is a case for upward revision of these rates for depreciation, for return on capital and so on before arriving at the total available surplus for distribution as bonus. If these amendments are accepted the financial problems will get more complicated and the employees will have great difficulty as to how to renovate their machinery, how to pay adequate return on the capital, how to provide depreciation, etc. They are already in a very tight corner. Therefore, I totally oppose the Bill. I oppose the amendments which have been moved and I hope the Government will agree to withdraw this Bill completely.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : There can be no two opinions that the object of the Bill is to benefit the employees. The result of the amendment would be that larger surplus would be available for payment of bonus and it would ultimately improve their wage which at present is at the sustenance level and not at the level which we term as 'living wage'. The Supreme Court has performed its duty, the duty of interpreting the statute as laid down by the Parliament. And if Parliament

sometimes does not make its object clear, then it is no fault of the Supreme Court if it interprets it in the way that Parliament then intended it to be interpreted. It is this time, I must say that the Minister has realised the wrong that was being done to the employees then, and now he has brought the necessary amendment.

I want to bring out a few lacunae in the Bonus Act which I hope the Minister will consider and bring a more comprehensive legislation. One of them is that in the Bonus Act we have provided a minimum and a maximum. The minimum is four per cent and the maximum is 20 per cent. I have not been able to follow the reason or the rationale behind the maximum. There is no maximum provided for profit. It is not provided that profits will be to the tune of 20 per cent and the balance will go to the State or that the maximum will be 50 per cent and the balance will go to the State or somebody else. There is no limit so far as the profits are concerned, in regard to the person who owns the industry. What is the rationale behind the maximum on the bonus? After all, they are part of the machinery which raises the production and they are part of the industry and the entire system of production. In a socialist economy, there can be no rationale as to why they should not be entitled to a share equally. So far as I am concerned, I would say that they are entitled to more, but in any case, they are entitled to equal shares. That is, the percentage of profit that goes to those who own the industry—to the same percentage, they are entitled to. I initially said they are entitled to more, because they are larger in number, and their standard of life is much lower than those who own the industry. I have nothing against the people who own the industry. I think they are part of the nation. And they are doing their best for the development of the nation. So far as that part is concerned, there cannot be two opinions, because we know that and we need that class of persons who can develop the industries.

SHRI GEORGE FERNANDES : No.

SHRI VIKRAM CHAND MAHAJAN : I would like to differ from my hon. friend

there. I am only pleading for the other part that labour is equally important and rather more important, and as their wage is much lower than the incomes and profit of the people who own the industry so they are entitled to a greater consideration.

What I submit is that by laying down the maximum on the bonus, no greater injustice could be done to them. Therefore, I submit that this aspect may be considered and this maximum on the bonus should be removed, so that they are also entitled. You have fixed 40 per cent on the shares of the labourers and 60 per cent goes to the industry. If in that particular limit, the labour gets only 20 per cent, still, sometimes a surplus is there. It has happened in many industries. One of these industries is *Burmah Shell* and the other is *Standard Vacuum*. There, before this maximum was imposed, the labour class or the employee class was getting much more, but after the imposition of the maximum, their bonus has gone down. What logic could be there in imposing this maximum? At best the argument could be that possibly a larger amount is left for this benefit of improving the machinery, but that amount was being kept even then by *Burmah Shell* or *Standard Vacuum*. What benefit have you given to either the industry or the labour? On the contrary, you have harmed the worker without benefiting the industry, except of course the people who own the industry in the sense that they will get larger profits.

SHRI HATHI : Minimum.

SHRI VIKRAM CHAND MAHAJAN : You have imposed the maximum also: 20 per cent. My argument is there is no rationale behind the maximum especially when you have not put a maximum on the profits. I am not saying that you should put a maximum on the profits. What I am saying is you should remove the maximum on the bonus.

Secondly, bonus is payable only in industries employing 20 persons or more. To avoid paying bonus, industries are broken up into different units, though ultimately owned by one person. Therefore, I suggest that instead of fixing a minimum of 20 employees, it should be on the basis of profits and

production. If an industry makes a profit, of, say, Rs. 1 lakh or more, even if it employs less than 20 employees, bonus should be paid. I am only taking a hypothetical case and this particular aspect should be gone into further.

SHRI S. M. BANERJEE (Kanpur) : Sir, after hearing Mr. Patodia, I am convinced that the ordinance was fully justified. A feeling has grown among the workers in the country that Government should have accepted the majority decision of the Bonus Commission. But they ultimately yielded to the pressure of the employers. Government ultimately surrendered before the employers led by Mr. Dandekar, a member of this House, and they considered his minute of dissent more than the majority decision. That is one of the reasons why ever since the Bonus Act was enacted in 1965, there has been no industrial harmony. Mr. Patodia has a grouse even against the 4 per cent minimum.

Mr. Patodia has not said anything about those who are minting money at the cost of the sweating labour and who are making fabulous profits in the private sector. Can it be denied that generally in the major industries in the private sector, there has been a rise in profits? Even a lay man without the jugglery of statistics believes that they have minted money and that is why they have so much money—white or black—with them. Sir, whenever commissions have been appointed to go into the working of industries, they have said that the industries are making money. That is why there has been growth of monopolies and the Monopolies Commission was appointed.

SHRI D. N. PATODIA : There is no monopoly.

SHRI S. M. BANERJEE : We should compare India with America. Taking our standard of life into consideration, is there not a monopoly? What was the Birla family and Tata family before independence in 1947 and what are they today? What is the living condition of the worker today? Has his real wage and purchasing capacity gone down or gone up? Mr. Patodia was referring to the dearness allowance. He

{Shri S. M. Banerjee}

also quoted the wage of Rs. 50 in the textile industry. It is not a shame that a worker in textile industry is getting a minimum wage of Rs. 50 per month ?

SHRI D. N. PATODIA : It is not minimum wage; it is the basic wage.

SHRI GEORGE FERNANDES : It is not even Rs. 50; it is only Rs. 30. (*Interruptions*)

इस पर आपको शर्म आनी चाहिये । एक रुपया बेनिक वेज पर डे ? आपको शर्म आनी चाहिये । यह टैक्सटायल इंडस्ट्री की हालत है जो हिन्दुस्तान की सबसे बड़ी इंडस्ट्री है ।

SHRI S. M. BANERJEE : I do not expect Mr. Patodia to support the workers' cause, but he should not be proud of the fact that in a country wedded to socialism, fabulous profits are earned by the industrial sharks and the worker gets only Rs. 30.

I has been decided that their dearness allowance should be linked up with cost of living. There the employers have a grouse against the workers. That is why, Sir, I support this Bill.

What happend after the decision of the Supreme Court ? In 1968 there was going to be a serious labour unrest in the country. I must congratulate Shri Hathi today that he asked the President to bring in the Ordinance in time. When certain questions were asked in the other House by those who represent the employers, Shri Patodia's counterparts, he asked the employers' association to answer whether they wanted to control labour unrest with the help of the police, army, bullets and lathis. He said it was impossible to control labour unrest in that way. That is why, Sir, I support this Bill though with certain mental reservations.

This Bill has been brought after the decision of the Supreme Court, as stated by the Minister, in the case of Metal Box of India. According to this decision the entire bonus rebate, the entire tax rebate

on the bonus paid or payable will accrue to the employers. According to the Bill only 60 percent goes to the employees and 40 percent to the employers. If Shri Patodia's contention is accepted he wants only one per cent to go to the employees and 99 per cent to go to the employers for rehabilitation etc.

A lot of exemptions have been given to the textile industry in excise duty etc. What amount of it will be pumped into the mill for renovation purposes, for rehabilitation purposes etc. ? Not a paisa will go into that. They will get this concession and have another industry in some other place. The Textile mills in Kanpur which are manufacturing medium and coarse cloth will come to a stop after ten years if they not modernised. What is happening is, in the name of modernisation and rehabilitation they are getting tax relief from the Finance Minister and they are not using a single paisa for modernisation or rehabilitation. On the other hand, they are opening industries in Naini or Rihand area of Mirzapur. Is that the way of the employers should behave ? Our contention is that the entire amount of surplus should be distributed as bonus.

The Labour Appellate Tribunal has given hundred per cent of the rebate as surplus available to be distributed among the workers and not 60 per cent. Why should the Government change it ? The Bonus Act has reduced it to 60 per cent. It clearly means that the decision of the Government to ignore the majority decision of the Bonus Committee's Report and accept the minority report was wrong. They feel it today.

The ceiling of 20 per cent is being misused by those who are minting money. Shri Mahajan quoted the case of foreign oil companies. What has happened to the Indian Oxygen and Acetelene Company, what has happened to I. C. I., what has happened to Dunlop, what has happened to Good Year and all other concerns ? Those who are paying by the threat of strike upto 35 per cent and 40 per cent.

taking advantage of this Bill they will have a ceiling of 20 per cent and they will not pay more than 20 per cent. I request in all seriousness, in all humility, to the Labour Minister, who is accommodative, persuasive, tenacious and who always feels for the labour, to remove the ceiling of 20 per cent. I assure Shri Patodia that we will take 40 per cent and if he does not pay we will go on strike. The employers say : we will get 40 per cent, we will not allow the workers to get any share out of it, even though they have to work for 8, 10 or 12 hours a day. They build palaces in the name of the company. Everything except their wife and children belong to the company. That is how they swindle the shareholders, which has been proved by the Vivian Bose Commission Report. I would strongly recommend that report to Shri Patodia for reading.

During the last three years Rs. 228.50 crores worth of reserve has been converted into shares. If it is reserve they will get only a return of 6 per cent. Once they convert it into bonus shares, the return increases many-fold. The law always helps the employers at the expense of the employees. During the last three years the total value of the bonus shares has been Rs. 228 crores. In 1963-64 was only Rs. 4.1 crores and in 1965-66 only Rs. 4.9 crores. Now the workers are put in a disadvantageous position because of the conversion of reserve into bonus shares. This year in the budget relief has been given to the textile mills. Yet I am sure the textile mills of Kanpur, British India Corporation, Lal Imli, Dhariwal, Singhania group or Jaipuria group are not going to pay more to the workers.

Then, under the Bonus Act their accounts and books are presumed to be correct. When it has been found that these firms are maintaining two books, one for purposes of bonus and another for purposes of profit, when it has been confirmed by many commissions, why should it be presumed that they are correct until some proper investigation is made ?

When the Bonus Commission Report was being considered by government, it

was argued on behalf of the workers that the existing gains should be protected in spite of the note of dissent of Shri Dandeker. Yet, the majority decision of the Commission was ignored. Government did not think it correct to go against the decision of the minority, namely, Shri Dandeker. So it was argued at that time, not by us of the opposition, but by labour leaders like Shri Vasavada, that the existing gains should be protected. Then the late lamented Shri Lal Bahadur Shastri gave an assurance and it was incorporated in section 34 (2) of the Bonus Act. We must remember here that Shri Lal Bahadur Shastri had the courage of conviction to say nobody is going to be harmed.

Now this measure was struck down by the Supreme Court in 1968 and government had been thinking of bringing an Ordinance. Now they have brought it. But, along with the amending Bill, they should also promise that the other clauses will be amended to suit the convenience of the workers. The employers have earned enough. Is it not time to make the workers happy, to assure them two square meals, a small house and education to their children ? Otherwise, this country will be reduced to ruins and we will be making a mockery of socialism, allowing these sharks to earn more and more profits.

The other day I was surprised to find that no member of the Birla family pays wealth-tax. Perhaps, they are the poorest people in the country ! Their accounts are manipulated in such a way that nobody pays wealth-tax.

This question was discussed in the Standing Labour Committee and the Labour representatives, including those of INTUC, made the unanimous recommendation that the L. A. T. formula should be accepted. But the employers did not accept it. They say : we are paying four per cent. As stated by Shri Patodia, he has a grouse that it has been made statutory. According to him, it was a good wish, kindness of the employers. *सन्ने Laloji saying तुमने बहुत अच्छा काम किया है । वसो, तुमको बोनस देवे* . But it is not like that. Bonus

[Shri S. M. Banerjee]

is a deferred wage. Whether it is in Calcutta, Kanpur, Bombay or other industrial cities, the workers must get bonus and they will fight for it.

This Ordinance was promulgated to protect the interest of workers. But has it protected that ? That is a matter of dispute. We feel that it has not. Section 27 says that the balance sheet and accounts should be presumed to be correct. This presumption is not correct and I would request the hon. Minister to look into this.

Then, what will happen if there is a dispute ? Suppose, we find that according to the open balance sheet even, not the concealed balance sheet and books, the company has earned a profit and is capable of paying more than 20 per cent. What will happen then ? Should we confine ourselves to 20 per cent ? Suppose, we want to negotiate and the negotiation fails, what should be done then ? Only the industrial Disputes Act is there in such cases and it takes years to decide a dispute because immediately the employer can go up to the Supreme Court, he can take recourse to the law and take the protection of the court. If there is an agitation, they will immediately say that there is a *gherao* going on. If it is West Bengal, they will immediately say that these Communists Subodh Banerjee and Kishto Ghosh. have started a *gherao* and thus create panic in the mind of everyone saying, "Look here, it is the Chinese tactics that the West Bengal Government is adopting". If it is UP, they will blame some other party. If it is Delhi, they will blame the Jana Sangh. The two parties which they always blame are the SSP and the Communist Party. They are always blaming the red flag. So, a machinery should be evolved to see how this matter could be settled expeditiously.

I know, whenever this matter is put up before the Indian Labour Conference or the Standing Labour Committee—the Indian Labour Conference has a wonderful representative of the employers, Shri Naval Tata Shri Naval Tata Never agrees; he says, "Baba, do it but we shall consult our employ-

ers,"The employers have to make up their mind once and for all. If there is going to be a mixed economy in this country, if both the public and the private sectors have to exist, they have to make up their minds. They have to make some change in their minds and decide how best things can be settled peacefully, amicably and without any dispute or recourse to any strike etc.

Lastly, about those workers who are employed in defence industries I have requested the hon. Minister several times and I request him once again. I am talking of the industry; I am not talking of men working in the Secretariat. I am talking of the ordnance factory workers and the workers in the CODs. They have got 3½ lakh workers there out of whom 3 lakh workers are covered by the Factories Act and the Industrial Disputes Act. Why should they be deprived of it only because there is no profit-sharing, only because they are not earning money ? They are not supposed to earn money. Do you expect the ordnance factories to manufacture the defence goods which they are manufacturing with a profit motive ? If there is the profit motive, where will be the service motive ? There cannot be any service motive then. In fairness to defence employees, railway employees in workshops etc. and all this employees of Central Government undertakings who are covered under the Industrial Disputes Act and the Factories Act, they should be covered under the Bonus Act. I would urge upon the hon. Minister to bring forward an amendment and see that it should equally apply to the private sector and the public sector, specially to all those public sector undertakings which are covered under the Industrial Disputes Act.

With these words, I give my support to the Bill and I request the hon. Minister to bring forward a comprehensive piece of legislation to curb the monopolistic tendencies of the employers. I completely disagree with Shri Patodia, whose speech I liked very much. He is a well informed person but he is in a wrong party. I am always on the left because the left is the

safer side. Even the policeman on the street will ask you to keep to the left. Therefore I am on the left and request my hon. friend to come over to this side.

SHRI K. M. ABRAHAM (Kottayam) : Mr. Chairman, it is not surprising that this Bill came about by issuing an Ordinance because the Bonus Act itself was Promulgated by an Ordinance. It shows that this Congress Government can deal with the question of bonus only by issuing an Ordinance. It appears that the Government is playing the hide-and-seek game with the employers. The Government are promulgating an Ordinance and the employers challenging it in a court of law.

The trade union movement has repeatedly characterised that the Bonus Act has virtually become a minimum Bonus Act. It has demanded the scrapping of the Bonus Act and the bringing of a comprehensive Bonus Bill so that adequate bonus is given to all the industrial workers. Instead of accepting this genuine demand, the Government have resorted to nominal changes which ultimately will not give much concession to the workers.

The Ordinance was promulgated on 10th January. It was a clear case of keeping an eye on the mid-term elections. It also was meant to give advance notice to the employers so that they may prepare their accounts in such a way that the employers may not give bonus to the workers.

It is well known that the balance-sheets of the companies are taken to be the gospel truth and the workers are not able to challenge them in a court of law. This is a clear attempt on the part of the Government to hoodwink the working class in the name of making provisions for higher quantum of bonus.

I have got a clear case before me of South India West Coast Co. of Coimbatore which was not charging development rebate prior to the enactment of the Bonus Act. But after 1965, it not only started charging it but recovered earlier amounts due on

account of development rebate with the result that the workers are deprived of their rightful bonus. Such mal-practices can be quoted at great length. The main point is that innumerable mal-practices and irregularities are committed by the employers to deny bonus to the workers. The Government, however, has not cared to take a single drastic step against the employers. The net result of this is that the workers are not getting adequate bonus.

The present amending Bill does not even touch the fringe of the problem. If Government is really serious to settle the bonus claims, it can consider the entire question of bonus *de novo* and grant reasonable quantum of bonus to the workers. The Bill will not go any far in satisfying the aspirations of the workers. They will continue to fight till the reasonable claims are met by the Government and the employers. Even the 4 per cent minimum bonus is being denied to the workers. For instance, the Hira Mills, Ujjain, M. P. and the Bharat Mills, Pondicherry have been exempted from the payment of 4 per cent minimum bonus. There are many cases of non-payment of bonus in the country to cite. Yet the Government has not brought forward any amendment to rectify this state of affairs. Therefore, I request the Minister to bring forward a comprehensive Bill covering all the aspects of the bonus so that the workers may get higher bonus than this.

16 hrs.

श्री हुषम चन्द कछवाय (उज्जैन) : समाप्ति महोदय, मैं इस बिल का समर्थन करता हूँ और इसके सम्बन्ध में दो-चार बातें माननीय मन्त्री जी के ध्यान में लाना चाहता हूँ। इस बिल को वास्तव में यह सोच कर बनाया गया था कि मजदूरों को लाभ होगा, लेकिन वास्तविक लाभ नहीं हुआ। जब यह बिल नहीं था उस के पहले हम मालिकों से झगड़ा करके 60 प्रतिशत तक बोनस ले लेते थे, लेकिन अब घातने सीमा बांध दी है, उस सीमा से वह टस से मस नहीं होते। मैं चाहता हूँ कि यह सीमा समाप्त

[श्री हुकम चन्द कछवाय]

कर दी जाय या इसको 20 प्रतिशत के बजाय 50 प्रतिशत कर दिया जाय, यानी इस सीमा को ज्यादा बढ़ाया जाय। इसी सम्बन्ध में मैं यह भी कहना चाहता हूँ कि बोनस कमीशन की जो रिपोर्ट हमारे सामने आई है उसमें यह भी कहा गया है कि बोनस 60 प्रतिशत दिया जाय, उसमें से 40 प्रतिशत मालिक अपने पास रखे और उस धनराशि को मजदूरों के उपयोगी कामों में, भ्र्वास के लिए खर्च करे। मैं आपको बताना चाहता हूँ कि कोई भी मालिक या उद्योगपति इसको भ्र्मल में नहीं लाता है। मजदूरों के मकान स्थिति वंसी की वंसी है या तो उनको काफी ज्यादा किराया देना पड़ता है या गन्दी जगहों पर झुग्गी-झोंपड़ी बना कर रहना पड़ता है। मैं चाहता हूँ कि वह रुपया उन के भ्र्वास पर खर्च किया जाय, इसके लिए आप विशेष ध्यान दें।

जिस फँक्टरी में 20 या उससे अधिक व्यक्ति काम करते हैं, उस पर यह एक्ट लागू होता है। मेरा ऐसा अनुभव है कि देश में ऐसी बहुत सी फँक्टरियाँ हैं, जिनमें 100-100 व्यक्ति काम करते हैं, लेकिन वे अपने यहां 20 से कम ही शो करते हैं ऐसा वह इसलिए करते हैं कि उनको बोनस न देना पड़े। मैं चाहता हूँ कि इस चोरी की तरफ आप विशेष ध्यान दें।

आपने इस कानून को गैरसरकारी उद्योगों पर लागू किया है। मेरा कहना है कि आप इसको एल० आई० सी०, कोयला, रेलवे, हाथियार बनाने वाले कारखाने इन सब सरकारी उद्योगों पर भी यह का न लागू होना चाहिये। आपने बहुत से कपड़ा उद्योगों को आपने हाथ में लिया है। आपने यह भी कहा है कि अगर उद्योगों में घाटा हो तो भी 4 प्रतिशत बोनस अवश्य देना चाहिए, लेकिन इस नियम का पालन स्वयं सरकार नहीं कर रही है। सरकार ने जो कपड़ा उद्योग अपने हाथ में लिया है, उनमें से

कुछ घाटों में चल रहे हैं, उनमें यह 4 प्रतिशत बोनस नहीं दिया जाता है, मैं चाहता हूँ कि वे उद्योग भी यह बोनस अपने मजदूरों को दें।

जिन उद्योगों पर बोनस नियम लागू है, वे उद्योग समय पर अपने मजदूरों को बोनस नहीं देते हैं। साल डेढ साल तक मालिक बोनस नहीं बांटते हैं, लाखों रुपया बोनस में फसा पड़ा है, मालिक ठाठ से उस रकम पर व्याज कमाते हैं। मेरा ऐसा कहना है कि उस रकम का जो व्याज आये, वह भी बोनस के रूप में मजदूरों को मिलना चाहिए, मालिक उस रुपये को अपनी जेब में न रख सके, ऐसी व्यवस्था आपको करनी चाहिये और बोनस बांटने की सीमा निश्चित की जाय। साल समाप्त होने के बाद एक दो महिने या ज्यादा से ज्यादा तीन महिने के अन्दर वह बोनस बांट दिया जाय।

आपने एक्साइज ड्यूटी में छूट दी है, इस से कपड़ा उद्योग के मालिक को लाभ होगा, आपको देखना चाहिए कि क्या वह लाभ उनको मिला है? बोनस कानून जिस ढंग से भ्र्मल में भ्राना चाहिये, उस तरह से उस पर अमल नहीं होता है। एक सबसे बड़ी गड़बड़ यह हो रही है - हर कपड़ा उद्योग वाला अपने यहां दो दो दस्तावेज रखता है। मुनाफा कितना बताना चाहिए, किस प्रकार से उसका बटवारा हो किस तरह से मुनाफा कम दिखाया जाय, इन सब चीजों के लिये इन्होंने अपने यहां बड़े बड़े विशेषज्ञ रखे हुए हैं, जिनकी तनकाहें हजारों रुपये होती है और वे बड़ी चतुराई के साथ सरकार के सामने और मजदूरों के सामने शो करते हैं कि इसमें इतना घाटा हुआ है या इतना मुनाफा हुआ है, जब कि वास्तव में उनको मुनाफा ज्यादा होता है। अगर आप इस की खोज करेंगे तो आपको पता चलेगा कि वास्तव में उन की इन्कम क्या है और वह उसको कितना कम कर के दिखासते हैं। मजदूरों को बोनस का

हक उनका जन्म सिद्ध अधिकार है, तन्वशाह तो उनको हर महिने मिलती है, लेकिन उस उद्योग में वे लोग जो अपना खून पसीना एक करते हैं, उस मुनाफे में बोनस उनका हिस्सा है और यह उन को जरूर मिलना चाहिये।

आपने इस एक्ट में बोनस के लिए 20 परसेन्ट का प्रॉवीजन किया गया है। आज कई स्थानों पर मान्यता प्राप्त यूनियने, खास कर इन्टक को कई प्रान्ती में कई उद्योगों में मान्यता प्राप्त है, इसके नेता मालिकों के साथ बैठ कर समझौता करते हैं केवल उन मालिकों के स्वार्थ के लिये, इन्टक के नेता उन मालिकों की जेबों में रहते हैं या बड़े बड़े आम चुनावों में वे मालिक कांग्रेस को पैसा देते हैं चुनाव लड़ने के लिये और फिर मनमानी करके उनमें समझौता करवा कर मजदूरों पर लादा जाता है। इस लिए मैं चाहता हूँ कि जो कानून आपने बनाया है, उस को मही मायनों में अमल में लाया जाय।

आज सभी क्षेत्रों में एक प्रकार की धांधली चल रही है, आज ऐसे बहुत से उद्योग हैं— जैसे शुगरफैक्ट्रीज, तेल मिल, जिनिंग फैक्ट्रीज आदि जिन पर यह कानून लागू नहीं होता है, क्योंकि इन उद्योगों में काम सिर्फ चार महिने होता है या 6 महिने होता है। मैं चाहता हूँ कि इन उद्योगों की तरफ भी ध्यान दिया जाय। मैं चाहता हूँ कि माननीय मन्त्री जो इस के बारे में एक विशेष एन्क्वायरी करवायें कि कौन कौन देता है और कौन कौन नहीं देता है, अगर आप इस की खोज करेंगे तो आपको मालूम होगा कि बहुत से उद्योग इस नियम का पालन नहीं करते हैं। आपके इन्स्पेक्टरों, मैं यह नहीं कहता कि सभी इन्स्पेक्टरों बेईमान हैं लेकिन उनमें बहुत से ऐसे हैं जो मालिकों के हक में रिपोर्ट देते हैं, मालिकों की हां में हां मिलाते हैं और मालिक इतने चतुर होते हैं कि किस प्रकार से उनको मुनाफा हो, किस प्रकार से उनकी इच्छा बढ़े, किस प्रकार से उन के पास पैसा जमा हो, उसके लिए नीच से नीच काम भी

करते हैं। मैं चाहता हूँ कि आप इस तरफ विशेष ध्यान दें।

मैं आशा करता हूँ कि जो सुझाव मैंने दिये हैं, सरकार उन के बारे में एन्क्वायरी करायेगी, ताकि काम ठीक ढंग से चल सके।

श्री जार्ज फरनेन्डीज (बम्बई-दक्षिण) : सभापति महोदय, जब यह बोनस का न बना तब ऐसा समझा जाता था कि आगे से बोनस के सम्बन्ध में कोई भगड़ा नहीं होगा और इन भगड़ों को मिटाने के लिये ही यह कानून बनाया गया है। लेकिन पिछले कई वर्षों का यह अनुभव रहा है कि भगड़े मिटे नहीं, बल्कि और ज्यादा बढ़े हैं। मैदानी भगड़े बढ़े हैं और प्रदालती भगड़े भी बढ़े हैं। इसके पीछे जो मुख्य कारण है उसकी थोड़ी सी झलक आज पाटोदिया साहब ने हमें दी है। उन्होंने अपने जिन विचारों को आज यहां पर व्यक्त किया, उसमें ऐसा मालूम हुआ कि हिन्दुस्तान के मालिक बोनस को मजदूरों पर महरबानी समझते हैं, वह इस बात को नहीं मानते कि बोनस मजदूरों का हक है। मालिक मजदूर को कम तनक्वाह देकर उस का जो शोषण करता है, उस शोषण से जो मुनाफा कमाया जाता है, उस में से कुछ हिस्सा मजदूर को अधिकार के साथ मिलना चाहिये— यह बात भी हिन्दुस्तान के मालिकों में अभी भी मानने के लिये तैयार नहीं हैं।

16.08 hrs.

[अध्यक्ष महोदय पीठाधीन हुए।]

मुझे बहुत गुस्सा आया जब पाटोदिया साहब ने बम्बई की सूची कपड़ा मिलों के मजदूरों का उदाहरण यहां पर दिया। उन्होंने यह बताने की कोशिश की कि अगर मैं बसमम बोनस दिया जाय तो 11 महिने की बेसिक वेज हो जाती है। किसी भी मालिक को इस किस्म की बातों को यहां पर पेश करते हुए सर्वे सँगनी चाहिये क्यों

[श्री जार्ज फ़रनेन्डीज]

कि जो बेसिक वेज है—प्राज बम्बई की सूती कपड़ा मिलों में वह 30 रु० है। पिछले 25 वर्षों से यह बेसिक वेज बम्बई में है दो लाख सूती मिलों के मजदूरों की। मुझे कोई यह कहे कि उन को मंहगाई भत्ता मिलता है जो 150 रु० या 160 रु० है, तो मैं उन से कहना चाहता हूँ कि मंहगाई भत्ता तो आप इस लिये देते हैं कि आपने चीजों के दाम बढ़ाये हैं—सरकार और मालिक दोनों ने मिल कर बढ़ाये हैं, इस लिये मंहगाई बढ़ी है। अगर कोई मंहगाई भत्ते का मुद्दा देने की कोशिश करे, मैं समझता हूँ कि उसको कुछ शर्म से सिर झुका कर ऐसी बात कहनी चाहिये। मैं समझ सकता हूँ कि 160 रु० बेसिक तनख्वाह हो 30 रु० मंहगाई भत्ता रहे, चीजों के दामों में जो उतार चढ़ाव होता है उसका कम्पेंसेशन करने के लिए। लेकिन अजीब तरीका चन रहा है, मालिक उन्हीं पुरानी परम्पराओं में रह रहे हैं। मैं आपसे बम्बई सूती मिल मजदूरों के बारे में बतलाऊ कि बोनस के मामले में काफी चिल्लाने के बाद, काफी ग्रान्दोलन और संघर्ष करने के बाद, महाराष्ट्र के मुख्य मन्त्री की मध्यस्थता से ही बोनस का मामला इस माल हल हुआ। बम्बई में 60 मिले हैं जिनमें दो साल मजदूर काम करते हैं लेकिन बोनस ऐक्ट को मद्दे नजर रखते हुए किसी भी मालिक ने, हम कानून के पास होने के बाद से प्राज तक अपनी मर्जी से बोनस नहीं दिया था। वहाँ के अधिकांश मजदूर प्राज भी चार फीसदी बोनस पाते हैं। इसके साथ साथ मुझे यह भी कहना चाहिए कि जिन मिलों को सरकार चला रही है बम्बई में, उन मिलों के मजदूरों को प्राज वह चार फीसदी बोनस भी नहीं मिलता है। तो प्राज यह हालत सूती मिल मजदूरों की बनी हुई है।

दूसरे क्षेत्र के जो मजदूर हैं उनके बारे में मैं ने पहले ही कह दिया कि उनकी शिकायतें

कम नहीं हुई हैं और न उनका भगड़ा कम हुआ है। बोनस ऐक्ट के जरिए से आप जो काम करना चाहते थे, आपका वह मकसद पूरा नहीं हुआ है। प्राज मालिक इस विधेयक का विरोध कर रहे हैं। उनको रिटैर्विलिटेशन के लिए पैसा चाहिए। कौन से रिटैर्विलिटेशन के लिए पैसा चाहिए? बम्बई में ही नहीं बल्कि सारे हिन्दुस्तान में प्राज मिलें बन्द हो रही हैं। पुराने इंजीनियरिंग कारखाने जैसे लक्ष्मीरतन इन्डस्ट्रीज, चाहे वह कानपुर में हो या बम्बई में हो, वे बन्द हो रहे हैं। उनको रिटैर्विलिटेशन के लिए पैसा नहीं मिला इसलिए बन्द हो रहे हैं। क्या पिछले 50 वर्षों में उन्होंने मुनाफा नहीं कमाया, इसलिए बन्द हो रहे हैं? कारखाने बन्द होने का एक ही कारण है कि जो मुनाफा होता है, जो रिजर्व्स रखते हैं, उसका इस्तेमाल कारखाने के रिनोवेशन के वास्ते नहीं किया। नयी मशीनरी डाली नहीं बल्कि वह पैसा फिडल-लखर्ची में चला जाता है। लेकिन इस बात के लिए मैं मालिक को ही धकेले दोषी नहीं मानता बल्कि इसके लिए सरकार भी दोषी है क्योंकि उन मालिकों को कई स्तर पर काला पैसा देना पड़ता है। आपने शायद पिछले दिनों में अरबबारों में पढ़ा होगा कि नाईलान यान वाले बिभापन दे रहे हैं और बता रहे हैं कि हिन्दुस्तान में जितने नाईलान यान का इस्तेमाल होता है उसका करीब करीब प्राधा ना लान यान काले बाजार से, स्मगिल्ड होकर जो प्राया होता है, खरीदा जाता है। तो जब वे स्मगिल्ड माल खरीदेंगे तो वह किसी भी तरह से कन्ट्रोल रेट पर नहीं मिल सकता है बल्कि कन्ट्रोल रेट से ज्यादा पैसा देकर उनको खरीदना पड़ेगा। साथ ही साथ स्मगिल्ड नाइलान यान पर वे जो पैसा खर्च करेंगे वह पैसा उनके हिसाब किताब में भी नहीं प्रायेगा। तो इस तरह से काले पैसे को उद्योग धंधों में और समाज में इस्तेमाल करने का तीर तरीका आपने बना रखा है।

अध्यक्ष महोदय, एक मन्त्री के पी० ए० के बारे में राज्य सभा में बाने चली कि पंसा मांगा, तो इस तरह के जो पैसे दिये जाते हैं वह कम्पनी के हिसाब किताब से नहीं दिए जाते हैं, उसमें लिखे नहीं जाते हैं। हिसाब किताब में यह नहीं लिखा जाता कि मन्त्री के पी० ए० को फाइल देने के लिए दो हजार रुपये दिये गए। यह नहीं लिखा जाता कि लाइसेंस देने के लिए किसी सरकारी भ्रूकर को 50 हजार या एक लाख रुपये दिये गये। आपने तो ऐसी व्यवस्था बना रखी है कि लाइसेंस परमिट लेने से कन्ट्रॉक्टर के जरिए कारखाना खड़ा करने तक और उसके बाद रा-मैटीरियल खरीदने से लेकर बेचने तक, हर स्तर पर काले पैसे का इस्तेमाल किया जाता है। इसमें आज सभी लोग फंसे हुए हैं। पूरा समाज बुरी तरह से फंसा हुआ है। इसी के कारण आज मालिक अपने पैसे का बेजा इस्तेमाल करके, रिट्रिबिलिटेसन की बात लेकर आपके सामने डिमन्ड के साथ खड़े होते हैं।

मैं इस विधेयक का समर्थन तो करता हूँ लेकिन इसका समर्थन करते हुए मुझे दो एक स्पष्ट बातें सरकार के सामने रखनी हैं। आपने पिछले पांच सात सालों में इस कानून के ढंग को देखा है। अब आप एक बात करें कि इस कानून से असल में कितना फायदा हुआ, कहा तक इस कानून ने मजदूरों को घाटे में डाला, इस कानून को अमल में लाने में आप कहां तक सफल हुए और कहां तक असफल हुए, इन सारी बातों की आप इन्वैस्टिगेशन करायें। आप एक जांच अयोग बनाइये जैसे कि आपने बोनस कमीशन बनाया था। यह मांग मानिक भी कर रहे हैं और एक अर्थ से हम लोग भी यह मांग कर रहे हैं कि ऐसा एक कमीशन बनाया जाये और उसके हाथों में यह बात सौंपी जाये। आज बोनस कमीशन के द्वारा बोनस फार्मूले को बिगाड़ कर रख दिया गया है। जब कानून बना तो उसमें, जहां चार फीसदी रिटर्न कहा गया था रिजर्व पर उसको 6 फीसदी कर दिया

गया। जहां पेड अप कैपिटल पर 7 फीसदी कहा था वह साढ़े 8 फीसदी कर दिया गया। इस तरह से बोनस कमीशन के फंसले को भी आपने कानून के अन्दर ही फीसदी नहीं माना बल्कि उसको बिगाड़ने का ही काम किया। तो पिछले 4-5 सालों में इस बोनस कानून के अमल में कहां तक आपको कामियाबी मिली, इसकी जांच होनी चाहिए और यह भी देखने की कोशिश होनी चाहिए कि इसमें किन किन दुश्स्तियों की आवश्यकता है ताकि जहां तक हो सके इन समस्याओं को हल करने का काम किया जा सके। आप इसके लिए तत्काल एक जांच आयोग बनायें क्योंकि जब तक इसमें आप बुनियादी परिवर्तन नहीं करेंगे तब तक समस्या हल नहीं हो सकती है।

अध्यक्ष महोदय, कल यहां पर मन्त्री महोदय ने एक बहुत बड़ा कबूली जवाब दिया था। जब मैंने उनसे यूनियनों की मान्यता के सम्बन्ध में प्रश्न पूछा था तो उन्होंने यह जवाब दिया कि सरकारी क्षेत्र के अन्तर्गत ही कई इन्डस्ट्रीज ने कोड आफ डिस्प्लिन को नहीं माना है जबकि यह कोड आफ डिस्प्लिन सरकार का ही बनाया हुआ है। यह एक अजीब सी बात है कि सरकार एक आदेश बनाती है, लेबर मिनिस्टर उसको मानते हैं, कैबिनेट मानती है लेकिन रेल मन्त्री उसको नहीं मानते हैं, डिफेंस मिनिस्टर उसको नहीं मानते हैं। समझ में नहीं आता कि यह एक सरकार है या इसमें 12 सरकारें हैं। एक कोई कानून बनाये और दूसरा उसको न माने, यह बात समझ में नहीं आती है। आज सार्वजनिक क्षेत्र में जो उद्योग अन्धे हैं वहां पर अभी भी बोनस को एक्स प्रेशिया पेमेंट करके माना जाता है, जैसा कि बाबू भाई चिनाय इसको कहते हैं कि यह कोई अधिकार नहीं है, बल्कि बकरीश है। मैं पूछना चाहता हूँ कि आज जो कर्मचारी स्टेट ट्रान्सपोर्ट अन्ड रेटिफिकेशन में काम कर रहे हैं, उनको बोनस क्यों नहीं दिया जाता है। इसी दिल्ली शहर के अन्धर दिल्ली ट्रान्सपोर्ट

[श्री जाजं फरनेन्डीज]

यूनियन है या जैसे कि बम्बई में बी०एस०अन्डर-टेकिंग है, वहाँ पर मजदूरों को बोनस क्यों नहीं दिया जाता है ? अगर यही घंटा निजी क्षेत्र के मालिक चलाते तो वे इसमें पैसा भी कमाते और चार पीसदी देने के लिए तो आप उनको मजदूर कर ही सकते थे लेकिन अगर आपकी म्युनिसिपैलिटी है उसने कोई उद्योग चलाया हुआ है या राज्य सरकारों ने कोई उद्योग चलाया हुआ है या केन्द्रीय सरकार ने चलाया हुआ है तो वहाँ पर बोनस देने से क्यों इनकार करते हैं ?

अब मैं सरकार से कुछ प्रार्थना करना चाहता हूँ। पहली बात तो यह कि बोनस फार्मूला कानून का आज तक जो अमल हुआ है उसमें क्या सुधार किया जाये, उसके लिए आप एक जांच आयोग बनाने के लिए तत्काल कार्यवाही करें और अगर सम्भव हो तो आज ही यहाँ पर इस बात को घोषित कर दें। दूसरी बात यह है कि जब तक उस आयोग के द्वारा बोनस के सारे भ्रष्ट को मिटाने का रास्ता नहीं बनता है तब तक के लिए कमसे कम सांख्यिक क्षेत्र में, राज्य सरकारों और केन्द्रीय सरकार के क्षेत्र में और स्थानीय सस्थाओं में जो मजदूर हैं उनको बोनस का हक मिल जाना चाहिए। इस कानून के अन्तर्गत आप ऐसी व्यवस्था करें। इस काम के लिए पार्लियामेंट का सेशन खत्म हो जाने के बाद अगर कोई आडि-नेन्स भी निकालना पड़े तो उसको भी निकालें ताकि आज आप मजदूरों के जो सबसे बड़े मालिक हैं, आपके मजदूरों को भी, इस बोनस कानून के जरिए जो बोनस का अधिकार दिया गया है, उसका फायदा उनको भी मिल जाये।

SHRI S. KUNDU (Balasore) : Mr. Speaker, Sir, I rise to give critical support to this bill, critical support because I feel that this Bill falls far short of what was actually desired by Parliament at that time.

The hon. Minister was good enough to read a few lines from the speech of the then Minister of Labour—I am not sure whether he was there then—wherein it has been said :

“Regarding the other point about this concession obtained on the bonus paid, we have considered that point also. Having given so much of concession for improving the industries, we thought that this may not be allowed for the management.”

They thought at that time, if I remember correctly, that tax concession should not be allowed to go entirely to the management. Now, the Minister in his spirited speech while moving the motion, said that according to the desire of Parliament we have given 60 per cent to the workers and 40 per cent to the employers out of this rebate concession. My point is, the total of this rebate on account of concession which the employers get should have gone in its entirety to the workers. This is the point. I am sorry it has not been touched or discussed here. We have been kept in a fool's Paradise and in a delusion. I was trying to scan through the pages of the Bill for the last few hours. I am really sorry to find that it does not add to the hopes and aspirations as expressed then.

This Bonus Act is nothing but a pointer and a direction as to how the wage structure is shaped and what is our policy so far as the wage is concerned. I would plead with the Minister today that he must find out sometime and he must take the floor of Parliament and devote sufficient time to discuss what is the concept of wage. The most vital and important thing today is that we must evolve a revolutionary concept of wage. Nothing can be done if you just do some sort of patchwork here and there. The Bonus Act as it is does not at all fulfil the hopes and aspirations of the people. Unless you give a wage, unless you give a need-based wage, unless you give a wage that a worker deserves by putting his

hard work in the factory for production, I am afraid his system is not going to last.

In the rest of the world, around all the corners, a revolutionary concept of wages has taken place. But in India it has not touched the fringe. In India, what is the concept of wage so far as the employer is concerned? Forget about the employees for the moment. The concept of wage of the employer is learnt from this. If you go to a house of any industrialist or a rich man, you will find two lines written on the wall: "लामस्य शुभम्" That means profit is good. Am I right? This is the concept, a stinking concept of our Indian industrialist and businessman. This is the concept that is now ruling. We want to make an El Dorado of democratic socialism. It will defeat all our purpose. Therefore, I would urge that it must be decided now, this is the time to have a dialogue as to what should be the concept of wage.

The hon. Minister himself knows that even in the capitalist countries, even in the most diehard capitalist countries like Japan, the United States and Germany and other countries, the concept of wage has taken a revolutionary change. It was: "You must give me this much of production for this much of wage." Now they say, "If you give greater benefit to the workers; give them a good wage." Give them a good education to their children and medical facilities. Then automatically production goes up. That is the secret of Japan's revolution. They have achieved a breakthrough in the concept of wages. The old antiquated concept was destroyed. The employers and workers began to think they were partners. This concept of wages has been adopted in some other capitalist countries also, but so far as India is concerned, it has not yet come.

Mr. Patodia thinks that even this 4 per cent minimum should not be there. I thought a young man like him should inject some dynamism into the antiquated capitalist deals prevailing in India. But I am sorry it is not possible to expect it from the Indian industrialists now and that is why more and more we shall have to fall back upon legislation.

When the Bonus Bill was debated here, it was pointed out that there were various limitations. It is fantastic to have a provision that nobody can pay bonus more than 20 per cent. of total wage of this year. By this bar, you are taking away the right of collective bargaining, which is the most important weapon in the hands of the workers. I know some factories and industrial establishments pay much more than the statutory limit, because the workers have the strength and the industries are making enormous profits. The right thing would be to raise the lower slab of 4 per cent and keep the higher limit open, so that bonus may be paid according to the strength of collective bargaining and to the profits of the industry.

This Act does not apply to many categories of workers like some sections of dock workers, seamen, etc. Mr. Patodia was asking, wherefrom the money will come. In section 6, so many deductions are allowed from of the Bonus Act the gross profits and ultimately only a small amount is left to be divided in the ratio 60:40.

As I said, I want that a dialogue should be started about the concept of wages and the guidelines should be fixed. Then, in the light of the discussion that emerges out of the dialogue, comprehensive amendments should be brought to the Bonus Act.

Coming to the provisions of this Bill, it is a puzzle. It is very difficult to understand what it means. After the Supreme Court decision, even a child knows that the rebate which the employers were getting on account of the bonus they were paying should not be deducted from the gross profits and it should not be treated as a direct tax, but it should go to the workers.

In this Bill you have said that 60 per cent of that rebate should go to the workers and 40 per cent to the management. If you wanted to do this simple thing you could have just said that the rebate concession that the employer got by payment of bonus should be added to the coming year's gross profit. I do not know why there is necessity to minus clause (a), clause (b). When I speak on the clauses, where I have given an amendment, I will

[Shri S. Kandu]

try to bring to your notice how ambiguous this Bill is. My fear is that this Bill may again be struck down by the AND GENERATE A CYCLE WHICH WILL SURTAIN supreme Court. I would like the Minister to check it up and have a thorough thinking about it. He may say that in his reply or take some time and reply later.

The provisions given in the Bonus Act did not start from a law but from a judgment given in the case Indian Express versus Workmen a few years back. In that case the Supreme Court said that no factory or industry has a right to exist unless it give minimum wages to the workers. About there or four families were taken, their cost of housing and education on children, medical facilities and other things were calculated and they said that this should be the guiding principle for anybody in any industry.

I am glad Shri Morarji Desai is here. Fortunately he comes when we discuss such matters. The other day I was listening to him. When there was a demand from this side that the rates of D. A. should be increased and a portion of the dearness allowance should be permanently merged, with pay and that the wages should be increased as the cost of living index goes up, he said promptly if you give more and more money the cost of living will go up and there will be a rise in prices. This has been his argument for a long time. I think we should start thinking afresh.

We have not developed our consumer industries. If we do not develop our consumer industries the employment capacity also will not increase. To develop our consumer industries there must be buying capacity with the people. Between five to ten per cent of our people get a monthly wage of Rs. 3000 or Rs. 4000. The need of today is to provide employment for our people. For that we should produce more and develop our consumer industries. There must be more buyers and then only we can produce more. To have more buyers we must give more and more money to the class of people who get only Rs. 150 or Rs. 200. They will buy things

our economy. Therefore, it is quite late in the day to say that if you increase their wages the prices will go up. I hope the Minister will give thought to it.

SHRI HATHI : Mr. Speaker, I am thankful to the hon. Members who have supported this Bill. My only regret is that Shri D. N. Patodia did not find himself in agreement with this Bill as such. He criticised not only the promulgation of the Ordinance but also the provisions of the Bill as such. He asked what was the urgency of issuing such an Ordinance ? According to him, it was the threat of agitation by the workers that made the government submit to that. Even though he is not present here, I have a right to ask him one question. Is not the satisfaction or contentment of labour an important thing in Industry ? Can an industry thrive, or even survive, if the labour is not contented ?

This agitation was going on, not from 1968 but right from the time when section 34 (2) was struck down by the Supreme Court; but now it has taken a serious form. It is not the thinking of Government alone. Even in the pamphlet which the employees themselves have issued they have stated that a number of trade unions have renewed the agitation against the Payment of Bonus Act, which was enacted in 1965 and that memoranda and resolutions are being submitted to the government, demanding the amendment of the Act forthwith in the interest of industrial peace. Now, is not industrial peace necessary and important? If there is unrest, how will they be able to face it? Merely by denying their demands or by arguing with them?

I was surprised when he compared himself with an industrial worker in Bombay. After all, what does a textile worker get because of this amendment? And why should you envy if the textile worker gets a few more rupees, especially when you have got a part of this rebate ? I would plead with him and his friends that this kind of attitude that any small measure which goes to benefit the workers should always be opposed by the employers is not a healthy sign.

because that never leads to industrial peace. On the other hand, you have to create confidence in them that you are trying to accommodate them if their demand is legitimate. Since the original intention was that the rebate on tax paid on bonus should go to the workers, they should have ungrudgingly given it and supported the Bill. That would have led to mutual confidence and establishment of good relations between the employers and workers. Unfortunately, they have not done that. So, government by this measure are seeking to give the workers what is due to them. I think I should admit that this is the minimum that we are giving. But the employers are opposing even that I would only say that this attitude is not going to help either industrial peace or good relations between employers and employees.

SHRI GEORGE FERNANDES : They should be condemned.

SHRI HATHI : That you have done. I am trying to bring in them a sense of proportion so that goodwill and good relations may be established.

SHRI GEORGE FERNANDES : You have tried it for 22 years.

SHRI LOBO PRABHU : Do not sacrifice the consumers for these good relations.

SHRI HATHI : It is not a question of sacrificing any body. This is what the employees are entitled to get.

The hon. Member quoted the report of the Bonus Commission. I myself said that the Bonus Commission did say that their idea in giving this rebate on income-tax paid on bonus to the employees was that they may get something by way of rehabilitation. I know the Bonus Commission mentioned it in paragraph 12 of its Report. But, after that, so many things have happened. Government gave $8\frac{1}{2}$ per cent instead of 7 per cent on capital, 6 per cent instead of 4 per cent on reserve ; they also gave a development rebate. Taking into consideration all this, we thought that the tax concession on bonus should go to the workers and not to the employers.

That was what we thought and the national tribunal also gave the decision in favour of the workers. But, unfortunately, as I said in my opening remarks, the Supreme Court said that the intention did not seem to be there. We are here clarifying the intention.

Then, I shall come to the point raised by Shri Kundu and explain what it means. I will give an example so that he understands what the two paragraphs mean. Supposing, an industry makes a gross profit of Rs. 30 lakhs. Then, at the time of calculation they calculate Rs. 15 lakhs as income-tax which they will have to pay. Then Rs. 15 lakhs remain as the profit. This Rs. 15 lakhs is divided into 60:40 and Rs. 9 lakhs go as bonus. That is when they prepare a balance sheet. Now, when the actual assessment comes, which is not in the same year-it comes a little later-they deduct Rs. 9 lakhs out of Rs. 30 lakhs. This Rs. 9 lakhs they have paid as bonus and they deduct this as expenditure. This gives them Rs. 21 lakhs as profit. On this they have to pay Rs. $10\frac{1}{2}$ lakhs as income-tax. So in the calculation they had taken Rs. 15 lakhs as income-tax while the actual payment is Rs. $10\frac{1}{2}$ lakhs and Rs. $4\frac{1}{2}$ lakhs is saved to them. Now we say that this Rs. $4\frac{1}{2}$ lakhs will be added to the available surplus in the next year and will be distributed in the ratio of 60:40.

This is what these two paragraphs say. If he reads them now, he will understand. I will read it for him. It reads :--

"the gross profits for that accounting year after deducting--- an amount equal to the difference between"

the two, that is, Rs. 15 lakhs which they had calculated they would have to pay as income-tax and Rs. $10\frac{1}{2}$ lakhs which they actually paid. This is rather a technical way of explaining but this is the position. I hope, I am now clear and there is no need of any further clarification. This is what is meant. This has been done in consultation with the income tax office, the Law Ministry and everybody concerned and this is the best way in which it could be put.

SHRI S. KUNDU : Would you kindly see sub-clause (b) (ii) ?

There it says :-

“the direct tax, calculated in accordance with the provisions of section 7”.

SHRI HATHI : All taxes are direct taxes.

SHRI S. KUNDU : Yes. But how does it emerge ? It says :-

“the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom”.

Which one ?

SHRI HATHI : You apply the figures that I gave you and you will understand it. I cannot go on explaining it further.

I have explained it by giving an illustration. It talks of the difference between (i) and (ii); (i) is Rs. 15 lakhs and (ii) is Rs. 10½ lakhs.

Then, there are various suggestions made by different members. They are not quite pertinent, but Shri Fernandes has made a suggestion that we should assess how it has worked, whether it has worked in favour of the workers or in favour of the employers. Now, by the very fact that Section 34 (2) was struck down, that is, where the workers were to get something more and it was provided that the ratio between the profit and the available surplus in that year could remain the same, to that extent, the workers have suffered a loss. It goes without analysis. I do not think a review is necessary in these cases. But about the appointment of a Commission, we have already asked the National Labour Commission to look into this very question itself. If we were to appoint another Commission, it will take two years more. This will be quicker. If you want time, that is a different matter.

श्री जार्ज फर्नेन्डीज : मेरा हतना ही

कटना है कि हम लोगों को कितना ज्यादा नुकसान हो रहा है, स्टेट का कितना नुकसान या फायदा हो रहा है, इस पर हमल किस ढंग से हो रहा, इससे टिस्प्यूट्स कितनी कम हो गई, कितनी बढ़ गई, कौन कौन सा भ्रंशत आया है, इन सारी चीजों के बारे में जांच की जाय। इस चीज को नेशनल कमिशन पर न छोड़ा जाय। This is a vital element.

SHRI HATHI : We will make a study of that. But we have to understand one thing. Where there is a machinery for taking the matter to industrial dispute, it is likely that one party and, in most cases, the employer goes in appeal. That is there. But we will make a study. ..

श्री जार्ज फर्नेन्डीज : एक कमेटी बिठलाने में क्या तकलीफ है। सरकार, मालिक और मजदूर तीनों तरफ के लोग बंटे और दो महीने में हमको बतलायें।

SHRI HATHI : Then, there were other suggestions made. These suggestions were mainly about the Act, that it should apply to other industries, to the public sector and all that. But that is beyond the scope of the present Bill.

SHRI GEGRGE FERNANDES : You bring an amendment.

SHRI HATHI : other suggestions which the hon. Members have made will be considered.

SHRI SHRI CHAND GOYAL : I only want to emphasize that the hon. Minister has not explained as to what prevented the Government from bringing forth a legislation in the last session, in the month of December, instead of resorting to this method of issuing the Ordinance and encroaching upon the right of the legislature, that is of Parliament. It is all right to say that there were disputes or the agitation going on, was assuming a serious form. But I wanted to know what prevented the Government from bringing forward a legislation when Parliament was in session, and

where was the urgent necessity which had immediately cropped up justifying the issue of the Ordinance. The Minister has failed to explain that.

MR. SPEAKAR: Now, I put the Resolution of Shri Shri Chand Goyal to the vote of the House.

The question is :

"This House disapproves of the Payment of Bonus (Amendment) Ordinance, 1969 (Ordinance No. 2 of 1969) promulgated by the President on the 10th January, 1969."

The motion was negativ:d

MR. SPEAKER : Now, the question is :

"That the Bill further to amend the Payment of Bonus Act, 1965, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

Clause 2- (Amendment of section 5)

MR. SPEAKER : We now take up clause-by-clause consideration of the Bill. There are some amendments to clause 2 to be moved. Shri Maddi Sudarsanam-not here; Shri Shiv Chandra Jha not here.

SHRI S. M. BANERJEE : I beg to move :

Page 1, line, 9--

for "1968" substitute "1967" (2)

Page 1, line 13,--

after "to" insert--
'one and a half times' (3)

Page 1, line 16,--

for "the immediately preceding" substitute "that" (4)

Page 2, line 3,--

omit "preceding" (5)

SHRI LOBO PRABHU : I beg to move :

Page 1, line 13,--

for "an" substitute--
"unless it is used to reduce the prices for consumers, and" (9)

SHRI GEORGE FERNANDES : I beg to move ;

Page 1, line 9,--

for "1968" substitute--
"1967 in so far as the pending disputes in regard to the payment of bonus for that year are concerned" (10)

SHRI S. KUNDU : I beg to move :-
Page 1,--

line 12, add at the end
'section 7 and the amount on account of tax relief obtained for payment of Bonus in the preceding year" (14)

Pages 1 and 2,--

omit lines 13 to 17 and 1 to 6, respectively. (15)

SHRI LOBO PRABHU : My amendment is in favour of a party which is completely forgotten in this House. There has been a tug between employers and employees. There has been not even a reference to the consumer who is the most important party in this matter. I would like to point out that the employees add to a total of 6 million only as against 187 million workers. In this amendment, it is proposed to add to what they have already received, in my opinion, without any justification under the Bonus Payment Act, I say, that is without justification for the simple reason that there is a conspiracy today, whether it is recognised in this House or not, between the employers and the employees to push up the prices, so that the employers can keep their profits and the workers their

[Shri Lobo Prabhu]

high wages, The profits are not reduced at all. The variable dividend continues to be at 9 or 10 per cent. Wages have gone up to the extent of 200 to 300 per cent. Who pays for this ? It is the consumer who pays for these prices which are about 200 per cent over world prices. The simple question before this House is : are we going to submit ourselves to the conspiracy between the employers and the employees ?

MR. SPEAKER : Please come to your amendment.

SHRI LOBO PRABHU : I am giving the background because this is a very important point. We have to think in terms of the consumers who are not only 187 million workers but the entire population of 528 million as against these 6 million factory workers and a few thousands of employers, What are we proposing to do for them ? I have suggested that this amount, which will be available from the rebate of the income-tax should be given as a rebate on prices to the consumers. The scheme is not unknown. Even at present most factories give a rebate to their workers, 15 to 20 per cent. I would suggest that this rebate should be given on supplies to consumer co operative societies. If possible, some of this rebate could be given to the poorer classes, but neither the workers nor the employers should have the benefit of this rebate. Why am I making this proposal ? Why am I discriminating against the employers who are identified with my Party ? Why am I discriminating against the workers with whom I like to identify myself ? I would like to go much farther than my friends on the other side. I would like not only to represent the workers who are six million factory workers, but also to represent all the poor people in this country. It is these poor people whom the left parties are not representing; they come and ask for favour only for six million factory workers. (Interruptions) We have to remember that, as a result of this conspiracy between the workers and the employers, 52 per cent of the cost of production goes to the employers and employees. This is a very unconscionable proportion which has

been found by the FAO to compare very poorly with the proportion in Pakistan of 30 per cent and the proportion in advanced countries of 20 or less per cent. This is the secret which you have to realise. By this conspiracy, 52 per cent goes to management and labour. I am, therefore, proposing a very simple amendment. Let this not go either to the employers or to the workers if it can go to the consumers through a medium like the consumer co-operative societies. I am quite sure, whatever this House thinks, the country will be with me when I say that the poor people of this country deserve to have a measure of deflation, something which will reduce prices, and I would like to assure the partners of this conspiracy also that they will not lose because, as prices fall, the market extends, and there will be more profit coming to the employers and more wages to the workers.

MR. SPEAKER : Mr. Banerjee.

SHRI S. KUNDU : I gave my amendment yesterday after 3 O' Clock. I would, therefore, like to seek your permission.....

MR. SPEAKER : Yes. You can also speak. I have called Mr. Banerjee now.

MR. S. M. BANERJEE: My amendment reads as follows:-

“Page 1, line 9, -

for ‘1968’ substitute ‘1967’.

It should be 1967 in the place of 1968. It should read as follows:-

“Provided that the available surplus in respect of the accounting year commencing on any day in the year 1967.....”

As I have said, instead of 1968, substitute 1967. Sir, my hon. friend Shri Lobo Prabhu is going away. He wanted to protect the interests of the consumer. He has consumed the time of the House.

SHRI LOBO PRABHU : You are cons-

uming the patience of the House. That is what you are consuming. (Interruption)

SHRI GEORGE FERNANDES : He says so much about consumers; he is not here to vote for his amendment.

SHRI C. K. BHATTACHARYYA (Raiganj): They should not be allowed to come nearer to each other. (Interruption)

SHRI S. M. BANERJEE : If I had my way I would have consumed you. Sir, my second amendment says :

Page 1, line 13,

after "10" insert "one and a half times". My next amendment says :

Page 1, line 16.--

for "the immediately preceding" substitute "that" The last amendment is :

Page 2, line 3.--

omit "preceding"

These are a few amendments. I hope the hon. Minister will accept them if he really wants something to be done in the interest of labour.

श्री जार्ज फ़रनेन्डीज़ : प्र.यक्ष महोदय, मैंने जो चार तरमों में पेश की हैं, उनमें से तीन तो बड़ी हैं, जो माननीय सदस्य, श्री बनर्जी, ने पेश की हैं। अपनी पहली तरमीम के द्वारा मैं यह चाहता हूँ कि इस क्लॉज में "1968" के स्थान पर "1967" रख दिया जाये और उस के आगे ये शब्द बढ़ा दिये जायें

In so far as pending disputes in regard to payment of bonus in that year are concerned.

अगर इस बिल को इसी रूप में पास कर दिया जायेगा, तो 1967 के जिन मामलों का अभी तक फ़ैसला नहीं हुआ है, वे तो पुराने हिसाब से सेंटल कर दिये जायेंगे और 1968 के बाद के मामलों का फ़ैसला इस नये का न के मुताबिक़ किया जायेगा और इस प्रकार यह एक

सीधा सीधा डिस्क्रिमिनेशन होगा। मैं अपनी तरमीम के द्वारा चाहता हूँ कि बोनस सम्बन्ध जो भगड़े अभी बाकी हैं, उनको भी इस क़ानून का फ़ायदा मिले। अगर श्री बनर्जी की तरमीम को स्वीकार कर लिया जायेगा, तो यह तबलीफ़ सामने आ सकती है कि यह कहा जायेगा कि 1967 के जो भगड़े ख़त्म हो चुके हैं, उन्हें भी इस नये क़ानून के मुताबिक़ सेंटल किया जाये। इस तरह भगड़े के लिए दरवाज़ा खुला रहता है। मैं चाहता हूँ कि इस बारे में भगड़े की कोई मुजायश बाकी न रहे और साथ ही यह क़ानून पास होने के बाद डिस्क्रिमिनेशन न हो। इसलिए मैंने यह तरमीम रखी है कि 1967 के जो मामले अभी अनिश्चित हैं, वे इस क़ानून के मुताबिक़ सेंटल किये जायें। मैं समझता हूँ कि इस तरमीम को स्वीकार करने में मन्त्री महोदय के सामने कोई झड़चन नहीं होनी चाहिए। इसको स्वीकार करने से सब भगड़े मिट जायेंगे और इसको स्वीकार न करने से भगड़े बढ़ जायेंगे। इस तरमीम को स्वीकार करने से भगड़े का रास्ता बन्द होता है, खुलता नहीं है। मुझे आशा है कि मेरी इस तरमीम को देखते हुए श्री बनर्जी अपनी तरमीम को वापस ले लेंगे।

श्री स० मो० बनर्जी : अगर श्री जार्ज फ़रनेन्डीज़ के संशोधन को स्वीकार कर लिया जाता है, तो मैं अपना संशोधन वापस लेने के लिए तैयार हूँ, क्योंकि मैं चाहता हूँ कि उन लोगों की तकलीफ़ कम हो।

SHRI S. KUNDU : I would like copy of my amendment to be given to Government.

MR. SPEAKER : Yes, it is there.

SHRI S. KUNDU : It has far reaching consequences. I hope he will kindly read it. This Bill says 'available surplus'. This refers to gross profit in the accounting year after deducting therefrom the sums referred to in Sections 6 and 7 and aggregate of these two, that is direct tax of the gross

[Shri S. Kundu]

profits without deducting bonus from that the minus direct taxes of gross profit after deducting bonus. This is to be added to the available surplus which has been already calculated under Sections 6 and 7. Now, Sir, my point is this. In the Supreme Court the question was raised about rebates. The Government has also agreed that these big industrialists and employers get lot of money on account of rebates. What actually we are going to do to guard against that? They said, a direct tax, an income-tax, from the gross profit, without deducting the bonus, say about 15 lakhs direct tax, and deduction from it of direct tax of the gross profit after deducting bonus from the gross profit, say, 14 lakhs.

So hardly one lakh of rupees are available from this. If you only pay the rebate, you will many more lakhs. Kindly see what is put in here :

"the direct tax calculated in accordance with the provisions of section 7 in respect of an amount equal to the gross profits of the employer..."

17 hrs.

That is, minus direct tax calculated under sec. 7 of the gross profit of which the bonus has been taken out. Bonus is taken out from the gross profit. The direct tax will come down by a slender margin and the difference between the two will be very small.

Therefore, I have said clearly that after sub-cl. (a) which says 'the gross profits for that accounting year after deducting therefrom the sums referred to in section 6',

the following should be added :

"section 7 and the amount on account of tax relief obtained for payment of bonus in the preceding year",

This is simple.

SHRI HATHI : I do not know if I should reply to Shri Lobo Prabhu since he

has left. Anyway I do not accept his amendment.

MR. SPEAKER : He need not worry. It is only a general proposition.

SHRI HATHI : So far as Shri Banerjee's amendment No. 2 is concerned, seeking to substitute 1967 for 1968, the reply has already been given by Shri Fernandes, that that will create difficulties. As for Shri Fernandes's amendment, we considered it. The question is whether we can think of at least the pending cases. But there, you will recall, the Supreme Court has struck it down as discriminatory. Those that are settled are gone; we do not touch them. For those that are pending, to which the Act may apply, it has been struck down on the ground that it is discriminatory.

Therefore, we have said, any dispute arising after 1968, accounting year. They will all be there.

SHRI S. M. BANERJEE : Accept 1967.

SHRI HATHI : It is not possible. So many disputes might have been settled. All that would get revived. Therefore, that is also difficult.

We have considered both carefully. Inclusion of 1957 will give rise to a number of disputes which might have been settled. If we are to take the pending cases, it is likely to be struck down. Therefore, 1968 is the only possible way of doing it.

SHRI GEORGE FERNANDES : Take the risk.

SHRI HATHI : We cannot.

The next amendment, No. 3, is about the insertion of 'one and a half times'. I have not quite understood it. This is on the basis of 60 and 40. Therefore, we do not say 'one and a half times'. We have got it in the same proportion as the available surplus is distributed, that is 60 and 40.

The next amendment seeks to do away with 'immediately preceding'. He wants that it should be 'that year'. When they calculate income-tax on paper, from Rs. 30 lakhs they say Rs. 15 lakhs will be payable in that year. But the income-tax is assessed not in that very year. It takes a year or so or two years for that. Therefore, the actual tax will be known in the next year. So it cannot be in that year. It must be the preceding year. Hence the words 'immediately preceding' There is need for this.

With regard to Shri Kundu's amendments, I have explained at great length that this formula which he said is more complicated than which we have done. Here between A and B A is the gross profit. (*Interruptions*). You are confusing. You are confusing between rehabilitation and rebate. This rebate is not rehabilitation but the rebate is saving from direct tax on the ground that they have paid bonus. I will illustrate this. If an industry makes a profit of Rs. 30 lakhs, he calculates Rs. 15 lakhs as income-tax which he would be liable to pay. The available surplus is Rs. 15 lakhs, out of which he pays Rs. 9 lakhs as bonus. When the actual assessment is made, he deducts the Rs. 9 lakhs out of Rs. 30 lakhs and the balance is Rs. 21 lakhs. He pays income tax on Rs. 21 lakhs which is Rs. 10½ lakhs. Now the difference between Rs. 15 and Rs. 10½ lakhs is Rs. 4½ lakhs. This will be added in the next year for the purpose of distribution of bonus. Now if you read A and B, the whole position will be clear.

SHRI S. M. BANERJEE : Does he accept any amendment ?

MR. SPEAKER : He has explained.

SHRI S. M. BANERJEE : We accept his explanation.

MR. SPEAKER : Now I will put Shri Banerjee's amendments to vote.

Amendments Nos 2 to 5 were put and negatived.

MR. SPEAKER : Now I will put Shri Lobo Prabhu's amendment to vote.

Amendment No 9 was put and negatived.

MR. SPEAKER : Now I will put the amendment of Shri George Fernandes to the vote of the House.

Amendment No. 10 was put and negatived.

MR. SPEAKER ; Now I will put Shri Kundu's amendments to the vote of the House.

Amendments Nos. 14 & 15 were put and negatived.

MR. SPEAKER : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill.

Clauses 3 and 4 were also added to the Bill.

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

SHRI HATHI : I move :

"That the Bill be passed."

MR. SPEAKER : Motion moved :

"That the Bill be passed."

SHRI S. M. BANERJEE : I would only request the hon. Minister that he has given an assurance that as far as the payment of bonus under the Bonus Act to the workers of the public sector those who are covered by the Industrial Disputes Act, we are not satisfied. We would request him that this should be taken in the Indian Labour Conference and a solution found for it.

Anything thing. The ceiling of 20% should be removed so that the employees are strong enough to bargain for more bonus. With these words I support the Bill.

श्री बाबू करनेजीब : अध्यक्ष महोदय, मन्त्री महोदय से दोबारा मुझे वही विनती करनी है,

[श्री जाजं फरनेन्डीज]

कि जिसके बारे में मैंने पहले उनसे कहा था और जिसको भाई बनर्जी साहब ने भी दोहराया है। जब मन्त्री मद्दय उत्तर दे रहे थे, तो उपप्रधान मन्त्री जी यहां पर बैठे हुए थे, शायद उनके रहने के कारण उनको बोलने में कुछ तकलीफ हो रही हो, अब जब वह चले गये हैं तो मेरी उन से प्रार्थना है कि आप आयोग के बारे में जरूर कार्यवाही कीजिए। नेशनल कमीशन आफ लेबर जैसा कमीशन बनाने की जरूरत नहीं है, लेकिन ऐसा आयोग बनायें जिसमें मालिक, मजदूर और सरकारी प्रतिनिधि बैठ कर दो-तीन महीने में बोनास का न के हक में सचमुच क्या काम हुआ है, इससे मजदूरों की भलाई का क्या काम हुआ है, इसके बारे में जरूर रिपोर्ट मंगवायें जिससे आगे काम चलाने में मदद मिल सके।

दूसरे-केन्द्र, राज्य और स्थानिक संस्थाओं में काम करने वाले मजदूरों के लिए इस सत्र के चलते या 17 मई से पहले पहले मेहरबानी करके आडिनेंस लाने का काम जरूर करें।

MR. SPEAKER : The question is :

"That the Bill be passed".

The motion was adopted.

17.11 hrs.

STATUTORY RESOLUTION ITAL PUBLIC WAKFS (EXTENSION OF LIMITATION) AMENDMENT ORDINANCE AND

PUBLIC WAKFS (EXTENSION OF LIMITATION) AMENDMENT BILL

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I beg to move :

"This House disapproves of the Public Wakfs (Extension of Limitation) Amendment Ordinance, 1953 (Ordinance No. 13 of 1953) promulgated by the President on the 31st December, 1968."

I would oppose this ordinance with all the vehemence at my command, because I am not only against the tendency of issuing an ordinance which is introducing totalitarian trends in our democratic functioning but I am also against the principle which this Bill or ordinance incorporates. Since the Bill is coming through the Law Ministry, I would have expected the Law Ministry and Government of India to be vigilant and careful, and the Government ought to have anticipated that limitation was to expire in certain cases it was incumbent on the Government to bring in legislation in the last session. But the lethargic way in which the Government and especially the Law Ministry functions, is a sad commentary on the working of our democratic system.

I was submitting that now efforts are being made through this legislation to extend the period of limitation for bringing suits for properties, the possessions of which were taken between 14th August 1947 and 7th May 1954. But the period of limitation for bringing suits is being extended for the third time. The easy way which the Government resorts to is, first to bring legislation through ordinance and then to expect Parliament just to rubber-stamp them—this is not at all a healthy practice.

MR. SPEAKER : The same argument is made.

SHRI SHRI CHAND GOYAL : I am not repeating anything. Sir. This method will set up a bad precedent for the States. You must be remembering that in the last Government of the United Front, when Mr. Jyoti Basu wanted to bring a financial Bill. But he could not bring it within eight months, but when the legislature was not in session, then it was done by means of an ordinance. The States also get encouraged by this unhealthy trend which is being set up by the Central Government. I am constrained to say that if this tendency is not restrained, if this is not resisted, then we will be compelled to move for scrapping article 123 which allows the executive to issue ordinances.

Coming to the Bill, I would only take a few minutes. The ordinary period for filing suits for recovering possession against adverse possession is 12 years. Now, what was done? By one Bill which was brought in 1959, known as the Public Wakfs (Extension of Limitation) Bill, 1959, the period of 12 years was converted into 20 years, and provision for that was made. The reason was that since the Wakfs Board was constituted in the year 1954, they wanted similar Boards to be constituted in the States and a survey of the properties was also to be undertaken. But was not the period of 12 years enough? And even this period, of 20 years was against the law of limitation which is the main law for bringing suits for all types of categories, that is the period which was provided in the year 1872. This period of 12 years was converted by an Act of Parliament in the year 1959, to 20 years.

Suits could be brought upto 15th August 1957. Again, another Bill was brought which extended the period by a period of two years, that is upto the end of 31st December, 1958. This was the second instalment. Now, this ordinance is the third instalment, by means of which this period is again being extended by another two years. We do not know whether this is the last instalment.

This extension creates hardship for certain innocent people. I have received a printed letter from the residents of Nehrunagar, Chromepet, Madras, which says that a certain estate known as the Village Hasnapuram, Panchayat No. 160, Nehrunagar, Chromepet, belonging to a Darga at Pallavaram nearby, was taken over by the Madras State in 1951. Because of the growing colony, the residents have purchased pieces of land and constructed their own houses with Government loan. Now suits have been filed by the Wakf Board for the recovery of the land. The houses will have to be demolished and the Government loans will have to be paid from their own pocket. Therefore, while creating some facilities for some people, we should see that no hardship is caused to innocent people who have purchased lands *bonafide*. That is why I oppose this ordinance.

MR. SPEAKER : Resolution moved :

"This House disapproves of the Public Wakfs (Extension of Limitation) Amendment Ordinance, 1958 (Ordinance No. 13 of 1968) promulgated by the President on the 31st December, 1958."

THE DEPUTY MINISTER IN THE MINISTRY OF LAW AND IN THE DEPARTMENT OF SOCIAL WELFARE (SHRI M. YUNUS SALEEM) : I beg to move :

"That the Bill further to amend the Public Wakfs (Extension of Limitation) Act, 1959, as passed by Rajya Sabha, be taken into consideration."

Sir, this Bill was passed by the Rajya Sabha on 3rd March, 1969. The circumstances which necessitated this Bill are quite simple. In 1954, the Wakfs Act was enforced. Under section 4 of the Act, it was the duty of the States to appoint Commissioners to complete the survey of all the wakf properties in their respective States. After the survey was completed by the Commissioner, a report was to be submitted to the State Government for scrutiny. After the scrutiny of the report it was to be passed on to the State Wakf Boards for publication in the official gazette. After such publication, one would be able to know which property belonging to a particular wakf is either in the legal possession of the *mutavalli* or the trustee or the manager as the case may be or is being held by some trespasser or illegal occupant. Unfortunately, even though this Act was enforced in 1954, in many States wakf boards could not be constituted till 1963. Gradually they were constituted in the different States.

In spite of the constitution of the Wakf Board there was certain delays in appointing the Commissioner for starting the survey work of the wakf properties. The present position is that in more than nine States this survey work has not yet been completed with the result that where this survey work has not been completed, report not submitted to the State and the report

[Shri M. Yunus Saleem]

of the Commissioner not published in the official gazette it is very difficult to discover the nature of the position of the Property.

This difficulty was tried to be solved and every possible attempt was made to get the survey completed as early as possible. Because it is not the Wakf Board which has got any authority over the Wakf Commissioner but the States, therefore, the Wakf Boards were helpless and the suits were to be instituted by the Wakf Boards, Mutavallis or Trustees. In this situation there was no alternative but to get the limitation prescribed for institution of suits against the illegal occupants extended. Originally this limitation was extended which expired some time in the month of August 1967. When it was discovered that it was not on account of any mistake of the Wakf Boards or any mistake of the trustees or mutavallis who were entitled to manage the properties but on account of certain difficulties on the part of the State Governments it was not possible to conclude the survey it was thought proper that some extension may be given, and this short extension was given on this understanding that a comprehensive Bill would be introduced and when that Bill would be introduced the question of limitation would also be considered.

As you know, Sir, this subject is a concurrent subject. The Charitable Trust Bill has been prepared and has been circulated to the States for their opinion. In that Bill clause 53 finds a place where on limitation has been prescribed for institution of such suits, where in the trust properties belonging to any community, any class or any person if they are found in the illegal possession of a person there will be no limitation prescribed.

Unfortunately, we have not been able to receive the opinions of all the States so far. Certain States, where they realised that it was not possible to complete the work of survey, submit the reports and get the reports published in the official gazette, they came forward to the Central Government and made a request that further extension is necessary because in their respec-

tive States it was not possible to conclude the survey. The State of Madras went as far as saying that if the Central Government was reluctant in extending the limitation period the Madras State Government would be constrained to issue an Ordinance extending the period to the extent of those properties situated in that State. Similar requests were received from many other States like Andhra, Mysore, Madhya Pradesh and several others.

We started receiving these letters, telegrams and representations sometime in the middle of December, 1968. At that time both Houses were not in session. Therefore, there was no alternative but to take recourse to the issue of Ordinance in the interest of these states. Because, there are charitable properties meant for the benefit of the poor people. In certain cases, they are mosques, in certain cases *idgahs*, tombs or graveyards. I do not think any civilized Government would like that places of worship or holy places may be permitted to be continued in possession of unscrupulous trespassers. Therefore, to meet the difficulties, it was thought necessary to issue an Ordinance and it was promulgated.

It is not as if we wanted to avoid the introduction of the Bill in Parliament and, therefore, we deliberately issued an Ordinance. In those compelling circumstances there was no alternative except to issue an Ordinance. So, this Ordinance was issued and further extension of two years has been granted.

From the reports which we have received from different States our estimate is that in several States the survey work will be completed by the end of this year and in one or two States, e. g. Orissa and Madhya Pradesh, they say that the survey will be completed and the reports of survey published in the Official Gazette by the middle of 1970.

Therefore, there is very limited margin for them to institute suits. By that time we expect that the comments on the Public

Trust Bill which has been circulated to different States will be received and we may be able to introduce a comprehensive Bill before this House. Under these circumstances, we have extended the period only for two years.

After this submission I hope that hon. Members who felt that the Ordinance should not have been issued or unnecessarily the time is being extended from time to time, would feel satisfied and they would support this Bill.

MR. SPEAKER : Motion moved :

"That the Bill further to amend the Public Wakfs (Extension of Limitation) Act, 1959, as passed by Rajya Sabha, be taken into consideration"

SHRI J. MOHAMED IMAM (Chitradurga) : Mr. Speaker, Sir, I support this Bill. Taking into consideration the difficulties and other circumstances that face Wakfs properties, the extension of limitation is inevitable. This extension applies not merely to those properties that were illegally occupied during the 1947 disturbances but to all properties where wakfs were created prior to that or after that.

Wakfs property is a very important institution in Indian life. I think the aggregate value of wakfs property comes to more than Rs. 400 crores. All these properties are dedicated to charitable and religious purposes and this dedication is eternal; it cannot be revoked by any person.

We found out some time back that these properties that were dedicated to charitable purposes were in a confused state of affairs, some of them were misappropriated, some of them were illegally occupied because there was no valid law for protecting them. So, in the year 1954, this House passed the Public Wakfs Act which embodied certain principles and also prescribed the authorities which had to administer these wakfs properties. Although this Act was passed in the year 1954, unfortunately, it was not actively implemented till the year 1959 or 1960. So many persons who were interested began to

take steps to see that their illegal occupation was regularised. Since nothing was done during this period, many wakfs property went into private hands; those people who were in management of these properties began to take steps to see that their title to these properties became permanent.

It was only in the year 1959-60 that the State boards, the Taluka and district boards were appointed. After these boards were appointed it was found that they were quite helpless. They had no funds of their own; they had no staff and they had no list of the wakf properties before them. No survey work had been done till then. This survey work was the responsibility of the local governments. They took their own time to appoint the staff to do the survey work, so much so that I can tell from my personal experience, because I was associated with the Wakf Board of the State of Mysore for some time, that in spite of any number of reminders and persuasions by the Wakf Board the Government took its own time to appoint the survey staff and the survey staff took its own time to do the survey work. I think, even now, out of 20 districts survey work has been completed only in 10 or 15 districts and in the remaining districts the survey is yet to be done.

17.32 hrs.

[SHRI THIRUMALA RAO *in the chair.*]

So, these were the various difficulties that were encountered by the wakf boards. They had no survey staff and no money. Even this limited survey disclosed a number of properties that were under illegal occupation. In the year 1967 when the second Amendment Bill was brought forward for the extension of limitation, the Minister had said that there were nearly 17,000 properties under illegal occupation. Till now suits have been filed only regarding 3,000 properties. When the survey work is completed, I am sure, the number of illegal occupants will go to nearly 30,000 to 40,000. So, just imagine what a big problem, what a colossal problem it is that is to be solved by the wakf boards;

[Shri J. Mohamed Imam

Again, it must be remembered that because the wakf boards had no funds of their own they could not bear the cost of litigation. It is not one suit that is to be filed; a number of suits, thousands of suits, have to be filed. So, in the preliminary stage the wakf boards had to take recourse to negotiations with the parties so that they could come to an amicable settlement and save the cost of litigation. This also took some time.

Again, the High Court also directed that even if it is one single wakf, as many suits as these are illegal occupants must be filed. All these are difficulties that have to be faced. That is why suits could not be filed in time and this provision of extending the limitation had to be done very often.

The Minister said that he was thinking of a comprehensive Bill on an all-India basis. I agree with him that so far as these charitable properties are concerned, there should not be any litigation. But I am not sure when that Bill will materialise, when it will come up before this House and when the States will agree to that. I think that Bill itself may cause some controversy in the States.

I may also state that the time asked for extension by the minister is thoroughly inadequate. Last time when this measure was brought before this House in 1957, I pointed out that the time asked for extension was thoroughly inadequate. I even moved an amendment that it may be extended up to the year 1970. The Minister said that there was no need to accept it because he was contemplating to bring a comprehensive Bill to cover all the properties. Now, again, in 1969, the third amendment has been brought by the Minister and I am afraid I have tabled an amendment also to that effect—that is inadequate and the time may be extended upto the 31st December, 1974. The Minister has asked for an extension of only two years out of which three months have already lapsed. This extension is not adequate enough and, I am afraid, you will have to come again before this House seeking further extension of it. I do not like the idea of the Minister coming before this House,

asking for extension, so often. It will create doubt in the minds of some people and it will involve the valuable time of the House Also. I think, they must have a comprehensive look at that. Does the Minister feel that within two years of the extension, all the suits regarding wakf properties will be filed? Has he assessed the number of suits that have to be filed? He says that even the survey work is not over. As the survey work goes on, the number of suits will increase and the number of suits to be filed will increase. He must understand the magnitude of the problem and, once and for all, he should assess the time needed. Two years time is absolutely inadequate. I suggest that it should be at least five years term. After all, if it is conceded in principle that no limitation must be applied for charitable and religious properties, I am sure, all the Members will agree that the time should be extended till the end of 1974.

The Minister said that he was contemplating to bring a comprehensive Bill which will not only cover the wakfs but all religious trusts of all communities. It is really a good move. The Bombay Trust Act provides no limitation for such properties and a suit can be filed at any time irrespective of the adverse position one enjoys. It is a good thing that the same principle is adopted here. So, when the principle is accepted I think, it is quite reasonable to see that the time is extended to a reasonable extent so that it may give sometime to all the wakf boards to prepare their suits and also to file them.

Again, I am not sure if all the State Governments and State Boards are agreeable to this comprehensive Bill. The Minister stated just now that he has not yet received any reply or any opinion for this Bill. This Bill has been circulated to State Governments but still they have not taken any action. That is because there seems to be some difference of opinion, some lacuna in regard to the Bill. I think it will take a pretty long time before this Bill materialises and it is brought before the House. By that time, the period of two years may lapse. So, by way of abundant precaution, I suggest that he may accept amendment

to extend the time upto 31st December, 1974. With these words, I support the Bill.

SHRI CHENGALRAYA NAIDU (Chittoor) : Mr. Chairman, Sir, while supporting the Bill, I want to bring the matter to the notice of the hon Minister and the House about the people who are going to be affected on account of the mismanagement of the wakfs and the negligence of their duty to manage them well. The people have constructed houses, not knowing it is wakf property and the Planning Boards of the States have approved the plans. The people have taken loans, constructed houses and all that. Now, today, if this is applied to them and the wakf people take away those properties, what will happen to them.

Those people will be affected; they will not only lose their money which they invested in the construction of houses, but they will also be displaced. I want the Government to consider seriously and leave these properties to the people who have constructed the houses and take a nominal money from them. I do not want the Wakf Board to incur any loss, but at the same time I do not want the people to be affected on account of this. Therefore, I want the Minister to consider this seriously and put a clause or frame some rules to take some nominal money from those who have constructed the houses and leave the land to them, so that these people may not be affected. I want the Minister to consider this seriously. In the process of helping a religious institution, the public should not be affected. This is my only request.

श्री गयूर अली खां (कराना) : समापति महोदय, सन् 1947 में मुल्क तकसीम हुआ, जो मुतवल्ली लोग थे जो कि वक्फ की प्रापर्टी के कारोबार को करते थे उनको मुल्क की तकसीम होने की वजह से और तबादला आबादी की वजह से पाकिस्तान जाना पड़ा और वह लोग बहुत सी प्रापर्टी यहां छोड़ कर चले गये। कोई उन का इन्तजाम करने वाला या उस प्रापर्टी की देख भाल करने वाला नहीं रहा। इस

प्रापर्टी में मस्जिदे, इमामबाड़े, दरगाहें और बहुत सी ऐसी मजहबी इमारतें, सहराई और सनती जायदादें घाती हैं, जिनका इन्तजाम होना चाहिये था, लेकिन चूंकि मुतवल्ली नहीं थे, कागजात तलफ ह्रां गये थे या कागजात वह लोग अपने साथ ले गये थे, इसलिये यह देख भाल नहीं हो सकी।

सैंट्रल गवर्नमेंट ने सन् 1954 में का न पास किया वक्फ ऐक्ट के नाम से, और उस का न की रू से रियासतों को अलाहदा प्रलाहदा यह प्ररूत्यार दिया गया कि वह अपने वक्फ बोर्ड कायम करें और वक्फ कमिश्नर मुकर्रर करें ताकि वह तमाम रियासतों में प्रलाहदा अलाहदा हर रियासत का सर्वे करें और मातूम करें कि कितनी वक्फ की जायदाद वहां मौजूद है। लेकिन बड़े अफसोस की बात है कि रियासतों ने इसकी तरफ कोई तवज्जह नहीं दी और आज पन्द्रह साल हो गये, अभी तक वह सर्वे मुकम्मिल नहीं हुआ। पूरे हिन्दुस्तान में सिर्फ दो या तीन रियासतें ऐसी हैं जिन्होंने सर्वे को मुकम्मिल किया है।

यह जायदादें अब किस तरीके से इस्तेमाल हुईं? लोगों ने उन के ऊपर गसबाना और मुखालिफाना कब्जे कर लिये हैं और इबादतगाहों तक को रिहाइशगाहों या दूसरे तरीकों से इस्तेमाल किया जा रहा है, जो बड़ी काबिल अफसोस बात है। मजहब सब एकसां हैं, सब इबादतगाहों की इज्जत होनी चाहिये, उनका ह्याल होना चाहिये। अफसोस की बात है कि दिल्ली शहर में जो कि दारुल हुकूमत है और जहां हम सब लोग बैठते हैं बहुत सी ऐसी इबादतगाहें हैं जो आज तक लोगों के निजी इस्तेमाल में हैं और लोग उन में रह रहे हैं। अभी पिछले महीने की बात है कि बस्ती निजामुद्दीन में तीन मस्जिदें डिस्मेंटल कर दी गईं, कश्मिर पर नाजायज कब्जा कर लिया गया और उस की बेहुरमती की गई। यह चीज बहुत काबिल अफसोस है क्योंकि हर मजहब वालों को दूसरे मजहब के

ڈسمینٹل کر دی گئیں۔ قبرستان پر ناجائز قبضہ کر لیا گیا اور اس کی بے حرمتی کی گئی۔ یہ چیز بہت قابل افسوس ہے کیونکہ ہر مذہب والوں کو دوسرے مذہب کے لوگوں کے جذبات اور احساس کا خیال رکھنا چاہئے۔

بندوبست سال تک وقف بورڈ یا وقف کمشنر پوری معلومات لین کر سکے۔ اس لئے یہ ہوا کہ جو بل آج یہاں پیش ہے وہ لایا گیا۔ میں آپ سے درخواست کرنا ہوں اور اس ہاؤس سے درخواست کرنا ہوں کہ اس بل کو پاس کیا جائے۔

میں منسٹر صاحب جو بل لائے ہیں اس کی پر زور ضمانت کرنا ہوں۔

श्री कंबरलाल गुप्त (दिल्ली सदर) : समा पति महोदय, श्री माननीय मन्त्री महोदय ने यह बात कही कि दिसम्बर, 1968 के बाद उन के पास टेलीग्राम और चिट्ठियाँ आई कि श्री तक 9 रियासतों में सर्वे नहीं हुआ है, हालांकि 1967 में मन्त्री महोदय ने यह ऐश्वोरिस दिया था कि अगर 1968 तक इस की मियाद बढ़ा दी जायेगी तो आगे मियाद नहीं ली जायेगी। इस केटेगारिकल ऐश्वोरिस के बाद भी जब चिट्ठियाँ आती है तब यह सरकार एक दम से जागती है। 1967 से लेकर दिसम्बर, 1968 तक वह सोती रही। इस सरकार को यह मालूम नहीं कि आया कमिश्नर प्रोवाइंट हो गये या नहीं हुए।

शिखाई तथा विद्युत् मन्त्रालय में उपमन्त्री (श्री सिद्धेश्वर प्रसाद) : सोच विचार करती रही।

श्री कंबरलाल गुप्त : सोच विचार कर मेडिटेशन करती रही। वह सोती रही और उसने राज्य सरकार से मालूम करने की कोशिश नहीं की कि आया उन्होंने कमिश्नर प्रोवाइंट किये हैं या नहीं, आया सर्वे उन्होंने किया है या नहीं। इसलिये यह जो बिल है वह सरकार की रेड-टेपिज्म और इनएफिशिएन्सी का नतीजा है मुझे विश्वास है कि अगर हम सरकार को दो साल और दे भी देंगे तब भी यह दुबारा आयेगी और कहेगी कि हमें दो साल और दो।

मैं सिद्धान्त रूप में यह चीज मानता हूँ कि किसी भी इबादतगाह या पवित्र स्थान को, चाहे वह किसी जगह होया किसी धर्म या मजहब की हो, लिया नहीं जाना चाहिये, उस के पास होना चाहिये उसका प्रादर और सत्कार होना चाहिये। इसको पाप समझता हूँ कि किसी इबादतगाह को, चाहे वह मन्दिर हो, मस्जिद हो, गुम्बारा हो, कोई प्रादमी निजी तौर से इस्तेमाल करे। लेकिन दिल्ली में इसकी वजह से जो दिक्कतें होती हैं, उनको भी मैं बतलाना चाहता हूँ। मेरे अपने इलाके पहाड़गंज में करीब एक हजार मकान हैं जिसकी जमीन उन्होंने लीज पर ली हुई है। उन्होंने एक हजार मकान बनवाये, नक्शे पास करा कर और सरकार से लीज एग्जिक्यूट कर के आज कोई पन्द्रह दिन बाद यह हो रहा है कि बक्फ बोर्ड यह कहता है कि यह जमीन हमारी है, सरकार की नहीं, इस लिए लीज हमें दो सरकार कहती हैं कि हमें दो, और दोनों ने पन्द्रह साल के नोटिस दे दिये। दोनों पुलिस ले कर आते हैं और कहते हैं कि लीज दो। उधर सरकार पुलिस लेकर आती है कि लीज हमें दो वह बेचारे मकान वाले क्या करें यह उन्हें नहीं मालूम। किसी एक प्रादमी का भगड़ा बक्फ बोर्ड के साथ नहीं है। यह भगड़ा सरकार और बक्फ बोर्ड का है। इस लिए जो ऐसे केसेज हैं जिनमें हाइशिप हुई है, अगर कहीं पर उन में सरकार पार्टी है तो वह बँट कर फंसला कर ले कि जमीन किस की है, और जिसकी जमीन हो

[श्री कंवरलाल गुप्त]

उसको वह दी जाय ताकि लीड का रुपया दिया जा सके।

वक्फ ऐक्ट जो बना था वह एक सिद्धान्त को लेकर बना था, और उसके अन्दर करीब करीब मेरे खयाल से 95 हजार वक्फ हैं हिन्दु-स्तान भर में और 80 करोड़ की जायदाद उस के अन्दर हैं। इसका उद्देश्य यह था कि गरीब लोगों को एम्प्लायमेंट मिले, उन के लिए अस्पताल, स्कूल, कालेज खोले जायें, खास तौर से मुसलमानों के लिये, और दूसरे लोग भी उस का फायदा उठायें। यह बहुत अच्छा सिद्धान्त था। लेकिन मुझे दुःख है यह कहते हुए कि जिस तरह से वक्फ बोर्ड बने हैं हर एक प्रांतों में, उन में कुछ पोलिटिकल फेवर करने का रास्ता हो गया जो लोग जिन जिन मिनिस्टर्स के पोलिटिकल फेवरिट्स हैं, उन्हें वक्फ बोर्ड का मेम्बर बनाया गया, और वह उस के पैसे का और वक्फ की जायदाद का नाजायज इस्तेमाल कर रहे हैं। मेरे पास इसके कई उदाहरण हैं। केवल दिल्ली में ही नहीं, दूसरी रियासतों में भी उसका पूरी तरह से मिसयूज होता है, उन का इस्तेमाल गरीब लोगों के लिए नहीं होता।

मैं चाहूंगा आप के जरिए से कि माननीय मन्त्री महोदय हमें कुछ आंकड़े दें कि उन्होंने कितने स्कूल खोले हैं, कितने कालेज खोले हैं, डिस्पेन्सरीज चलाई हैं, कितने अस्पताल खोले हैं और उन में कितने मरीज आते हैं। मुझे मान्य है कि इन वक्फ बोर्डों में कोई हिसाब किताब भी ठीक से नहीं रक्खा जाता। कई जगहों पर तो अपने पोलिटिकल एण्डस के लिये, पर्सनल एण्डस के लिये उस पैसे का गलत तरीके से इस्तेमाल किया जाता है। मैं जानता हूँ कि हमारे देश में बहुत गरीबी है, लोगों को रोटी नहीं मिलती, खाने को नहीं मिलता, उन की दवादारु और शिक्षा का इन्तजाम नहीं है।

मुसलमानों में तो बहुत ज्यादा गरीबी है। इस

लिए मन्त्री महोदय को इस बात का ध्यान रखना चाहिए। यह कहने से काम नहीं चलेगा कि यह राज्य सरकारों का सबजेक्ट है। इसमें उनकी भी कुछ जिम्मेदारी है। उन को देखना चाहिए कि वक्फ का पैसा कितनी मात्रा में लोगों की भलाई के लिए खर्च होता है और कितना बेकार खर्च होता है। यह कोई छोटी बात नहीं है। इस लिए सरकार इस बारे में एक कमीशन आफ एनक्वायरी बिठाये, जो यह मान्य करे कि क्या वक्फ बोर्ड अपने पैसे का ठीक हिसाब रखते हैं, कहां तक पैसे का ठीक इस्तेमाल होता है, आया वक्फ की जायदाद खुद बुर्द होती है या नहीं, ताकि गरीब जनता को फायदा हो। यह नहीं होना चाहिए कि मान लीजिए मैं मन्त्री हूँ और मैंने अपने किसी दोस्त को वक्फ बोर्ड का मेम्बर या चेयरमैन बना दिया और वह पैसा खा रहा है।

यह बड़ी अजीब बात है कि जम्मू-काश्मीर में शेख अब्दुल्ला को वक्फ बोर्ड का प्रेजिडेंट बनाया हुआ है। स्वयं मन्त्री महोदय से यह सवाल पूछा गया कि जब वह काश्मीर गये, तो उन्होंने शेख अब्दुल्ला से क्या बात चीत की, इसके पिछे क्या कहानी है, अन्दर का राज क्या है। उन्होंने अन्दर का राज तो नहीं बताया, ऊपर का राज यह बताया कि शेख अब्दुल्ला वक्फ बोर्ड के चेयरमैन हैं और मैं वक्फस का मन्त्री हूँ, इस लिए मैं उसके बारे में बात करने के लिए गया था। जो व्यक्ति अपने आपको हिन्दुस्तान का नागरिक नहीं कहता है, जो व्यक्ति खून-खच्चर की आबाज लगाता है और कहता है कि अजर काश्मीर में प्लेबिसाइट नहीं किया जायगा, तो खून खराबा होगा, बगावत होगी, उसको यह सरकार वक्फ बोर्ड का चेयरमैन बनाती है। इसकी क्या जस्टिफिकेशन है? क्या ये मन्त्री और यह सरकार जान-भूक कर या अनजाने पाकिस्तानी एजेंटों के हाथों में खेल रहे हैं?

SHRI M. YUNUS SALEEM : For the information of the hon Member, I may say that this Wakf Act is not in force in the State of the Jammu and Kashmir. They have got their own law and we have no direct supervision or control over the Wakf Act there.

श्री कंबर लाल गुप्त : सभापति महोदय, इससे प्राप की तसल्ली नहीं हुई होगी। अगर इनका वहां पर कोई डायरेक्ट कंट्रोल नहीं है, तो वह उनसे वक्फ के बारे में बात करने के क्यों गये थे। इस का मतलब यह है कि वह वक्फ के बारे में बात करने के लिए नहीं गये। फिर वह पाकिस्तान के बारे में बात करने के लिए गये थे, किस ढंग से इनफिल्ट्रेशन हो....
... (श्रवण).....

SHRI RANDHIR SINGH (Rohtak) : This is objectionable. It should be expunged.

SHRI S. M. BANERJEE (Kanpur) : This is not fair.

SHRI KANWAR LAL GUPTA : I was referring to his talking about Pakistan. What is objectionable in it ?

MR. CHAIRMAN : The Minister has made it clear that this Act does not apply to J. and K. Let him confine himself to the Bill before us and not go into extraneous matters for which he may take other opportunities.

श्री कंबर लाल गुप्त : सभापति महोदय, अगर यह जम्मू-काश्मीर पर लागू नहीं है, तो जम्मू-काश्मीर पर भी लागू होना चाहिये।

दूसरी बात, जम्मू-काश्मीर में किस की सरकार है, घोडर-भाल कंट्रोल सेक्टर का है, इस लिये जम्मू-काश्मीर में हमारी सरकार है। जब जम्मू-काश्मीर में हमारी सरकार है, तो उसने एकऐसे व्यक्ति को वहां के वक्फ बोर्ड का चेयरमैन बनाया है, जो हिन्दुस्तान के प्रति वफादार नहीं है। कम से कम शेख अब्दुल्ला के बारे में तो

ऐसा ही विश्वास है कि वह हिन्दुस्तान के प्रति वफादार नहीं है। चौधरी साहब से मैं प्रापके जारेये पूछना चाहता हूं क्या वह वफादार है? अगर वह वफादार है, तब तो मुझे कोई एतराज नहीं है। आज शेख अब्दुल्ला वक्फ की प्रापटी का नाजायज फायदा उठा रहा है....

MR. CHAIRMAN : That is all right. You have sufficiently drawn the attention of the Minister. You must come to the point.

SHRI KANWAR LAL GUPTA : You should not feel so much disturbed, Sir.

MR. CHAIRMAN : I am not concerned with the merits of that. There should be some relevance. I am not expressing my opinion.

SHRI M. UNUS SALEEM : That has nothing to do with this amendment.

श्री कंबर लाल गुप्त : मेरा कहना यह है कि ऐसे व्यक्ति को, चाहे वह कोई भी क्यों न हो, वक्फ का मेम्बर भी नहीं बनाना चाहिये।

दूसरी चीज—जैमा मन्त्री महोदय ने कहा है कि वह एक कम्प्रीहैन्सिव बिल लायेंगे दो तीन माल से उन्होंने वायश किया हुआ है—मैं चाहता हूं कि वह जल्द प्राये ताकि उस के जरिए से चाहे हिन्दुओं के तीर्थ स्थान हों या मुसलमानों के हों सब की सुरक्षा हो सके। इस तरह का बिल जल्द भाना चाहिये, पहले ही इस में बहुत देर हो गई है इन कं वकिंग के बारे में कमीशन प्राफ एन्कवायरी होना चाहिये और सरकार राज्य-सरकारों में मिल कर कोई ऐसी योजना बनाये, जिसमें इनका 25 करोड़ रुपया गरीब लोगों के काम में प्रा सके, उन को एम्प्लायमेंट मिल सके, डिस्विन्सरीज मुल सके प्रस्प.जान, स्कूल कालेज खुल सकें।

मैं इस बिल के सिद्धान्तों के विरुद्ध नहीं हूँ, मन्त्री महोदय ने जो बिल रखा है, मैं उस का समर्थन करता हूँ—किसी भी वक्फ की प्रापटी

[श्री कंवर लाल गुप्त]

किसी दूसरे के कब्जे में नहीं जानी चाहिये, लेकिन उसका ठीक इस्तेमाल हो।

MR. CHAIRMAN : Mr. Randhir Singh. Please be brief.

SHRI RANHIR SINGH : He took about 15 minutes.

MR. CHAIRMAN : I am requesting you. I do not compare you with others. You can convey the same thing in a short period.

श्री रणधीर सिंह : चेयरमैन महोदय, हाउस के सासने इस वक्त जो बिल है, इसकी मैं पुरजोर हिमायत करता हूँ। इस में एक कौमी और इखलाकी पहलू भी है और वह पहलू यह कि हमारे सविधान में—प्रियेम्बल में और फण्डमेन्टल राइट्स में—इस बात का जिक्र किया गया है कि किसी भी बिरादरी को, किसी भी मजहब को यह शिकायत न हो कि उसके साथ इम्तियाज किया गया है चाहे इबादतगाह के सिलसिले में हो या मजहबी ख्यालात के सिलसिले में हो। चूँकि यह बिल मस्जिदों की बाबत है, कब्रिस्तान, खानगाहों, ईदगाहों की बाबत है, इस लिए मैं ऐसा महसूस करता हूँ कि इस में मियाद का कोई सवाल नहीं होना चाहिये। अगर कोई 500 साल या हजार साल पहले से भी किसी मस्जिद, मन्दिर, गुरुद्वारे पर कब्जा किये बैठा है, तो मैं कहूँगा कि उस मलेमानस को बिना किसी तरद्दुद के जिसकी है, उस को दे देनी चाहिये। मैं आपके गोशे—गुजार कहना चाहता हूँ कि एक नहीं सैकड़ों ऐसे मसले मेरे इल्म में हैं कि जहाँ मस्जिदों पर लोगों ने जबरदस्ती कब्जा किया हुआ है, ईदगाहों, इबादतगाहों पर जबरदस्ती कब्जा किया हुआ है—भगवान की जमीन पर कब्जा किया हुआ है। क्या फर्क है गिर्जों में, मस्जिदों में, मन्दिरों में, एक ही भगवान हैं, जिसका लोग नाम लेते हैं, लेकिन जालबी इन्सान उस पर भी कब्जा करने से नहीं

चूकता। इस लिए कोई कहे कि 12 साल की मियाद हो या 20 साल की मियाद हो, मैं इसे गलत समझता हूँ।

पाकिस्तान क्या करता है या दूसरे देश क्या करते हैं, हमें इसमें नहीं जाना है, हमारा देश सेक्युलर देश है, ऊँचे ष्रदशों का देश है, हमारी कौम, हमारा मुल्क दुनिया के सामने एक जीता जागता देश है, हमने अपनी सेक्युलरिज्म की मिसाल देनी है। अयूब साहब क्या कहते हैं, अब्दुल्ला साहब क्या फरमाते हैं। अब्दुल्ला का दिमाग तो ठीक हो गया है, अगर कुछ बाकी बचा होगा तो और ठीक हो जायगा। अयूब साहब के यहाँ भी फिर वही इज्म भ्रानेवाला है जो हिन्दुस्तान में है और वह बक्त जरूर आयेगा जब हिन्दू, मुसलमान, सिख दोनों तरफ के मिल कर रहेंगे, वह प्यार की हालत जरूर पैदा होगी, लेकिन थोड़ा वक्त लगेगा।

अब बुनियादी बात यह है कि किसी मुसलमान भाई को यह अहसास न हो—मैं तो यहाँ तक कहता हूँ कि इबादतगाह ही नहीं, उसकी किसी भी प्रॉपर्टी पर हम ट्रेसपास बरदाश्त नहीं कर सकते, हमारा सविधान बरदाश्त नहीं कर सकता। इसी लिये यह बिल यहाँ लाया गया है। मेरे भाई ने कहा कि रेडटेपिज्म है—रेडटेपिज्म होता है, दूर हो जायेगा, लेकिन दो चार बातें मैं मिनिस्टर साहब से कहना चाहता हूँ इन के जो केसेज अदालतों में पैडिंग हैं, उन केसेज में वकील बहुत पैसा खा जाते हैं, इन इबादतगाहों के नाम पर, भगवान के नाम पर, ऐसी मारी फीसें लेते हैं कि एक-एक वकील लखपति और करोड़ पति बन गया है। उन वकीलों को आप ठेकेदार न बनाय। वह वकील तो घाज लखपति बन चुके हैं। आप वक्फ के लिए लीगल एडवाइजर मुकर्रर कर दीजिए और उसके लिए उनका फ्री माह भत्ता सो रुपया तय कर दीजिए। घाज तो हर वकील एक एक केस में हजारों

रूप की मांग करता है। दूसरी बात यह भी है कि आज मुतवल्ली साहब भी वकीलों से मिले रहते हैं। आज गावों के पटवारी की मार्फत, मुतवल्ली और वकीलों की मार्फत एक तरह की ब्लॉक-मार्केटिंग चल रही है। आप इन सारी बातों की भी इन्वैयरी करवाइये। और जो एक एक इन्च जमीन हो वह इसी के लिए सर्फ हो, इसकी तरफ आप खास तबज्जह दीजिए।

18 hrs.

एक बात मुझे और अर्ज करनी है कि वकफ के जो मेंबर्स हों वह इन्टेग्रिटी के आदमी होने चाहिए। आज तो लोगों ने एक प्रोफेशन सा बना लिया है और अपनी बड़ी बड़ी जायदादें खड़ी कर ली हैं। (व्यवधान) एक बात यह है कि आज जहाँ जिस जायदाद पर इस्टीमेशन वगैरह हों, कोई स्कूल कालेज बन गए हों, वहाँ पर मैं चाहूँगा कि आप उस जायदाद को 99 वर्ष के पट्टे पर उन के साथ कम्पाउन्ड कीजिए। लेकिन अगर किसी ने जब-दस्ती कब्जा कर लिया है तो बरूना नहीं है। भ्रवाम को ही उसका फायदा उठाना चाहिए। लेकिन जो ऐसी पार्टीज हों उनके साथ राजीनामा करके टोकेन प्राइम पर दे दीजिए।

एक बात मुझे और कहनी है कि वे उजड़े हुए आदमी जो कि मशरकी या मग़बी पाकिस्तान से आये हुए हैं, जो कि कम्पेन्सेट नहीं हुए हैं और उन्होंने कोई दुमजिला या तिमजिला मकान बना लिया हो तो मैं आपसे अर्ज करूँगा कि ऐसे डिजविंग केसेज में, पेंडिंग केसेज में अदालत के सामने राजीनामा वगैरह करके अगर ठीक कर सके तो वह बहुत अच्छी बात होगी। अदालत में मल्टिप्लिसिटी आफ केसेज नहीं होना चाहिए। आज कोर्ट में हजारों केसेज चल रहे हैं। अगर आप उन केसेज को पर्मुएशन से, बातचीत से या राजीनामे से समाप्त कर सकें तो बहुत अच्छी बात होगी क्योंकि भलावा इस के फिर वही फिरकापरस्ती की हवा मिलती है।

मैं चाहूँगा कि आपकी तरफ से यह हुकम जाना चाहिए कि ऐसे केसेज को राजीनामे से भाई चारे से और बिरादरी के फँसले से जहाँ तक हो सके तय कर लेना चाहिए। और एक एक चप्पा जमीन का जो कि वकफ का है वह मालिकान को मिलना चाहिए। इसके भलावा मैं आपसे यह भी दख्तास्त करूँगा कि आप मेहरबानी कर के जल्द से जल्द पब्लिक ट्रस्ट ऐक्ट को सायें ताकि ट्रेसपासिंग के केसेज को दूर किया जा सके।

श्री स० मो० बनर्जी (कानपुर) : समापति महोदय, ग्राम तौर पर मैं अध्यादेश के खिलाफ हूँ लेकिन इसकी ग्रहणियत को देखते हुए मैं समर्थन करना चाहता हूँ, इमाम भाई और गयूर भाई ने जब कहा कि इसको पास किया जाये। एक बात इमाम साहब ने कही है कि 31 दिसम्बर, 1970 तक के लिए कहा गया है लेकिन जिस रफ्तार से चीजें चल रही हैं उसमें मुझे शकोशुभा है कि शायद 70 के बाद भी दोबारा आपको या तो कोई बिल लाना पड़ेगा या अगर उस समय पार्लमेन्ट का सेशन नहीं चल रहा होगा तो कोई अध्यादेश निकालना पड़ेगा। इसलिए मैं समझता हूँ कि अगर मन्त्री महोदय इस चीज को अच्छी तरह से जानते हो, तब तक यह काम होने वाला है, उसके बाद भी एक्सटेंशन की जरूरत होगी तो फिर उसके लिए यह अच्छा होगा कि कोई अमेन्डमेन्ट लाकर इसको 27, 73 या 74 तक रखने की कोशिश करे वरना दोबारा अगर बिल लाने की बात होगी या अध्यादेश लाना पड़ेगा तो उसकी नुकता-चीनी हो सकती है। लोग यह कहेंगे कि उस वक्त बिल लाने वालों ने दूरन्देशी से काम नहीं लिया।

समापति महोदय, 15 अगस्त, 1947 को इस देश के टुकड़े हुए थे लेकिन मैं ऐसा विश्वास करता हूँ कि शायद वह दिन दूर नहीं जबकि पाकिस्तान के मेहनतकश भ्रवाम और हिन्दुस्तान के मेहनतकश भ्रवाम एक हो जाय।

[श्री स० मो० बनर्जी]

वह मसनुई दीवार गिर जायेगी। क्योंकि हो नहीं सकता कि मां यहां पर हो और बेटा वहां पर हो, महबूब यहां पर हो और महबूबा वहां पर हो। और यह एक अजीब आंधी जो पाकिस्तान में उठी हुई है, चाहे पूर्वी पाकिस्तान हो या पश्चिमी पाकिस्तान हो, एक दिन ऐसा जरूर आयेगा कि जब ये मेहनतकश अबाब, जो जदो-जहद कर रहे हैं ऐक्सप्लायटेशन के खिलाफ, हम सारे लोग एक हो जायेंगे। वह दिन दूर नहीं है। लेकिन तब होंगे जब हुकूमत उन के हाथों में होगी जो मजदूरों और किसानों के नुमायदे हों। हो सकता है कि मैं न होऊ, आप हों, लेकिन हमारी आने वाली श्रौलाद होगी।

मैंने देखा है पाकिस्तान आर्मी के एक बड़े अफसर यहां आये थे और उन्होंने हमारी डिफेंस मिनिस्ट्री से यह इवाहिश जाहिर थी कि मैं अपने घर को देखना चाहता हूँ। पाकिस्तान का एक अलिशान अफसर जिसने हिन्दुस्तान पर गोली चलायी हो, बमबारी की हो, टक लाया हो, और वह कहता है कि मैं अपने गांव को देखना चाहता हूँ। और जब उसने जा कर देखा उस घर को जहां उसके बाप हुक्का पीते थे, और उस पनघट को जहां पर लड़कियां पानी भरती थीं तो वह जोर जोर रोने लगा। वहां पर एक बुढ़िया को देखा उसने, मैं उस अफसरों का नाम नहीं लेना चाहता, और वह उस से लिपट कर रोने लगा क्योंकि उसे सिर्फ अपना गांव ही नहीं मिला बल्कि एक मां भी मिल गई थी।

श्री रणधीर सिंह : जनरल उमराव खां उसका नाम था।

श्री स० मो० बनर्जी : जी हां ठीक है, यही नाम था। वह अपने गांव में जा कर रोने लगा सिर्फ इतना ही नहीं कि उसे अपना गांव मिला, बल्कि एक मां भी मिली।

इसी तरह जब बनराज साहनी जब पाकिस्तान में लाहौर गये थे तो वह जार जार रोने लगे यह सोचकर कि आज वह अपने घर में मेहमान बन कर आये हैं। इमामवाड़े और दरगाह की जहां तक बात, मैं कहना चाहता हूँ कि मैं बंगाली हूँ, पंजाब में मेरी पैदायश हुई और उत्तर प्रदेश में पला हूँ, लेकिन आज भी मेरी मां अगर जिन्दा होती और कोई दरवेश अगर दरगाह में होता तो वहां जा कर उस के दर्शन में खिल और पताशे लाकर बच्चों को जरूर बांटती तो मैं कहता हूँ कि आज भी हिन्दू ऐसे करोड़ों हैं जो दरगाहों में जाते हैं, मकबरों में जाते हैं, चादर चढ़ाने जाते हैं, अजमेर शरीफ जाते हैं। यह एक अजीब देश है। उर्दू जानने वालों को अच्छी तरह से मालूम है कि 'हे' से हिन्दू और 'मीम' से मुसलमान। दोनों मिला दीजिये तो हम ही हम है।

मुझे अफसोस है जब गयूर भाई ने कहा इसी दिल्ली शहर में जहां पर हम भाषण देते हैं और कहते हैं कि हमारे देश में सेक्यूलरिज्म है, हिन्दू मुसलमान एक है, उसी दिल्ली शहर में अगर मस्जिदों को गिराया गया होगा तो मैं चाहता हूँ कि इस की जांच होनी चाये कि कौन है आखिर जो मस्जिदों को गिराता है। क्या इस देश में हिन्दू मुसलमान एक साथ नहीं रह सकते? मैं चाहता हूँ कि जितने भी इबादत-गाह हैं, चाहे मन्दिर हो, मस्जिद हो, गिरजा घर हो या मस्जिद हो उन सब की मरम्मत करायी जाय। क्योंकि इसी शहर की मंगी कोलोनी में बैठ कर गांधीजी एक ही चीज कहते थे कि 'ईश्वर अल्लाह तरे नाम', उसको हम लोग माने।

श्री कंबर लाल गुप्त : आप तो कम्युनिस्ट है, रूस में क्या हो रहा है ?

श्री स० मो० बनर्जी : रूस में आप मस्जिद तेमूरी ब्रेलें तो हज़ारों लोको को तमाज पढ़ते देखियेगा, और उन के साथे पर सजदे के दाय होंगे। इसलिए यहां पर जो हिन्दू राष्ट्र का स्वप्न देख रहे हैं मैं उन से कहना चाहता हूँ कि ऐसे हिन्दू राष्ट्र नहीं बनेगा कि हरिजनों के कान में, जो वेद ध्वनि सुने, शीशा डाल दिया जाय और मुसलमानों को कह दिया जाय कि वह पाकिस्तान चले जायें। यह नहीं हो सकता। यहां पर हिन्दू, मुसलमान, सिख, ईसाई, एक साथ रहेंगे। दरगाहों की हिफाजत होगी खानखाना की हिफाजत होगी। और अगर किसी ने मकबरे पर मकान बना लिया हो, मान लीजिये कल कोई राजघाट पर मकान बन जाय तो क्या आप उसे रहने देंगे ?

मैं श्री कंवर लाल गुप्त के इस विचार की पूरी तरह से तारीफ करता हूँ कि वक्फ के मामले में जो श्री गडबड़ियां बंगरह हों वह अवश्य दूर की जानी चाहिए। इसमें 80-85 करोड़ रु० धरा रहा है और उनका सही इस्तेमाल होना चाहिए।

साथ ही मैं श्री गयूर अली खां के भी इस विचार की तारीफ करना चाहता हूँ कि जहां यह मस्जिदें बंगरह ढाई गई हो, इमामबाड़ों को उठा लिया गया हो या जाये नमाज हटाये गये हों, जहां भी इस तरह की चीजें की गई हों तो उनको दूर होना चाहिए और उनकी दुर्गती की जानी चाहिए।

श्री शशि भूषण (खारगोन) : समापति महोदय, यह एक बहुत प्रथम सलाह है। खास तौर से जब यह विवेक लाया गया है मैं तहेदिल से चाहता हूँ कि इस विवेक को मान मिला जाय लेकिन एक बात का मुझे शक जरूर है जैसा कि हमारे बनर्जी साहब ने भी कहा कि यह दो साल का वक्त बहुत कम है। यहां हमारी प्रदालतों में जिस प्रकार की देरी होती है फंसले होने में और जो यह हमारा इतना बड़ा देश है उसको देखते हुए यह वक्त बहुत थोड़ा है। इसलिए मैं मिनिसटर साहब से दरखास्त

करूंगा कि इसको और ज्यादा वक्त दिया जाय। कारण यह है कि बहुत सी जमीनें ऐसी हैं जो कि बयानामी हैं। वक्फ की जमीनें हैं, हिन्दू का कब्जा है किसी फकीर या गरीब मुसलमान के नाम से तो जितना आप उसके बीच में जायेंगे, हूबेंगे तो पता लगेगा कि गरीबी की वजह से कुछ दबाव की वजह से बहुत यह बयानामी के काम मुसलमानों के द्वारा हुए हैं। उस से छुड़ाना भी यह वक्फ का काम होना चाहिए।

इन जमीनों का इस्तेमाल भी बहुत गलत तरीके से हुआ है। बिनाल के लिए मैं आपकों बालाऊ कि जब वह दिल्ली में प्रोबराय होटल बनने वाला था तो उस वक्त बड़ा शोर हुआ कि यहां कबरिस्तान है यह है और वह है। लेकिन उस के बाद आपस में फंसला हो गया और वह बन गया। एक स्कूल भी वहां बन गया। मैं मिनिसटर साहब से दरखास्त करूंगा कि इस बारे में देखना चाहिए और जो इस प्रकार से जगहों का गलत ढंग से इस्तेमाल होता है उसे रोकने की भी कोशिश करनी चाहिए। अगर ऐसी जगहों का इस्तेमाल हो तो एक सही इस्तेमाल उनका होना चाहिए। जहां यह प्रोबराय होटल बना है मैं समझता हूँ कि अगर वहां पर कोई यतीमखाना बंगरह बनता तो बड़ा अच्छा होता। उस समय नौकरानों के लिए कोई बड़ा होस्टल बनाते जिस में हिन्दुस्तान भर के गरीब लड़के, हिन्दू, मुसलमान, ईसाई, सब आकर रहते। लेकिन वह प्रोबराय होटल वहां पर खुला और उसको लेकर जो वहां प्राये दिन रंगरेलियां मनाई जाती है तो उसके लिए वह गलत थी। ऐसी जगह पर होटल नहीं बनाया जाना चाहिए था जहां कि शराबखाना जैसी चीजें हों। लेकिन जैसा मैं ने कहा वह वहां पर बनीं।

इसी तरह से हिन्दुस्तान भर में ऐसी बहुत सी जगहें हैं, मिसाल के लिए लखनऊ में मौजूद हैं जहां कि ऐसी जगह सिनेमा बनाया जाने लगता है जहां के लिए शोर होना है कि वक्फ है की जमीन है और वहां पर कबरिस्तान

[श्री शशि भूषण]

है लेकिन उसके बाद फिर फँसला हो जाता है और वह सिनेमा ऐसी जगह पर खड़ा हो जाता है। मेरा कहना है कि मिनिस्टर साहब इस चीज को देखें कि ऐसी जगहों पर अगर कुछ बनना है तो उस जगह के हिसाब से एक सही और माकूल चीज बने। मैं तो यह कहूँगा कि अगर उनकी बड़ी पाक नीयत है और इन पाक जगहों को सही तौर पर इस्तेमाल करना चाहते हैं तो मैं दरखास्त करूँगा कि वहाँ पर अस्पताल बनाइये, पब्लिक के राष्ट्र के लाम के लिए और कोई उपयोगी चीज बनाइये। लेकिन कवरिस्तान जैसी वक्फ की जमीनों में सिनेमा या होटल बनाना यहाँ कि शराब पी जाय और रंगरेलियां मनाई जाय तो मैं उससे सहमत नहीं हूँ और मैं मिनिस्टर साहब से दरखास्त करूँगा कि वह इस बारे में दिलचस्पी लें और इस की कोशिश करें कि ऐसी पाक जगहों का इस तरह से गलत इस्तेमाल न हो।

मैं श्री कंवर लाल गुप्त की इस बात से मुतफिक हूँ कि शेख अबदुल्ला साहब को वक्फ का चेयरमैन नहीं बनाना चाहिए। जो लोग मस्जिदों और मन्दिरों का सियासत के लिए इस्तेमाल करते हैं उन लोगों को उम जगहों पर हावी नही रहने देना चाहिए। अब जैसे शंकराचार्य जी हैं जोकि अपनी गद्दी को राजनीति के लिए इस्तेमाल करते हैं और चुनाव के वास्ते भूल हड़ताल आदि आन्दोलन किया करते हैं। इसी तरह शेख अबदुल्ला जोकि पहले हिन्दुस्तान के एक बहुत बड़े लीडर थे लेकिन उन दिन से वह हिन्दुस्तान की जनता की निगाहों से गिर गये जिस दिन से उन्होंने मस्जिदों में जाकर सियासत का प्रोपेगेंडा करना शुरू कर दिया। इस लिए ऐसे तमाम लोगों को जोकि इन मस्जिदों और मन्दिरों का इस्तेमाल सियासत के लिए करते हैं उन लोगों को इस वक्फ बोर्ड का चेयरमैन नहीं बनाना चाहिए। चाहे प्राप की वहाँ सीमा हो या न हो लेकिन हमें अपना पूरा प्रसर वहाँ डालना चाहिए।

इस देश में कमाल पाशा की तरह सोचा गया है कि अगर पब्लिक यूटिलिटी के लिए किसी कव्रिस्तान, मन्दिर, मस्जिद या चर्च को जनता के काम के लिए इस्तेमाल करना पड़े तो वह भगडे की जड़ न बने। आज यह होता है कि कहीं पीपल का पैर लगा दिया जायेगा,

कहीं हनुमान जी की मूर्ति रख दी जायेगी, कहीं कब्र का भगड़ा शुरू हो जायेगा, जिसकी वजह से बड़ी बड़ी सड़कें और रेलवे लाइनें सीधी नहीं निकल सकेंगी। मैं जानना चाहता हूँ कि इस तरह की चीजें मुल्क में कब तक चलेंगी? एलेक्शन में उनका इस्तेमाल होता है। मैं चाहूँगा कि वक्फ का बहुत अच्छे तौर पर इस्तेमाल किया जाये और पब्लिक यूटिलिटी के लिए इस्तेमाल किया जाये। जिन लोगों ने उन पर कब्जे कर लिये हैं, मैं चाहूँगा कि वह उनको छोड़ दें।

बहुत से लोग तो इसको बहुत बड़े धर्म का काम समझते हैं कि किसी मन्दिर में मस्जिद रक्खी जाय या कहीं मस्जिद को मन्दिर में बदल दिया जाये। हरियाणा में बहुत सी ऐसी जगहें हैं जो देवी के मन्दिर हैं लेकिन उनको इबादातगारों में बदल दिया गया है। मैं समझता हूँ कि चाहे मस्जिद हो, चाहे मन्दिर हो या चर्च हो, सयासत के लिए उनका इस्तेमाल किया जाना बहुत गलत है। जिन लोगों ने मस्जिद को मन्दिर में तबदील किया है वह इस लिये नहीं कि वह वहाँ पूजा करना चाहते हैं, इसलिये नहीं कि उनमें ईश्वर भक्ति है। वह राजनीति के लिए उनका इस्तेमाल करेंगे। इस देश में बौद्ध और जैन सारे एक घर में रहते हैं, यहाँ बहुत दिनों तक अलग-अलग लोगों में शास्त्रार्थ हुए हैं। बौद्धों और शंकराचार्य का शास्त्रार्थ हुआ है और उसमें माण्डवी ने अपने पति के खिलाफ फँसला दिया है। हमारे देश में हमेशा राष्ट्रीय एकता की भावना रही है। वक्फ के लिये यह समझ लेना कि वह बेकार है, उनको पूरा काम करने का मौका न देना, और उसमें सयासी दखल देना बड़ा गलत है।

यहाँ पर ग्राम तौर से साम्प्रदायिक संस्थाएँ हैं और द्धर्माय से संविधान के खिलाफ उन्हें वोट मांगने का भी अधिकार है धर्म के नाम पर। मैं उन लोगों से प्रार्थना करूँगा कि वह कम से कम इन चीजों में सयासत का इस्तेमाल न करें। मुल्क में हमें बड़े बड़े काम करने हैं, उनमें सब लोग सहायता करें।

इतना कहकर मैं इस बिल का समर्थन करता हूँ।

SHRI M. YUNUS SAJJAM : Mr. Chairman, I am really very much grateful

to those hon. Members who have supported this Bill. There is now very little for me to say about the subject. Certain hon. Members have raised some points and I will try to offer an explanation in order to satisfy them.

Hon. Member, Shri Mohamed Imam, has thrown some light on the question of institution of suits. According to the figures and data available to us, so far about 20,000 properties have been found to be under illegal possession of different persons and from the last extension, that is, from 14th August 1967 to December 1968, we have been able to institute about 13,500 suits.

Some of the hon. Members have been lawyers and they know what is the minimum cost of litigation today. For the institution of one suit the minimum amount required is Rs. 100 including court fee and everything.

SHRI RANDHIR SINGH : Too less.

SHRI M. YUNUS SALEEM : The difficulty should be appreciated by hon. Members that on the one hand the property is under the unlawful possession of a trespasser and the wakf boards do not get any income therefrom, on the other, they are constrained to institute suits against the illegal possessor. According to the law of wakf, the income of one wakf cannot be spent for the benefit of another wakf. That is the difficulty. Therefore on account of the lack of funds there have been difficulties in the way of institution of suits for the wakf boards. A colossal amount was required and is still required for the institution of suits.

श्री शशि भूषण : गवर्नमेंट एंड कयो नी देती ?

SHRI M. YUNUS SALEEM : We have been trying but the State Governments are reluctant. This is the difficulty. Most of the Governments are not sympathetic towards the administration of wakf properties.

श्री शशि भूषण : सेंट्रल गवर्नमेंट एंड दिया करे ।

SHRI M. YUNUS SALEEM : We shall consider this point.

These are the practical difficulties but we have not been sleeping over the matter.

We have been constantly trying to institute suits wherever it is possible.

Now, some hon. Members, including my hon. friend, Shri Naidu, suggested that certain properties which have gone into the possession of certain persons, where they have constructed buildings, should not be disturbed. We have been trying our best not to disturb poor people and, as far as possible, we compromise. I hope this extension may help us entering into compromise with such persons. But the moment they know that limitation is expiring, they become reluctant to enter into a contract. When they know that limitation has been extended or the suit has been instituted . . . (Interruptions). It is very difficult for the wakf Boards to discover whether, deliberately, the transaction was entered into, whether deliberately, knowing that the property belonged to a particular wakf, it was purchased or whether it was innocently purchased. It is very difficult to discover that. As a matter of policy, we have made it a point not to disturb the innocent persons and, wherever it is possible, we enter into a compromise. It was suggested by another hon. Member that whenever, on wakf properties, schools, colleges, hospitals or orphanages have been established or constructed, they should not be disturbed. We have never disturbed them so far. We have granted lease on nominal rent. A building which could fetch a rental of Rs. 200 or Rs. 300, has been leased on a nominal rent of Rs. 5 or Rs. 10. We do not want to disturb them. We know it is for charitable work. But we have to maintain wakf properties at any cost. We shall not be performing our duty if we do away with the properties. Therefore, in such cases, we have been very considerate and have realised that such properties used for public purpose should not be disturbed.

Now, I come to points raised by Shri Kanwar Lal Gupta. He suggested that it was due to the negligence of the Central Government that it was not possible to know as to how many wakf boards have completed their survey and how many suits have been filed in the States. I would respectfully, submit that he has been very unkind to us in making such an assessment.

[Shri M. Yunus Saleem]

He would have considered the practical difficulties. I myself have been running from State to State, approaching the Chief Ministers and the Ministers of *Wakf* and requesting them to offer cooperation to the Commissioners to complete the survey. There are practical difficulties. Simply by appointing a Commissioner the problem is not solved, unless he gets help and cooperation from the Collectors, from the Deputy Collectors, from tehsildars, from Municipal Committees, who hold the records. It is not possible for him to complete the survey. The *wakf* properties are not situated in cities only. They are situated in villages also. There are agricultural lands, graveyards, mosques, Imam Baras, in different localities. In several cases, *Mutawalis* do not exist. Either they have gone away or they do not care to supervise the properties. In such cases, it is very difficult for a Commissioner to complete the survey. There are practical difficulties to complete the survey without the cooperation of the village officers and revenue officers. They are reluctant in offering the necessary assistance and cooperation to the Commissioners with the result that the survey is not completed. In such case, I myself have tried to contact the State authorities, requesting them to help the Commissioners where they have been appointed and to appoint the Assistant Commissioners where the Assistant Commissioners have not been appointed and to offer every possible help to the Commissioners so that the work of the survey may be completed. The Central Government is taking every possible effort to see that the survey is completed. The moment the survey is completed, the lists are published in the Official Gazettes and the suits are instituted without any difficulty. As I pointed out, in one year, we have instituted 13,000 suits. It is not a joke to institute 13,000 suits in a year. The practical difficulties have got to be faced. In such cases where, as pointed out by Mr. Kanwar Lal Gupta, certain plots of land were leased out by the Government, claiming the property belonged to the Government the claim has been lodged by the *wakf* Board against the lessee, as the case may be.

In such cases, the hon. Member need not

worry because it is really a dispute between Government and the *Wakf* Board. If the matter is finally settled by the court that the property belongs to *Wakf* Board and not to Government, the *Wakf* Board will get the benefit of the property. If ultimately it is decided by a competent court of law that the property belongs to Government, then, of course, the *Wakf* Board would not get the benefit. In such cases if lease has been wrongly granted, then automatically the consequence would follow. . . .

MR. CHAIRMAN : What happens if the property of the *Wakf* Board is leased by Government ?

SHRI M. YUNUS SALEEM : If the property has been leased by Government and a building is constructed, then it will be open for the Government to pay compensation to us and let them continue to occupy the land because it is. . . .

SHRI KANWAR LAL GUPTA : It is a disputed land. It is claimed by the *Wakf* Board that the land belongs to the *Wakf* Board. On the other hand, Government says, it is all right. What should the people do ? That is the problem. Both the authorities are demanding the lease money. We should pay ?

SHRI M. YUNUS SALEEM : What I submit is this. If a certain plot of land does not belong to Government and Government officials deliberately lease out that property to some persons and on that plot of land construction has taken place, this is the fault of the Government, and Government has got to face the consequences. They will pay the compensation to the *Wakf* Board according to the market rate or grant them some other land in lieu of that land. But we cannot change the object of the *wakf*. Suppose a person has created a *wakf* for establishing a graveyard and on that, the Government has helped certain persons to construct their houses, we cannot change the object of the *wakf* because it was the intention of the creator of the *wakf* that that plot should be used for graveyard only; we cannot change it. The only alternative will be this. We will say, since you have committed a mistake, give us compensation or a suitable land in lieu

of that land wherever possible, so that that plot may be used for graveyard purposes. In such cases, we shall enter into some sort of adjustment or settlement. But I can assure the House that we are not intending to disturb the persons who have made constructions innocently. That is not our intention and we are not going to do that.

My friend, as usual, has tried to cast reflection on my person. My friend is not aware, perhaps he did not try to understand, he did not even care to read the *Wakf* Act. There are many States in this country where the Act of 1954 is not in force—not only Jammu and Kashmir, but also U. P., Bihar, West Bengal, Bombay and Gujarat. I have been trying to contact the Chief Ministers and the authorities there to request them to provide facilities for the enforcement of the 1954 Act so that there may be uniformity in the administration of the law of *wakf*. With that purpose I had a talk with the Chief Minister of Jammu and Kashmir, and the Chief Minister of Jammu and Kashmir informed me that Mr. Sheikh Abdullah was the Chairman of the *Wakf* Board. I tried to discuss with him as to what are the possibilities of enforcing the Central Act there. We have to consult them. Their consent is necessary because it is a concurrent subject and without the consent of the State it is not possible to enforce the Act. It is not possible to enforce it by issuing a notification in the Official Gazette as in the case of other States. There is no harm in going to Sheikh Abdullah to discuss with him regarding *Wakf* problems of this State. But there are certain persons who are in the habit of attributing motives to the activities of the people. I cannot help them. It is their habit and that of the party which they represent. It is perhaps in their programme to do like that. . . .

SHRI RANDHIR SINGH : There is everything wrong with Sheikh Abdullah. There is nothing wrong with you.

श्री कंबर लाल गुप्त : लेकिन आपने एत-
रज उठाया था कि शेख अब्दुल्ला को क्यों

चेयरमैन बनाया गया, इसका घाप जवाब दीजिये।

SHRI M. YUNUS SALEEM : I had no business to raise any objection, till the 1954 Act is enforced in that State. I could informally discussed with him the possibility of enforcing that Act and I was given to understand that when Bakshi Gulam Mohammad handed over charge—He was President of the *Wakf* Board—he got Sheikh Abdullah elected as Chairman of the *Wakf* Board. He was appointed Chairman of the *Wakf* Board during his time. Therefore it was not that the present Chief Minister appointed him or got him elected.

SHRI KANWAR LAL GUPTA : You approved of it.

SHRI M. YUNUS SALEEM : I am not interested in approving or disapproving. It is for the people of the State to elect anybody.

Another point, Sir. Wherever the 1954 Act is in force, it is the States which constitute the *Wakf* Board—not the Central Government. It is for the State Ministers and Chief Minister who are responsible for the constitution of the *Wakf* Board, if any of them takes it to his head to appoint some person as member of the Board and the Central Government has no jurisdiction or power to interfere in that direction.

SHRI KANWAR LAL GUPTA : You have interfered in Delhi. I can prove it. I can challenge you.

SHRI M. YUNUS SALEEM : Delhi is Centrally-governed State. My hon. friend also knows it. It was the Lieutenant Governor on whose recommendation the *Wakf* Board was constituted. And, the example of Delhi is not applicable to all the States of the country.

Then, Mr. Benerjee has suggested that the extension of two years may not be sufficient. Certain other hon. Members have also shared that view. Certain

[Shri M. Yunus Saleem]

information has been collected so far and I may say, just as I mentioned in my preliminary speech, that the survey of the States are likely to be completed by the middle of 1970 and by that time, I expect that the Public Trusts Bill may be introduced in the parliament. If the Public Trusts Bill is introduced and passed, the question of limitation in such cases may not arise. Therefore, for the time being, I submit, any further extension need not be considered.

SHRI KANWAR LAL GUPTA : What about the working of the *Wakf* Board ?

SHRI M. YUNUS SALEEM : Working of the *Wakf* Board is according to the Act. Kindly read the Act. You will know about it. So far as the *Wakf* Board is concerned, the members of the *Wakf* Board are to be nominated by the States. The Chairman of the *Wakf* Board is to be elected by the members nominated by the State Government. The States have got power to issue directives from time to time regarding the working of the *Wakf* Board. In certain limited cases, Central Government also has power to issue directives to the State Government, not to the *Wakf* Board. This is the broad scheme of the working of the *Wakf* Board which is known to everybody who has cared to read the provisions of the Act.

MR. CHAIRMAN : Perhaps he means that you should exercise your moral influence in improving. That is what he means nothing more.

SHRI M. YUNUS SALEEM : That is what we are doing. We are certainly doing that. We never hesitate in discharging our responsibilities. We are very anxious and we are very much interested in seeing that there is a very competent and efficient supervision over the *Wakf* properties and *Wakf* properties should not be wasted by unscrupulous mutanallies or dishonest trustee or anybody else who may be in possession of the properties. Even in such cases we do not hesitate in advising the State Government to supersede the *Wakf* Board. For example, in Madras, the *Wakf* Board stands superseded; In Andhra Pradesh, it

was superseded. Very recently, a new Board has been constituted. Therefore, we are doing that. We never hesitate to take action wherever necessary. But there are difficulties. Sometimes, it is very difficult to convince State Governments. Everybody is aware of the behaviour of State Governments these days.

SHRI S. M. BANERJEE : It is true that in the *Wakf* Boards only one community is represented ?

SHRI M. YUNUS SALEEM : According to the provisions of the Act, only a Muslim can be a member. Wherever there are Shias and Sunni *Wakf* properties, they are also appointed as members.

श्री कंवर लाल गुप्त : क्या हिन्दुओं को भी बनायेंगे इसमें ।

श्री शशि भूषण : बाकी लोगों को भी विदमत का मौका दिया जाय ।

SHRI M. YUNUS SALEEM : Every community should be given freedom to administer its own affairs concerning its properties without any interference.

SHRI KANWAR LAL GUPTA : This is a secular State. Every community should be asked to manage the affairs of other communities. I am prepared to have Muslims administer Hindu endowments and charitable trusts. Let Muslims do likewise.

श्री शशि भूषण : माननीय कंवर लाल जी हिन्दुओं की तरफ से बोल रहे हैं । शंकराचार्य के घर में कोई हिन्दु नहीं जा सकता है । मुसलमानों की मस्जिद में हिन्दु जा सकता है, लेकिन यह नहीं जा सकते अपने घर में ।

MR. CHAIRMAN : Do not bring in extraneous matters.

SHRI M. YUNUS SALEEM : For that, the articles of the Constitution will require to be amended because it has been provided there that every community will be given opportunity to manage their charitable affairs, educational institutions etc.

SHRI RANDHIR SINGH : Constitution of *Wakf* Act?

SHRI M. YUNUS SALEEM : *Wakf* Act.

A suggestion has been made that graveyards should not be used for construction of cinemas and hotels. I entirely agree. Wherever it was brought to our notice that such construction was being done, we did interfere and have stopped such irregular construction. But where it was not possible, where records were not available and where muthawallis themselves were in collusion with the purchaser of the land for the purpose of such construction, it has not been possible to take action. In a particular case, it went to a court of law and unfortunately, the court decided against the Board.

SHRI RANDHIR SINGH : What about lawyers looting *wakf* money?

SHRI M. YUNUS SALEEM : That is besides the point. But I assure him that in every *Wakf* Board I have seen that legal advisors are appointed, if necessary more than one, who should be held responsible for conducting cases in courts in the interest of the Board so that the institution of proceedings is not just a simple routine affair but that result also are fruitful.

We are trying to do our best to supervise wherever it is possible; we are trying to appoint the best lawyers, if possible standing counsel also. We are doing everything possible for the efficient management and administration of these properties.

With these words, I move.

MR. CHAIRMAN : Is Shri Goyal pressing his Resolution?

SHRI SHRI CHAND GOYAL : Yes, sir.

MR. CHAIRMAN : I shall now put the resolution to the vote of the House: "

The question is :

"This House disapproves of the Public *Wakfs* (Extension of Limitation) Amendment Ordinance, 1968 (Ordinance No. 13 of 1968) promulgated by the President on 31st December, 1968",

The motion was negatived.

MR. CHAIRMAN : Let us now take up the Bill. The question is :

"That the Bill further to amend the Public *Wakfs* (Extension of Limitation) Act, 1959, as passed by Rajya Sabha, be taken into consideration".

The motion was adopted.

MR. CHAIRMAN : Let us now take up clause by clause consideration.

SHRI J. MOHAMED IMAM : I beg to move :

Page 1, line 8,—

for "1970" substitute—

"1947"

MR. CHAIRMAN : Since the Minister is not accepting it, will the hon. Member be prepared to withdraw it?

SHRI J. MOHAMED IMAM : I withdraw my amendment.

The amendment was by leave withdrawn

MR. CHAIRMAN : There is an amendment by Shri Kanwar Lal Gupta.

SHRI KANWAR LAL GUPTA : As the hon. Minister has assured that he will look into the affairs of the *Wakfs* Board, I am not pressing my amendment.

MR. CHAIRMAN : I shall now put clause (2) to the vote of the House.

The question is :

"That Clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

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

SHRI M. YUNUS SALEEM : I move that the Bill be passed.

MR. CHAIRMAN : The question is :

"That the Bill be passed".

The motion was adopted.

MR. CHAIRMAN : Now the House stands adjourned till 11 A. M. on Monday.

18.43 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, March 24, 1969 Chaitra 3, 1891 (Saka)
