

LOK SABHA

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**SELECT COMMITTEE
ON THE
MAJOR PORT TRUSTS BILL,
1962**

EVIDENCE



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1963/Sravana, 1885 (Saka)

Price: 50 nP.

CORRIGENDA

Select Committee on the Major Port Trust Bill, 1962

(Evidence)

1. Page 9, column 1, line 6.
for 'authoritits' read 'authorities'.
2. Page 21, column 2.
 - (i) line 9, *for 'head' read 'heads';*
 - (ii) line 10, *for 'Trust' read 'Trusts'.*
3. Page 23, column 1, line 26.
for 'is' read 'are'.
4. Page 26, column 2, line 19 from bottom,
*for 'vision follows more or less the
pro-' read 'vision in the
Madras Port Act. In'*

WITNESSES EXAMINED

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I.	VISAKHAPATNAM HARBOUR AND PORT WORKERS UNION, VISAKHAPATNAM 30.3.1963	I
	<i>Spokesmen :</i>		
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	2. Shri S. Ammoru		
II.	VIZAGAPATAM PORT NON-GAZETTED OFFICERS' ASSOCIATION, VISAKHAPATNAM 30.3.1963	I
	<i>Spokesmen :</i>		
	1. Shri B. Dharmarao		
	2. Shri N. S. Prakasarao		
	3. Shri V. S. N. Murthy		
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	1. Shri S. R. Kulkarni		
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	1. Shri A. L. Dias		
	2. Shri S. G. Patel		
	3. Shri Devji Rattansey		
	4. Shri F. Rozario		
	5. Shri S. Nariman		

SELECT COMMITTEE ON THE MAJOR PORT TRUSTS BILL, 1962
MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON THE MAJOR PORT TRUSTS BILL, 1962
Saturday, the 30th March, 1963 at 10.07 hours.

PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

MEMBERS

2. Shri Sudhansu Bhusan Das
3. Shri Shivajirao S. Deshmukh
4. Dr. P. D. Gaitonde
5. Shri V. B. Gandhi
6. Shri Indrajit Gupta
7. Shri P. G. Karuthiruman
8. Shri Niranjan Lall
9. Shri Raj Bahadur
10. Shri H. Siddananjappa
11. Dr. L. M. Singhvi
12. Shri Ravindra Varma
13. Shri Jagjivan Ram

DRAFTSMAN

Shri G. R. Bal, *Joint Secretary and Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

1. Shri G. Venkateswara Ayyar, *Secretary, Department of Transport, Ministry of Transport and Communications.*
2. Shri K. Ranganathan, *Deputy Secretary, Ministry of Transport and Communications.*
3. Shri R. Rangarajan, *Under Secretary, Ministry of Transport and Communications.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

- I. **THE VISAKHAPATNAM HARBOUR & PORT WORKERS UNION, VISAKHAPATNAM**
 1. Shri M. V. Bhadram
 2. Shri S. Ammoru
- II. **THE VIZAGAPATAM PORT NON-GAZETTED OFFICERS' ASSOCIATION, VISAKHAPATNAM**
 1. Shri B. Dharmarao
 2. Shri N. S. Prakasarao
 3. Shri V. S. N. Murthy
- III. **ALL INDIA PORT & DOCK WORKERS' FEDERATION, CALCUTTA**
 1. Shri S. R. Kulkarni
 2. Shri Makhan Chatterjee

I. VISAKHAPATNAM HARBOUR AND PORT WORKERS UNION, VISAKHAPATNAM

Spokesmen:

1. Shri M. V. Bhadram
2. Shri S. Ammoru

II. VIZAGAPATAM PORT NON-GAZETTED OFFICERS' ASSOCIATION, VISAKHAPATNAM

Spokesmen:

1. Shri B. Dharmarao
2. Shri N. S. Prakasarao
3. Shri V. S. N. Murthy

Mr. Chairman: We will call the spokesmen of Items I and II together. They have submitted a Joint memorandum.

(Witnesses were called in and they took their seats)

You have presented a joint memorandum. The joint memorandum has been circulated to all the Members of the Committee. Whatever evidence you give here is likely to be published unless you express a desire to have it treated as confidential. Even in the latter case it is liable to be made available to the Members of Parliament and distributed to Members. If you want to say anything more than what is contained in your memorandum, you may say about that. If you want to stress any points, you may stress those points here.

Shri M. V. Bhadram: We would like to stress one important aspect. From the earlier times right up till now the administrative control of the Port has been changed ten times. The transfer that is going to take place will be for the tenth time. At every stage of transfer, the service conditions of the employees have been very many times affected adversely. This question has been agitating our minds. This question has been agitating the minds of the employees so many times. I would like to bring to your notice one or two points. The administrative control of the Port was transferred from that of the Railways to the Ministry of Transport in October, 1956. What happened was this. The employees who came before 1-10-1956 were governed by certain set of rules regarding leave, privilege passes and other facilities and employees coming subsequent to 1-10-1956 were governed by a different set of rules. I will take you back to 1936 and 1946. During that period, the Port was not under the administrative control of Railways, but other than Railways, under the Central Government and various departments. The Services were not taken into consideration at all. It took very long time for us to get that conceded for purposes of gratuity and other things.

Our minds were agitating and we wanted guarantee of the existing privileges in spite of the transfer that is going to take place in future.

Apart from that, we would like to point out one or two salient points. One point relates to Section 3 relating to the Constitution of the Board. There, the number of each interest is not specified as it has been done in the Bombay Act and Calcutta Act. We would like to stress that each interest and the number should be specified in respect of labour and in respect of various other interests. As far as labour representation is concerned, it has been stated that this will cover employees in the port. We find some difficulty about this. There is the Harbour Construction Workers' Union. They deal with construction of the four berths. Though the labour employed by the company "Steel Creet" are not the Port Employees as such, yet, the labour is employed within the port premises engaged in construction work. It may mean employees in the port as far as we understand the language there. We should specifically include people employed by the port and that would be more apt. Probably that was the intention of the bill also.

Similarly, in the present Bill the Chief Executive Officer of the Municipality is not there. Please see Section 3(1) (c) (vii). In the Calcutta and Bombay Act, the Chief Executive Officer is one of the nominated trustees in the Board. In Bombay and Calcutta Act also the State Government as well as municipalities have been given choice to select their own representatives while this Act does not provide for such a contingency. It is only nomination of the Government. Municipality is not at all specified in the Act. Section 3(1) (c) (vii) says that such other interests as, in the opinion of the Central Government, ought to be represented on the Board, will be represented. In the Bombay Act and Calcutta Act, the Chief Executive Officer is there but there is no provision at all here for electing the councillors to be on the Board of Trustees. This has been provided in

the Bombay Act and Calcutta Act. In both cases, the position is this. There is one from Calcutta Corporation and one from Howrah municipality. In respect of Bombay, two are represented from the Bombay Corporation.

Similar provision should also be incorporated in the Bill. Coming to Clause 4.....

Mr. Chairman: Clause 3(d) says:

“not more than fifteen persons to be elected by such State or local bodies representing commercial, shipping or local interests as the Central Government may, from time to time, by notification in the Official Gazette, specify”.

That, I think, will cover your point.

Shri Jagjivan Ram: This Bill is intended to apply to so many ports, not to any particular port.

Mr. Chairman: It is a general Bill. Further, in Clause 3(d), there is a provision for representing local interests.

Shri M. V. Bhadram: Everywhere municipality may not be there.

Mr. Chairman: If the municipality is not there, some other local body may be there.

Shri M. V. Bhadram: So far as my knowledge goes, this Bill is going to affect three Ports. None of these are in any municipality. Vizag port is only by the side of the municipality. It is not within the municipality. Same thing applies to Cochin also. It is between the Ernakulam Municipality and the Mattanchery Municipality....

Mr. Chairman: There may be a Taluk Board or a District Board or a panchayat.

Shri M. V. Bhadram: As far as Vizag is concerned, it has neither a municipality nor any panchayat.

Shri Raj Bahadur: In the existing Act it is the Municipal Commissioner who is nominated *ex officio*. It is not

as if the representatives of the municipalities are elected. It is a nomination. But here we have to take into account the subsequent developments. There are, for instance, zila parishads which are equally interested in the local affairs. They were not there before. It may be desirable to have representatives nominated from other local interests such as zila parishads also.

Shri Jagjivan Ram: In other words, the Bill is flexible.

Shri M. V. Bhadram: We are not excluding zila parishad representatives being nominated.

Shri Raj Bahadur: Therefore, we have framed it on that basis. Local interests may be local municipalities or zila parishads or development boards. For instance, in Kandla port Board Gandhidham township has to be represented.

Shri M. V. Bhadram: It is better to provide specifically for municipal representatives.

Mr. Chairman: This has to apply even to ports where there is no municipality.

Shri M. V. Bhadram: Our suggestion is that we should provide for municipality or adjoining municipality.

Shri Jagjivan Ram: How is it possible?

Shri M. V. Bhadram: As far as Vizag is concerned, it is practically within the city itself. But unfortunately, for various reasons, it is outside the municipality.

Mr. Chairman: This generic term 'local interests' may cover municipality, taluk board and district development board. You are looking at it only from the point of view of Vizag port. We have to frame a Bill for the whole country.

Shri M. V. Bhadram: But our experience is.....

Mr. Chairman: You need have no fear about it. If Vizag municipality is there, it will certainly be represented.

Shri V. B. Gandhi: You want a specific provision to be made to cover that aspect. This is a Bill which is going to apply to ports in general, not to one port alone. Therefore, some flexibility must be there.

Shri M. V. Bhadram: Even then some provision should be made to this effect.

Mr. Chairman: We will take note of it.

Shri V. S. N. Murthy: We thought that the term was exclusively intended to cover private undertakings like Chambers of Commerce, and so on. Now I understand that it will include local self-government also. Can we understand it like that?

Shri Raj Bahadur: Yes. The term used is "local bodies representing commercial, shipping or local interests". Chambers of Commerce will come under commercial interests.

Shri N. S. Prakasarao: There are local bodies representing commerce.

Shri Jagjivan Ram: I do not think Vizag municipality will not be represented. But at the same time it is difficult to provide for it in this Bill.

Shri V. S. N. Murthy: Our impression was that local self-government would not be covered. That is why we have made this suggestion.

Shri M. V. Bhadram: Coming to Clause 3(1) (d), we strongly plead that the number of seats representing each of the interests should be specified. If it is simply laid down that not more than ten persons will be appointed, it may lead to some difficulties. After that you have given or specified six interests. Sometimes it may be one, sometimes two or three. It will vary. Sometimes some interests may be adversely affected. So, we strongly

plead that the number may be specified as it was done in the Bombay, Calcutta and Madras Acts.

Mr. Chairman: These Acts deal with particular ports, whereas this is a general Bill.

Shri M. V. Bhadram: Even if it is so, it may be better if the number is specified.

Shri Jagjivan Ram: Sometimes we have to provide for defence services in certain ports. Sometimes it may be one whereas at another port it may be two.

Shri Venkateswara Ayyar: Even that condition may change from time to time.

Shri Indrajit Gupta: Are you apprehensive that in some particular case no representative at all may be allotted for labour?

Shri M. V. Bhadram: That contingency is not there. At least one will be allotted.

Mr. Chairman: Not necessarily. For Kandla there may not be any representative for defence services. In Cochin there is a naval station and there may be a representative from there. You should give some discretion to the Government. It is flexible, as I said already. You cannot fix quota for each. It will vary from port to port.

Shri V. S. N. Murthy: The total number of representatives of labour should be fixed. Otherwise, there may be encroachment on that quota.

Shri Raj Bahadur: There will be no encroachment by commercial interests as they are provided for elsewhere. These six categories and the seventh saving category are in order to cover others.

Shri Jagjivan Ram: Encroachment, if any, may be only by various Government departments. These are all Government departments.

Shri M. V. Bhadram: We will leave it to Legislatures and the Parliament.

Mr. Chairman: Please go to the next point.

Shri M. V. Bhadram: Regarding the constitution of the first Board, the procedure that is stipulated in clause 3 has been done away with. That means, the Government will appoint the first Board without reference to any local interests, or whatever it may be. I think, when we are thinking of democratic decentralisation and so on, it is better to consult others before the Board is constituted. It may take the Government a few months to have the procedure completed. In case it is not possible to have the Board constituted according to the procedure laid down in clause 3, then the interests concerned may be consulted in the matter of allocation of seats for them. That must be provided in clause 4. Now without consulting any body, the Central Government have got the power to say that "so and so will be the representative of so and so". They can straightway do it. We say that instead of this provision, there must be a provision at least for consultation.

Shri Raj Bahadur: This is to cover the period of transition or inter-regnum, before the Act comes into force and the actual functioning of the Board of Trustees. So, naturally, some step must be taken. This is an interim arrangement in order to avoid all possible difficulties.

Shri M. V. Bhadram: We are not disputing the interim arrangements. Even then, a procedure can be followed in case it is not possible to follow the procedure mentioned in the clause.

Shri Raj Bahadur: If all the procedure is followed in advance (which is not possible) then there would be no necessity for interim arrangement.

Shri Jagjivan Ram: It may be that after a port comes into being we may

constitute a Board of Trustees under clause 3. But, in some contingencies it may not be possible to constitute it immediately; so, this is provided for.

Shri M. V. Bhadram: The interests concerned must be consulted.

Shri V. S. N. Murthy: The choice must be given to the interests concerned.

Shri Jagjivan Ram: Then we can as well delete 4.

Shri Raj Bahadur: There may be practical difficulties. Sometimes, the Labour Minister has to verify whether a particular union can be recognised and consulted or not. Unless and until all these procedures are gone through, how can we consult a particular union? It must have a representative character. Unless and until it has a representative character, we cannot consult it.

Shri M. V. Bhadram: I was referring to registered unions.

Shri Raj Bahadur: Even in regard to registered unions we have to ask the Labour Ministry "do you think this is a union which can be consulted?". It may be a registered union, but registration does not mean anything in this context.

Mr. Chairman: We will consider that point.

Shri V. S. N. Murthy: We feel that the nominated representatives of labour must have an overall majority than the private members provided for in sub-clause (d). In the initial stages at least, Government must have controlling number.

Mr. Chairman: We will consider that.

Dr. L. M. Singhvi: I do not want to put a question at this stage, but I would like to know one thing. What is being suggested by the witnesses is that there should be a specific instrument of instruction when the first

Board is to be constituted. Do you really think it is necessary to provide, as you have proposed, that these various interests should be consulted? Do you not think this is more a matter for the Government to keep in view rather than to enjoin upon them statutorily? Do you not think that consultation is something which should be undertaken by Government and it need not be provided for in the statute itself, so far as the constitution of the first Board is concerned?

Shri M. V. Bhadram: To be more specific, what we mean is that under clause 3(1)(d) there is a procedure of election. It will take some time to conduct the election.

Dr. L. M. Singhvi: I am talking of the first Board.

Shri M. V. Bhadram: I am also referring to the first Board. If it is not possible for Government to specify which are the interests to be given representation in the election procedure to be followed, those interests may be also consulted before actually specifying the persons to be put on the Board.

Dr. L. M. Singhvi: The concern of the administration is that there may be delay if it has to resort to any detailed procedure of consultation, as envisaged in the statute. This is an interim measure. Do you not think that, so far as the first Board is concerned, it is not of enduring importance to the interests concerned?

Mr. Chairman: We will discuss it to our suggestions?

Dr. L. M. Singhvi: I am eliciting their views in the matter. They are tendering evidence. Are we not supposed to ask them for their reactions to our suggestions?

Mr. Chairman: They have expressed their views. It is for the Committee to come to a conclusion. We need not argue now.

Dr. L. M. Singhvi: I am not arguing with them. I want to know their view in view of this argument. They have not expressed their view on that. If we are not permitted to elicit their views on this point....

Mr. Chairman: They have suggested that particular interests should be consulted. It is their suggestion. We have to consider it in the committee.

Dr. L. M. Singhvi: Though it may be for the committee to consider, it is for them to say what their reaction is, in view of the fact that it is an interim measure.

Mr. Chairman: They know this is an interim provision.

Dr. L. M. Singhvi: All the same, they can give their reaction to this argument.

Mr. Chairman: Now, what is the next point?

Shri M. V. Bhadram: Clause 28, which relates to service conditions of employees, states that the Board is competent to make regulations not inconsistent with the provisions of the Act. As we have already stated in our memorandum, regulations would be framed in accordance with the Industrial Employment Standing Orders Act. But Government have exempted from the purview of the provisions of this Act Vizag port. because it is covered by the Civil Services (Classification, Control and Appeal) Rules. So, when it is becoming an autonomous or statutory corporate body, it may be, as they have done in the case of Port Trusts of Madras, Bombay and Calcutta *Regulations would be framed in

*The General Secretary, The Visakhapatnam Harbour and Port Workers Union, Visakhapatnam in his letter dated the 9th April, 1963, submitted as follows:

"Our representative while giving evidence before the Select Committee made an inaccurate statement regarding the applicability of the Industrial Employment Standing Orders Act, 1946 to the ports of Calcutta, Madras

accordance with that Act. So, the regulations contemplated under clause 28 should be drafted in accordance with the Industrial Employment Standing Orders Act where the employees will have an opportunity to discuss these things before they are certified by the certifying officer.

There is another point. As far as the Visakhapatnam port is concerned, right from its construction, we have been Government servants. There should be some proviso that as and when the service conditions of the Government employees in general are changed—for example, like the implementation of the recommendations of the Second Pay Commission—they should automatically be applicable to these employees also because, even though legally the status of these employees may be changed from tomorrow, they have been Government servants continuously. As such, those facilities should be extended to these people. For that purpose, a proviso should be added to clause 28.

Shri Raj Bahadur: The intention is clear. These regulations will cover the service conditions generally. Bombay, Calcutta and Madras port trusts cannot be brought in here. In the present enactment, you might have seen, there is a sufficient safety valve provided in the interests of staff and in the interests of workers.

Shri M. V. Bhadram: I am not speaking about the powers of Government.

Shri Raj Bahadur: Then, you were talking about the standing orders. The provisions of clause 28 and of the existing provision of the standing orders are not mutually exclusive. It means that whatever enactments are there, they will be taken due note of.

Shri M. V. Bhadram: That provision is not here.

Shri Jagjivan Ram: It is not necessary to provide that here.

Shri Raj Bahadur: If this section said "Notwithstanding the provisions contained in the Industrial Employment (Standing Orders) Act" etc., it would have been excluded then. But we have not said that.

Shri M. V. Bhadram: There is one difficulty. The Government has got the power to exempt.

Shri Raj Bahadur: That power cannot be abrogated.

Shri M. V. Bhadram: So, we are only positively providing that these regulations be in accordance with the provisions of the Industrial Employment (Standing Orders) Act.

Shri Raj Bahadur: If a particular enactment is in force, it has to be enforced unless by some valid enactment it is excluded. The provisions of the enactment you are referring to are not excluded by the provisions of this clause.

Shri Indrajit Gupta: Has it been excluded from the provisions of the Act by notification? If so, how long ago?

Shri M. V. Bhadram: Yes, in 1949 or so. Now we are governed by the Central Government Classification, Control and Appeal Rules and Government Servants' Conduct Rules.

Shri Jagjivan Ram: Industrial Employment Rules themselves provide that where the conditions are better, it will be exempt from that.

and Bombay. After coming over here he checked up the statement with the material available with us; he found that the Bombay port was exempted from the provisions of the Act subject to certain conditions. The Standing Orders for the Port of Madras do not specifically speak so on the question of exemption. Regarding Calcutta we have no material to check up. But the rules in the case of Bombay and Madras were made more or less on the basis of the Model Standing Orders."

Vizag Port is subject to Government Servants' Conduct Rules and all the Government rules and regulations apply. So, they are exempt from that at present. But I do not think that when it is declared a major port and comes under the Port Commissioner, it will automatically be exempt unless it is found that the service conditions are such that the enforcement of that Act is not necessary. It may be advisable to exempt it or, on the contrary, it may not be advisable to exempt it. That will have to be taken into consideration. But we cannot provide that in the Act.

Shri V. S. N. Murthy: That means that as soon as the Port Trust is established the exemption is superseded.

Shri Jagjivan Ram: No, I do not say that. It will be a point to consider whether to continue it or to terminate it.

Shri V. S. N. Murthy: So, the Trustees may proceed ignoring this exemption from the Industrial Employment (Standing Orders) Act.

Shri Jagjivan Ram: The Trustees cannot exempt. It will be for the Central Government to consider.

Mr. Chairman: Every regulation made by the Trustees has to be approved of by the Central Government. So, that safety is always there. You can approach the Government.

Shri M. V. Bhadram: Vizag and Cochin are governed by the Government Servants' Conduct Rules. Bombay, Madras and Calcutta are having their own separate standing orders. Even after making these ports trust ports, continuation of the Government Servants' Conduct Rules tantamounts to a differential treatment between Calcutta and Vizag or between Madras and Vizag.

Shri Jagjivan Ram: You want both the things. In the first place you said that your service conditions should not be changed. Now you say that the Government Servants' Conduct Rules should not apply.

Shri M. V. Bhadram: What we say is that whatever rules are going to govern the employees they should be framed in such a way that the employees shall have an opportunity to give their views.

Shri Indrajit Gupta: At the moment you are not concerned with the actual merits or demerits of the regulations, but what you are wanting is that the advantage which is at present available to the employees of the ports of Calcutta, Madras and Bombay under the Industrial Employment (Standing Orders) Act, namely, that before the rules are certified and finalised the employees have a chance of expressing their opinion, should be available to you also. That advantage of procedure you want. Is that your point?

Shri M. V. Bhadram: The employees should be consulted before the rules are finalised.

Then under clause 29, sub-clause (f) there is a proviso which says:—

“Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Central Government.”

Mr. Chairman: You have got protection there.

Shri M. V. Bhadram: We want more protection. It says that they should not be altered to the disadvantage of the employee without the previous sanction of the Central Government. That means that they can be altered with the sanction of the Central Government.

Mr. Chairman: You want that this should be removed.

Shri M. V. Bhadram: Yes.

Shri Raj Bahadur: There are occasions when there is a demand from the employees of the various ports. For example, the employees of Calcutta Port want that they should be

brought on par with employees of Bombay Port. I am just taking a hypothetical case. Now it often happens that with the common consent of the representatives of labour and the Port authorities a particular *via media* is found. That may confer some advantages on labour of a particular port and may detract from some of the advantages enjoyed by the employees of another port. But it may be that those who suffer in one respect may have a benefit in another form. So, by common consent it happens and the consent of the Central Government works as a safety valve.

Shri M. V. Bhadram: That is a very remote possibility.

Shri Raj Bahadur: No. Today the demand that employees in one port should be brought on par with Bombay or Calcutta is a very much rampant demand. Such rationalisations will become impossible if you want to abrogate these words. There have been different sets of rules and service conditions in different ports. If you want some sort of a modicum of uniformity in these rules or service conditions, you have to provide for such possibilities.

Shri M. V. Bhadram: I may draw your attention to the Jeejeebhoy Committee recommendations very recently. The classification and categorisation was done without prejudice to the service conditions of the employees concerned. Wherever the Jeejeebhoy Committee prescribed a lower scale, permission was given to continue the existing higher scale even for future incumbents.

Shri Raj Bahadur: That only proves what I am saying.

Mr. Chairman: The Committee will consider it.

Shri B. Dharmarao: The section 29 of the Bill deals with existing employees; it is not for the future employees.

Shri Raj Bahadur: You are aware that there are pre-1931 employees and

there are post-1931 employees in Government and there are special arrangements for them. There are old rules and there are new rules. Then, it is left to the option of the workers to opt for the new rules or the old ones. You mean to say, all the service conditions should be made available *ipso facto* to all the future generations or series of employees coming hereafter. That cannot be done. We cannot cover the future.

Shri M. V. Bhadram: I go back again to section 25.

Shri Raj Bahadur: I do not think you have mentioned it in your memorandum. If you like, you may say what you want to say.

Shri M. V. Bhadram: I have not specifically mentioned it. Here, the powers have been vested with the Chairman to take disciplinary action in respect of employees referred to in section 24(1)(c). There may be a possible misuse of powers. Some sort of a check may be put on the arbitrary decisions of the Chairman.

Shri Jagjivan Ram: The appointing authority is the disciplinary authority.

Shri B. Dharmarao: There should be some appellate authority.

Shri Raj Bahadur: In making appointments?

Shri B. Dharmarao: In the matter of disciplinary action.

Shri Raj Bahadur: Is there any such provision in any one of the existing Acts?

Shri V. S. N. Murthy: Under the existing CSS rules, the appellate authority is provided. Here, our contention is that there may be an occasion when the Chairman, in his good faith, may.....

Shri Jagjivan Ram: The Chairman will not *suo motu* deal with the cases of employees. He will deal with the cases of officers. In the case of employees, you will have the Chairman as an appellate authority.

Shri V. S. N. Murthy: The Chairman is the disciplinary authority being the appointing authority.

Shri Jagjivan Ram: He will not be the disciplinary authority for Class III and Class IV employees. He will delegate the powers.

Shri Raj Bahadur: Section 25 says, "Subject to any regulations made under section 28, . . ." Section 28 provides for making regulations for any or more of the following matters, namely, the appointment, promotion, suspension, removal and dismissal of its employees; etc.

Shri V. S. N. Murthy: We may be assured that the rules would provide for an appellate authority.

Shri Venkateswara Ayyar: If the Board makes regulations, as we expect, they could be subject to the sanction of the Government. Under section 28, it can provide for delegation of certain powers exercised by the Chairman to the Heads of Departments or the people down below.

Shri Raj Bahadur: Their main concern is about the appellate authority. Will the regulations provide?

Shri Venkateswara Ayyar: I think the regulations can provide for a second examination of the case.

Shri V. S. N. Murthy: We want to be assured of that. The rules made under section 28 should not be inconsistent with the Act.

Shri Raj Bahadur: What is the position in respect of the other departments, I mean in the case of Class III and Class IV employees?

Shri V. S. N. Murthy: In respect of Class III employees, the head of the department is the only disciplinary authority and the Government is the appellate authority; in the case of Class IV employees it is the department concerned.

Shri Jagjivan Ram: That will be provided.

Shri V. S. N. Murthy: Whatever rules are made here, under section 28, should not be inconsistent with the main provisions of the Act. Here, the only provision that is made is that the Chairman can exercise powers in respect of promotions, extensions of service, suspensions and various other things.

Shri Jagjivan Ram: It requires examination.

Shri G. R. Bal: When you say, subject to any regulations, that means if any regulations are made under section 28, they cannot be in conflict with section 25 naturally and section 25 will be read subject to them to the extent that any regulations that may be made. The regulations made under section 28 are to that extent part of section 25.

Shri Indrajit Gupta: The point that you want to make is, on the merits of a particular case whether there should be an appellate authority or not. Is that your point? That is what I understand. The procedure, I think, is not the point here. As far as I can understand your point, it is this. There may be a particular case of action taken under section 25—it may be suspending, reducing, removing or dismissing or of disposing of any other question relating to the services of any employee—in relation to which you may say whether the action taken is justified or not and you are asking whether there should be an appellate authority or not. Here the Chairman is the ultimate authority.

Shri G. R. Bal: Chairman or the Board as the case may be.

Shri Indrajit Gupta: Here the Board does not come in.

Shri Jagjivan Ram: There will be an appellate authority for different categories of employees. It is quite obvious.

Shri Indrajit Gupta: His main point is who would be the highest authority?

Shri Raj Bahadur: There is section 28(c). The Board may make regulations, not inconsistent with this Act, to provide for any other matter which is incidental to, or necessary for, the purpose of regulating the appointment and conditions of service of its employees. Now, the conditions of service include conditions under which an employee may be suspended, may be removed from service and other allied matters. This also means, an appellate authority is provided for even under the present conditions of service. Section 28(c) will take care of that. No additional provision is necessary. What is necessary is the making of regulations and when they are made they will be properly scrutinised by the Central Government.

Shri Jagjivan Ram: That will come in regulations. Appellate authority will have to be provided for.

Shri V. S. N. Murthy: Including the reduction in rank.

Shri Raj Bahadur: All these things. Conditions of service include everything. Section 28(a) provides for the appointment, promotion, suspension, removal and dismissal of its employees. The reduction in rank also forms a part of service conditions.

Shri V. S. N. Murthy: That is conspicuously omitted.

Shri Raj Bahadur: Clause 28(c) is relevant here.

Shri M. V. Bhadram: Under clause 24(c), the appointing authority in the case of any other post is the Chairman. Under clause 25(a) the disciplinary authority is also the Chairman. Under these clauses read along with clause 28, there is no possibility of any appeal, as we understand the clauses.

Shri Raj Bahadur: First of all, disciplinary action cannot be initiated by the Chairman himself. The Chairman will delegate authority to somebody in respect of class III and IV employees and he will recommend. Whatever orders are passed, they will be appeal-

able to the Chairman. It will be the Chairman who will pass the final orders.

Mr. Chairman: We will examine.

Shri M. V. Bhadram: I would suggest to the Committee that in order to better appreciate our representation, the Committee may visit the Visakhapatnam port.

Mr. Chairman: What for?

Shri M. V. Bhadram: To better appreciate all the aspects.

Mr. Chairman: How can it enable the committee to appreciate the conditions of employment?

Shri M. V. Bhadram: I am only making a submission. It is left to the Chairman to consider. I am only making a request.

Shri V. S. N. Murthy: Then about clause 29(f) about continuance of existing privileges. This clause provides for the continuance of the existing privileges in respect of staff on the date immediately preceding the change over from the Government to the Port Trust authority. They will continue until such time till they are altered or dispensed with by the Board. Of course, if they are altered to their disadvantage, the Central Government's sanction is required. At least in the case of the employees who are existing on the date of the change over, this right should continue perpetually.

Shri Jagjivan Ram: You have not given full thought to what you are saying.

Shri V. S. N. Murthy: They will continue until they think it necessary to alter.

Shri Raj Bahadur: This is the biggest testimonial we could give to the Port trust. You admit that you are satisfied with whatever terms and conditions obtain for the port employees. So, despite all that has been said hitherto they are quite good according to your admission.

Shri V. S. N. Murthy: To their disadvantage . . .

Shri Jagjivan Ram: You have not given full thought. It may be necessary to alter it to your advantage.

Shri V. S. N. Murthy: Alteration, we are not disputing. It is dispensing with the privilege.

Shri Jagjivan Ram: It is not said to your advantage or disadvantage. If it is terminated or altered: alteration may be to advantage.

Mr. Chairman: ". . . shall not be altered to his disadvantage without the previous sanction of the Central Government": that we have taken care.

Shri V. S. N. Murthy: We have only suggested a proviso:

"Provided further that all matters or representations of staff pending settlement on the appointed date by the Central Government or the other authority as the case may be shall be decided by the said authority."

Shri Raj Bahadur: You want to have the Act and yet you do not want to give that right. You want to deny to the new authority the privilege to decide pending matters and you want the old authority to continue.

Shri V. S. N. Murthy: We feel it will be decided in our favour provided it is left to them.

Mr. Chairman: If it is decided against, it will come to the Central Government. Nothing will be altered to your disadvantage without the sanction of the Central Government.

Shri M. V. Bhadram: There are some anomalies with reference to the recommendations of the Central Pay Commission. The recommendations have not been completely implemented.

Mr. Chairman: The Central Government is there to take care of your interest. Don't bother.

Shri V. S. N. Murthy: Are you sure that all matters pending on that date will not be left to their decision?

Shri Raj Bahadur: It is rather extraordinary.

Shri V. S. N. Murthy: All assets and liabilities become the assets and liabilities of the future administrators. Our apprehension is that whatever is pending consideration of the Government, which we hope will be favourably considered, if it is transferred as a liability to the future administrators, they may decide otherwise. That is the apprehension with which we have asked for the proviso.

Mr. Chairman: Any other point? (None) Thank you.

Shri V. S. N. Murthy: We thank you, Sir. We feel that our interests will be safe in your hands. We thank you for the opportunity, for the first time, you have given to us.

(The witnesses then withdrew)

III. ALL-INDIA PORT AND DOCK WORKERS' FEDERATION, CALCUTTA
Spokesmen:

1. Shri S. R. Kulkarni
2. Shri Makhan Chatterjee.

(Witnesses were called in and they took seats)

Mr. Chairman: Your evidence will be treated as public and it is liable to be published unless you desire that all or any part of the evidence tendered by you is to be treated as confidential. Your evidence, even though confidential, is liable to be made available to Members of Parliament.

Shri Makhan Chatterjee: No.

Mr. Chairman: Shri Anthony Pillai is not coming?

Shri Makhan Chatterjee: He is indisposed.

Mr. Chairman: Your memorandum has been distributed to all the Members. If you want to stress any point or make out any new point, you may. This does not apply to Calcutta. Why do you bother?

Shri Makhan Chatterjee: Ours is a federation. Secondly, we think that this enactment may reflect the latest thought on Port Trusts by Parliament. Therefore, we think it may have some bearing on other ports also eventually if not immediately.

Mr. Chairman: All right. Go ahead.

Shri Makhan Chatterjee: Apart from what we have stated in our memorandum, we would like to state the following in regard to clause 111 which deals with the power of the Central Government to issue directions on questions of policy.

We feel that this clause curtails the autonomy of the proposed Port Trust to a considerable extent. From the experience that has been gathered from the working of the existing ports and also from the opinions expressed by experts on the working of the ports, we find that considerable stress is always laid on the autonomy of the Port Trusts, particularly in regard to the administration of the ports, their day-to-day functioning etc. If the Port Trusts are not given sufficient powers to carry out their day-to-day business and if what will ultimately be regarded as policy by Government is not defined, that may not enable the board to function efficiently.

So, we feel that the autonomy of the boards should be safeguarded. In this view of ours, we are supported by various authorities on the subject. We may quote for instance the United Nations Technical Assistance Expert, Mr. B. Nagoraski. He has dealt with this question of ports administration. If I may be permitted, I would like

to read out from his report entitled "The Administration of the Ideal port". He states there:

"The most essential condition for an efficient port administration is as high as possible a degree of independence from general public administration services. A maritime port is well-defined and a very complex unit, the development and well-being of which requires a settled long-range policy and prompt decisions in day-to-day life. Its management should be entirely independent of political trends in general government administration. It should be in the hands of personnel selected in accordance with the professional skill and managerial abilities of the individuals concerned and not with their political affiliations. This basic principle has been recognised for a long time and it became an accepted practice in most countries to form autonomous bodies generally known as port authorities for the purpose of administration and development of more important maritime ports."

We recognise that there is a need of general control and direction by the Central Government for conducting the affairs of the port. But that control and direction should be of a broad nature.

Mr. Chairman: It is only on questions of policy that directions can be given by the Central Government. They do not interfere with the day-to-day administration.

Shri Makhan Chatterjee: What a policy matter is will have to be defined.

Mr. Chairman: That has to be left to Government to decide. Can you give any instance where interference by Government has worked to the detriment of the freedom of the port authorities?

Shri V. B. Gandhi: I have been a member of the Port Trust of Bombay for eight years, and I do not think we

have come across any conflict on such vital issues of policies. Besides, after all there is this proviso that the board shall be given opportunity to express its views before any direction is given under this sub-section. Thirdly, we do not know the Constitution of the New York port authorities, to which the witness was referring.

Shri Jagjivan Ram: What he has read out is about administration. It does not say anything about policy.

Shri Makhan Chatterjee: As far as policy is concerned, we have also said that we feel that there is need for broad direction and control.

Shri Jagjivan Ram: So, there is agreement between us on that point.

Shri Makhan Chatterjee: The reason why we have stated this is this. For instance, take clause 122 (1) (a) which deals with the procedure to be followed for the transaction of business at the meetings of a Board. Under the existing Port Trust Acts, the Acts themselves provide how and at what intervals the meetings should be held.....

Mr. Chairman: Your submission on clause 111 is over? There is no difference of opinion between Government and yourself; on matters of policy they must have the power to issue directions.

Shri Makhan Chatterjee: As far as the general control is concerned, there is no disagreement.

Mr. Chairman: They do not want even general control. It is only on questions of policy that Government will issue directions, and the Port Trusts also will be given an opportunity to express their views before such directions are issued, and the proviso is there for this purpose. It is only on questions of policy that Government will step in.

Shri Raj Bahadur: They would themselves like us off and on to give

directions. For instance, decasualisation of labour is a matter of policy. Then, the Jeejeeboy Committee was also a matter of policy. If you want, I may quote some other instances too.

Shri Jagjivan Ram: In fact, they want our interference even in matters of administration.

Shri Makhan Chatterjee: That becomes necessary at times, of course.

Shri Raj Bahadur: It is necessary to mention this also. Otherwise, you can be bound down by your own evidence.

Shri Makhan Chatterjee: In the case of the Port Trusts of Bombay, Madras or Calcutta, there is no similar provision.

Mr. Chairman: Shri V. B. Gandhi who has been a member of the Bombay Port Trust for the last eight years says that there has been no interference by Government and there has been no conflict.

Shri Makhan Chatterjee: That has been our experience too. We have not said that there has been any interference on any issue between the Government and the port authorities so far. What I said was that in the existing Port Trust Acts governing Bombay, Calcutta and Madras, there is no similar provision.

Shri Indrajit Gupta: You mean that there is no specific proposal in the existing Acts.

Shri Raj Bahadur: If we had that provision, the Bombay modernisation scheme would have come much earlier, and the question of the so-called minimum scheme of development also would not have been hanging fire for a number of years.

Shri Jagjivan Ram: We can quote greater number of examples to show that our interference would have been more helpful to the boards.

Shri Raj Bahadur: Besides, much water has flowed down the Hoogly since those Port Trusts came into being.

Shri Jagjivan Ram: So, you agree that from certain angles it is necessary.

Shri Raj Bahadur: It is necessary to mention this also. Otherwise, your statement would give a different intention or complexion to the whole matter. So, you also agree that this is necessary.

Shri Makhan Chatterjee: Coming to clause 122, we feel that sub-clause 1 (a) is not necessary, because that amounts to curtailing the powers of the board to decide even how the meetings of the board should be conducted.

Shri Jagjivan Ram: The distinction is this. At present, we have specific Acts for individual ports. Now, it is going to be an omnibus Act to be applied as and when necessary, when a minor port becomes a major port. So this has to be done so that there is some uniformity. In the existing Act, rules are provided in the Act itself.

Shri Makhan Chatterjee: They have said at what intervals meetings should be held, what should be the quorum etc.

Mr. Chairman: Now it will be made in the rules.

Shri Jagjivan Ram: It will be delegated legislation. We have to place the rules before Parliament. So there is nothing contradictory between the existing Act and this.

Mr. Chairman: Sub-clause (3) provides for Parliament's scrutiny.

Shri Jagjivan Ram: Because now the Act will cover more than one port, it is not desirable to put it in Act itself. But Parliament's scrutiny will be there.

Mr. Chairman: If any rule goes against the Constitution, the Subordinate Legislation Committee will point it out. So it is a healthy provision.

Shri Makhan Chatterjee: These are the two matters we wanted to raise.

Shri Jagjivan Ram: On both you are satisfied.

Shri Makhan Chatterjee: We now come to our memorandum. The first point is about section 3—Deputy Chairman. Here we would like to lay special emphasis for this reason that ports have to deal with very highly complicated technical problems. To have the Chairman is all right; he is more concerned with policy matters; he executes broad policies and principles. But we feel that the pattern of General Manager would be more suitable than Deputy Chairman. This is the pattern particularly in European ports. They have a General Manager responsible for carrying out the day to day business of a technical nature. In the port of London or any other port in Great Britain, that is the general pattern. These general managers are normally people drawn from the port services with long experience in port working etc. In our considered opinion, if we adopt a similar method here, that would decidedly add to the efficiency of our ports. In the Railway Board, for instance, they are mostly people drawn from the services.

Mr. Chairman: You do not want a Deputy Chairman.

Shri Makhan Chatterjee: We think he is really redundant.

Mr. Chairman: Instead, you want a General Manager.

Shri Makhan Chatterjee: Yes.

Shri Jagjivan Ram: What is the distinction between the two?

Shri Makhan Chatterjee: We do not mind if he is called 'Deputy Chairman'; it is really a question of functions. We want an executive head.

Shri Raj Bahadur: We have not debarred the Port authorities from that under the present Act. If the port body so desires, it may think over it.

Mr. Chairman: The provision is, 'if the Central Government deems fit to appoint one'. It is not compulsory.

Shri Jagjivan Ram: The Chairman is the executive head.

Shri Makhan Chatterjee: If we have one chief executive, then he is responsible for administering the port.

Mr. Chairman: Suppose the Chairman is absent for any reason?

Shri Makhan Chatterjee: Then the next man carries it out. But then both may be absent also.

Shri Jagjivan Ram: Then some departmental head will be there.

Mr. Chairman: We will see about that.

Shri Raj Bahadur: It is the same as in the existing Act.

Shri Makhan Chatterjee: But from our experience, we feel that in such matters it would possibly be more appropriate to consult the Board also.

Shri Raj Bahadur: Do you want the Board to be made responsible for executive functions? It is a policy-making body.

Shri Jagjivan Ram: Specially for appointments, if you have to consult 20 people, you know what happens.

Shri Makhan Chatterjee: Any proposal is always initiated by the Chairman.

Shri Jagjivan Ram: If there are 20 people to decide?

Shri S. R. Kulkarni: Why not the UPSC? Or as they have the Railway Service Commission in Railways, why not some sort of Port Service Commission which can interview candidates?

Mr. Chairman: It is an autonomous body.

Shri Jagjivan Ram: Here we are considering appointment of heads of departments, not staff.

Shri Raj Bahadur: We are talking about people selected from the ranks, not fresh appointments.

Shri Makhan Chatterjee: From outside also appointments are made to the post of head of department.

Mr. Chairman: If you leave it to the Board, each member will make his own suggestion.

Shri Raj Bahadur: This is not a fresh selection where the UPSC could come in.

Shri Makhan Chatterjee: Outsiders are also appointed.

Shri Jagjivan Ram: It is an appointment of serving or retired officers of the State Government or the Central Government.

Shri Makhan Chatterjee: We are looking at it from the port's efficiency point of view only.

Mr. Chairman: We will consider it.

Shri Makhan Chatterjee: Coming to clause 29(f), the terms and conditions of the employees should not be altered.

Mr. Chairman: To their disadvantage. But if it is for their betterment?

Shri Makhan Chatterjee: That, of course, is welcome.

Shri Jagjivan Ram: It may be to their disadvantage in certain respects, but out of that some advantage may flow. If the proviso is not there, even that will be ruled out. The Central Government will go into that and decide.

Shri Makhan Chatterjee: We are saying this because we had an assurance once from the Prime Minister that our existing benefits should not be reduced.

Mr. Chairman: The Central Government will take care of you. It is an advantage.

Shri Makhan Chatterjee: Coming to clause 28 about the framing of rules, we think there should be protection that nothing in this Act would work to the prejudice of the provisions of the Industrial Employment (Standing Orders) Act or the Industrial Disputes Act, because I feel the Port-Trust Acts have specific objectives. For instance, in the present Calcutta Port Act, section 2(5) it is stated that nothing in the Act or the powers conferred under the Act on the trustees would infringe the fundamental rights of any private citizen.

Mr. Chairman: Since it is not specifically excluded by this Act, every fundamental right is protected. Every citizen whose rights have been violated can go to the court. Why should we provide it here? The Constitution gives you that right.

Shri Makhan Chatterjee: Some time back the port authorities thought they would formulate conduct rules for the port employees. In doing so, they decided to adopt the Government Servants Conduct Rules *in toto*, but Government servants and port employees do not stand on the same footing. Government servants have certain protection provided in the Constitution itself, but the port employees do not enjoy that.

Shri Jagjivan Ram: You will be satisfied if that protection is given to you also?

Shri Makhan Chatterjee: I think it would be much better, considering the nature and character of the port trusts, if they are treated on a par with the employees in other industrial establishments.

Shri Indrajit Gupta: Would you prefer the rules and regulations made by industrial establishments to the Central Government rules?

Shri Makhan Chatterjee: The rules are framed by the authorities and submitted to the Labour Commissioner. He is the certifying authority. So, the Ministry of Labour have laid down the broad provisions.

Shri Indrajit Gupta: The Calcutta port labour is not covered by the Industrial Employment (Standing Orders) Act?

Shri Makhan Chatterjee: No, nor Bombay, nor Madras. They have been exempted.

Shri Jagjivan Ram: Where the regulations are better, they are exempted under the Standing Orders Act itself.

Shri Indrajit Gupta: In that case, labour gets a chance of discussing the rules and regulations.

Shri Jagjivan Ram: Here it is not ruled out. Whether a particular establishment should be exempted from that or not is another matter, but the clause as it stands does not rule the Industrial Disputes Act or the Industrial Employment (Standing Orders) Act.

Shri Raj Bahadur: Unless it has been excluded, there is no danger. It remains there, and it can be taken advantage of.

Shri Makhan Chatterjee: They have been excluded by an executive order, not under the Act itself.

Shri Jagjivan Ram: Yes, but the Act gives the authority for that.

Shri S. R. Kulkarni: I would like to make some observations regarding Clause 111 as otherwise there would be some misunderstanding about what the Federation has said. The particular provision about questions of policy is likely also to affecting the existing Acts in Madras, Calcutta and Bombay. It is stated here that the decision of the Central Government whether a question is one of policy shall be final. To my mind, this is contrary to what is laid down in our Five Year Plan policy with regard to autonomous bodies. At page 267 of the Third Five Year Plan, it is stated:

"Far greater delegation of authority and flexibility of operation is necessary to enable the

management of the enterprise to produce results. If an enterprise does not have real autonomy, it is not likely to be effective."

So, if we do not define what a policy matter is and if everything is going to rest with the Central Government, then many things will be covered by that broad term of policy.

Mr. Chairman: It is only the Central Government that can decide. It is responsible to Parliament, and ultimately it is Parliament that decides it. It should be left to the Central Government. Who do you want should decide what is policy?

Shri S. E. Kulkarni: Could it not be incorporated in the body of this Act itself as to what constitutes policy?

Mr. Chairman: That is provided here in the Bill. You cannot define policy. Each question has to be decided on its own merits. You must leave it to the Government to decide what is policy and what is not policy. Government is answerable to Parliament.

Shri Raj Bahadur: Parliament is answerable to the people.

Shri Indrajit Gupta: You are not pressing your proposals in regard to section 3 on page 2 of your memorandum.

Shri Raj Bahadur: That is not their proposal; that is the proposal of the other federation.

Shri Makhan Chatterjee: It is our proposal. We have stated that the number of representatives of labour should not be less than two. We are very particular about it. Since we have stated it in the memorandum, we do not want to repeat it. But that does not mean that we are not particular about it.

Mr. Chairman: Whatever you have said in the memorandum will be taken into consideration by us. Thank you.

(The witnesses then withdrew)

The Committee then adjourned.

SELECT COMMITTEE ON THE MAJOR PORT TRUSTS BILL, 1962
MINUTES OF EVIDENCE GIVEN BEFORE THE SELECT COMMITTEE ON THE MAJOR PORT
TRUSTS BILL, 1962

Tuesday, the 4th June, 1963 at 09.08 hours.

PRESENT

Shri V. B. Gandhi *in the Chair*

MEMBERS

2. Shri Tridib Kumar Chaudhuri
3. Shri Sudhansu Bhusan Das
4. Shri Shivajirao S. Deshmukh
5. Shri Indrajit Gupta
6. Shri P. G. Karuthiruman
7. Shri Rama Chandra Mallick
8. Shri Raghunath Singh
9. Shri Raj Bahadur
10. Shri C. R. Raja
11. Shri H. Siddananjappa
12. Shri Ravindra Varma
13. Shri Vishram Prasad
14. Shri Jagjivan Ram

DRAFTSMAN

Shri G. R. Bal, *Joint Secretary and Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

1. Shri G. Venkateswara Ayyar, *Secretary, Department of Transport, Ministry of Transport and Communications.*
2. Shri K. Ranganathan, *Deputy Secretary, Ministry of Transport and Communications.*
3. Shri R. Rangarajan, *Under Secretary, Ministry of Transport and Communications.*

SECRETARY

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

Bombay Port Trust, Bombay

1. Shri A. L. Dias
2. Dr. S. G. Patel
3. Shri Devji Rattansey
4. Shri F. Rozario
5. Shri S. Nariman

(Shri V. B. Gandhi *in the Chair*).

BOMBAY PORT TRUST, BOMBAY:

Spokesmen:—

- (1) Shri A. L. Dias
- (2) Dr. S. G. Patel
- (3) Shri Devji Rattansey
- (4) Shri F. Rozario
- (5) Shri S. Nariman

(Witnesses were called in and they took their seats)

Mr. Chairman: Before we proceed there is one thing that I would like to point out. The evidence that you will give here will be treated as public and is liable to be published unless it is desired by you specifically that all or any part of the evidence tendered by you has to be treated as confidential. Even then, such evidence will be made available to Members of Parliament. This is the position in the light of which you will please proceed to give your evidence.

Now, members of the Committee have all read your memorandum. So, now you can emphasize such points as you like and also add any further information that you desire.

Shri A. L. Dias: The point of view of the Bombay Port Trust with regard to clause 111 has already been set out in the memorandum which we have submitted to the Select Committee. A statement was made by the Minister of Shipping in Parliament that the present Bill might form the pattern of amending all the existing Port Trust Acts, and it is in that context that the trustees sought this opportunity for placing their views before the Select Committee.

The point that they particularly wanted to emphasize was that ever since the establishment of the Bombay Port Trust, its development has proceeded apace without the necessity being felt by the Government for this provision which, they feel, does constitute a serious infringement of the autonomy of the port. A distinction has to be drawn between the powers which the Government has under the Act itself and the present blanket provision proposed to be provided in the Bill, because they feel that a blanket provision of this sort is likely to erode into the autonomy and the sense of responsibility of the Port Trust. That particularly is the point which the trustees would like to place before the Committee.

Shri Indrajit Gupta: Since in the memorandum you have used the words "constitutes a serious abridgment of the autonomy of the Board", I would like to know whether from your own experience you feel or you have an apprehension that this kind of provision, though definitely a new provision, might in fact be used in a way which would affect the autonomy of the port in a harmful way.

Shri A. L. Dias: At the moment there may not be any apprehension, but the apprehension is how in future that power will be used.

Shri Indrajit Gupta: Do you think it will be possible to define more precisely the matters in which the Government might issue its directives?

Shri A. L. Dias: Under the Bombay Port Trusts Act as it is, I think, the Government has a very wide range of control over all important matters. Therefore I personally do not see that there is any scope for further enlargement of those powers. On the contrary a greater degree of flexibility is necessary which has been provided in the matter of rules regarding sanctioning of contracts, appointments and so on. The rigid limits which are laid down in the Act are proposed to be made more flexible and in that way it is a step in the right direction. I do not think it is possible to define more precisely the matters on which Government can issue a directive.

Shri Devji Rattansey: The Bombay Port Trust Act as well as this Bill provides for certain supervision by the Government. We have the experience of the working of the Bombay Port Trust Act. Even the leases and tenders that we grant are subject to the approval of the Government. On the question of the power to issue directives, maybe, an assurance may be coming but what we fear is that a time may come when the Port Trusts will be reduced to departments of the Government if every now and then

a directive is given. I do not think it is clear in anybody's mind as to what the directive will be, but a directive itself is a thing which creates doubts in the minds of the autonomous bodies. The power to issue a directive to autonomous bodies is not entirely desirable. That is what I think.

The second thing which I would like to say is this. We are bringing under the provisions of this Bill Cochin, Visakhapatnam and Kandla as major ports. I do not know about Calcutta and Madras Ports as to what their feelings are but about the Bombay Port I should like to say that it may not be told to us at any future date or it may not be presumed that because we have agreed to this in certain cases it can be made applicable to Bombay also. This is what we pray and would like to say with due deference.

Shri C. R. Raja: You say that the feeling of the people of the Bombay Port Trust is like this, but people in the Calcutta or Madras Port Trust are not feeling the same thing.

Shri A. L. Dias: I believe, Calcutta Port Trust has also sent a memorandum regarding this.

Shri Raj Bahadur: They have not sent anything to the Select Committee. I may invite the attention of the witnesses to the provision contained in clause 111 which says:—

“Without prejudice to the foregoing provisions of this Chapter, every Board shall, in the discharge of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall be given opportunity to express its views before any direction is given under this sub-section.”

This is confined entirely to questions of policy and an opportunity is given to the Port Trust to express its views about it. I would like to know whether in the experience of the working of these Port Trusts during the post-independence period they have or have not found it necessary to consult each other mutually, namely, the head of the six major Port Trust meeting together to decide common questions of policy; whether they have not found it necessary to consult the Central Government in regard to such matters of policy as those affecting labour, developmental schemes, tariffs and so many other vital questions; whether they have not felt the need, in view of the common policy of development envisaged in our successive Plans, for us to evolve what may be called a Port policy, that is, a policy concerning the development and the operational efficiency of ports. I would really be enlightened to know if they have not found it so.

Shri A. L. Dias: The co-ordination and consultation between the Ports has been on a voluntary basis. Even when we have sought the advice of Government, it has been so to speak on a voluntary basis. It is something different from a directive being issued. I think, a distinction can be made between there being a need for co-ordination and general supervision and control by Government. The Trustees feel with regard to the issuing of directives that they may range over a very wide list of subjects.

Shri Raj Bahadur: I think, a question of policy is usually quite clear. Policy is something quite different from day-to-day working or administration. It is a question of evolving some sort of a uniform and harmonious, a reasonable and rational policy in regard to Ports and in regard to their administration and development. I would like to know whether it has not been found necessary even by the

Port Trust of Bombay itself, even in regard to its own developmental schemes, to bank upon the advice of the Central Government and finally to get over an insurmountable difficulty which it was confronted with in the matter of minimum development scheme which was hanging fire for a number of years to the detriment of the Port of Bombay. Then we had to come to some sort of a decision because the Central Government had to step in. These are matters which are of vital concern not only to the port and its economy itself but to the economy of all the ports and of the country. After all, ports like Bombay and Calcutta are the gateways of our trade; they are the outlets and the inlets for our merchandise.

Then, there is the question of labour disputes. These are matters in which the Central Government has got to evolve a policy which has to be implemented.

I would be grateful to the witnesses if they could point out whether such powers exist with the Government in the present Port Trusts Act and whether they could exercise this particular function efficiently and discharge their duties to the Ports and to the country. Are there any powers like that in the present Port Trusts Act?

Shri S. G. Patel: It cannot be denied—rather it is to be welcomed—that there has to be some coordination at the national level. The question or the issue involved here is, what sort of coordination it should be, whether it should be in the form of directive or it should be in the form of consultation and persuasion. We believe that in the present context, and, particularly, in the democratic context, the better way of functioning would be of consultation and persuasion. There has been no instance to the best of my knowledge

as far as Bombay port is concerned, where the Government has given a certain advice emphatically on a certain point and that has not been carried out. As regards labour disputes, I would submit with utmost respect that there is a Government machinery through the Ministry of Labour. If that is allowed to function in its own way as it functions in the private enterprise probably these problems that arise in the field of labour could be settled. There is a provision existing in the government, in the Central Statute, which provides for such labour disputes.

Sir, in this connection, I may also invite your attention to the present enquiry conducted in the United Kingdom and there has been a report called Rochdale Report. That Committee went into this aspect as to whether the Government should have its control and powers in the particular ministry. They came to the conclusion that it may not be advisable to have all these powers vested in the Government itself. It might be in another form. That is a different point. One of the reasons, if I may say so, is this.

Shri Raj Bahadur: That will lead us to the question of details. You have referred to the U.K. Rochdale Committee report. I have underlined the expression that clause 111 refers a question of policy only which would be decided after due consultation with the Board itself, with the Trust itself. The question of policy is something different. I would like in this context to remind the witnesses of one particular point. I would like to know whether they are taking into consideration the fact that we are instrumental in the development of ports, that we have persuaded the World Bank to offer credits and developmental loans for different ports. Is it not open to the Union Government, to the Central Government, to lay down certain yardsticks which may

be called policies for the full utilisation and efficient utilisation of those loans and also of the repayment of those loans? All these matters are of vital importance. For instance, if the Port takes a different view which is not consistent with the policy for the government in regard to the repayment of those loans, in regard to the taking of those loans, etc., a directive may have to be issued. Has this point been taken into consideration by you or not?

Shri Tridib Kumar Chaudhuri: I would like to put one question to the witness. What happens when a conflict of regional disparity and regional interest takes place and there are instances like that in the administration of different ports and I would like to know how that is settled? Who is to settle that? The Calcutta Port Trust is having one interest. There is the regional trade interest. The commercial interests of Calcutta and its adjoining areas is bound to be reflected in the administration of the Calcutta Port Trust. The same case would be applicable in the case of the Bombay Port Trust also. If any complaint arises, if any difference of opinion arises, how is that settled? What is the opinion of the witnesses as to the best method of solving these disputes if they arise?

Shri A. L. Dias: I do not recollect any instance where there was conflict of interest between the major ports, Calcutta, Bombay or Madras.

Shri Raj Bahadur: May I just say that there had been and there is still some sort of dispute whether Haldia or Paradip should be developed as major port of use for the exports of iron ore or for other purposes? Who shall decide it? There is a dispute already which has come to the fore now, namely which port should be developed for the export of iron ore, whether it should be Madras or it should be Goa or Mangalore or Bombay. Who shall decide that?

Shri Vishram Prasad: What are the difficulties which the witnesses wish to point out? What are the difficulties which arise in Government making a unified policy for all the ports, in respect of labour disputes, in respect of taking loans from the world bank etc.? What are the difficulties which come in the way for which this particular matter is being opposed by them? Let us take the case of development of the ports in which the Government should come in and take decision in regard to a uniform policy. May I know from the witnesses why they think that the Government should not come in?

Shri A. L. Dias: The point that I stated at the outset was that that would be an inroad into the autonomy of the Board. The hon. Minister of Shipping mentioned with regard to iron ore. Certainly these matters could be decided in a conference. There are other ways in which the Government could exercise influence.

Shri Jagjivan Ram: You mean indirect pressure. I would not like that. Suppose some trustee becomes recalcitrant. What authority have you under the present Act to bring him to order and set right matters? There is no provision.

Shri Indrajit Gupta: I would like to know, from their own experience, whether the witnesses have found it necessary in the past, in order to overcome some difficulty, on their own initiative, to approach the Government, to give a directive or to settle a matter which could not be otherwise settled.

Shri Jagjivan Ram: By indirect pressure.

Shri A. L. Dias: There have been instances where we have approached the Government for advice. We have not asked for a directive; advice we have asked.

Shri Jagjivan Ram: There was no authority to issue a directive; so, for the exercise of indirect pressure.

Shri Indrajit Gupta: Can we take it that the witnesses would have no objection in a case of directives of this type which are envisaged here, limited to matters which are inter-port matters, and their apprehension is that it would affect their internal working in the sense of autonomy of internal administration?

Shri Raj Bahadur: It will not be possible to give an exhaustive list of all matters.

Shri Jagjivan Ram: It must be clearly understood that so far as day-to-day administration is concerned, there is no intention to interfere. It is only on such wider questions of policy that such a directive can be issued. It is not a novel provision. We have so many autonomous corporations. I know of two or three myself where we have taken this power. For example, in the Air Corporations Act, we have such powers. You may remember that in several of our Corporations, we have this power for the Government. This is not a novel provision.

Shri Devji Rattansey: That is a special case. It may not be used for day-to-day administration. As far as development is concerned.....

Shri Raj Bahadur: It is rule of law. If we transgress a law, no court will excuse us.

Shri Jagjivan Ram: Parliament is there.

Shri Devji Rattansey: The question of maximum or minimum development for the Bombay port we need not go into. In fact, ultimately we came to you and wanted your blessing. You gave your blessing. We are thankful to you.

Shri Jagjivan Ram: What is being sought to be done is this. Whatever the Chairman might have requested the Government to perform by indirect pressure, should have the sanction of legislation. The Chairman

has agreed that there have been cases where our assistance has been sought. I would like that indirect pressure to be a direct thing having the sanction of Parliament.

Shri Raj Bahadur: Conversely interpreted, this particular clause does not purport to interfere with the day-to-day administration. Really autonomy is being more or less guaranteed by this clause. It defines the class of cases in which the Government can rightly intervene, to decide questions of policy. Apart from other things that may be there, autonomy is more or less defined.

Shri S. G. Patel: In that connection, I would invite attention to sub-clause 2 which says that the decision of the Central Government whether a question is one of policy or not shall be final.

Shri Raj Bahadur: That means, it shall not be justiciable. We do not have to take it to a court to determine whether a particular question is a question of policy or not.

Shri S. G. Patel: I submit it could also be something connected with the internal administration, if the Government comes to that conclusion.

Shri Raj Bahadur: Firstly, for the exercise of that power under 111, it will have to be a question of policy. Whether a question is a question of policy or not, who shall be the final judge for that? It is the Central Government. Will you at all like to leave it to a court to decide that? Will you leave it to a shipper or a shipping company, to say or claim when there this is a question of rates, that this question has been wrongly decided, it is not a matter of policy. It is a matter of day-to-day administration. The whole rigmarole of arguments will go on like that.

Shri S. G. Patel: It is in that context that I am repeating again. The present provisions in the Bombay and Calcutta Acts provide, let us take

freights, the rates have to be sanctioned by the Government. Whatever rates we may adopt, if the Government does not sanction, we cannot implement the rates.

Shri Jagjivan Ram: The Government sanction a certain rate. But you may not implement that. You may recommend the same rate. The Government decides. You again repeat that. What is the authority we have here?

Shri A. L. Dias: In the existing Act, the Government have the authority so far as the rates are concerned.

Shri Raj Bahadur: The question is whether we should leave it to a Judge to decide whether it is a matter of policy. As the hon. Minister pointed, we have taken the existing pattern from the D.V.C., Air Corporations, L.I.C. and several other corporations. I think that such a provision is necessary keeping in view the context of the development of the country. It is also necessary, firstly, in the interests of providing some sort of uniform policy in the pattern of development; secondly, in regard to the satisfaction of the labour demands and good industrial relations; and thirdly, in respect generally of a clean and efficient discharge of functions by the ports all over the country.

Shri S. G. Patel: It mainly boils down to this: whether it should be in the form of a directive or it should be in the form of an indirect pressure or persuasion.

Shri Jagjivan Ram: Supposing we fail to persuade the Port Trusts, then what happens?

Shri S. G. Patel: I am sure that that situation has not arisen so far, and it will not arise in the future.

Shri Jagjivan Ram: In other words, your point is that we should not have this provision, but there should

be some indirect pressure or persuasion. I know that Government are strong enough to see that they are persuaded, but I personally would not like that kind of thing.

Shri S. G. Patel: I would go further and say that Government should desire that things are settled by consultation and persuasion rather than by the issuing of directives, because that will not be a happy state of affairs.

Shri F. Rozario: I only feel that this clause implies that the authority of the trustees of the port is reduced to some extent. Admittedly, this new Bill which is now being enacted is not to be applied to the existing major ports or to the existing Port Trusts. But it is felt that in due course, when the time comes, due consideration might be given to the existing autonomy enjoyed by the port trusts.

Shri Raj Bahadur: Autonomy is a very wide and vague term. If I may describe it properly, autonomy does not mean complete independence. Everybody recognises that. The question is what exactly should be the area of restriction of that independence, so that "autonomy" may be contained within that area; broadly speaking, that restriction can be defined by the expression 'policy'. So, it is only on questions of policy that the autonomy is restricted. Therefore, the autonomy remains. Within the limits of overall national policy of port development, the autonomy is not encroached upon. That is all.

Shri F. Rozario: Your earlier remark really scared me as a representative of shipping interests, when you said that we might decide to increase the rates and say that this is final.

Shri Raj Bahadur: You have yourself said that that power is already vested in Government. I only mentioned it in the larger context of the entire port administration of the country, that if something is going to

Shri G. R. Bal: Naturally, the period will start only from the date of receipt given. If you do not give notice of damage, then how can the liability arise?

Shri Raj Bahadur: The intention is that the period of notice should be determined by the Port Trust itself, because it is likely to vary from port to port. The period of notice can be provided for in the regulations as has been mentioned already in clause 43 (2), which says:

"...unless notice of such loss or damage has been given within such period as may be prescribed by regulations made in this behalf from the date of the receipt given for the goods under subsection (2) of section 42."

Shri A. L. Dias: Suppose a period of seven days is prescribed.

Shri G. R. Bal: Then, it is liability for seven days. In other words, if notice of loss etc. is not given within seven days, the board is not liable. Indirectly, it comes to the same thing.

Shri A. L. Dias: My third suggestion is in regard to the imposition of penalty on under-stating the quantity of goods imported.

Shri G. R. Bal: There again, so far as I know, there is no similar provision in the Calcutta Port Act.

Shri A. L. Dias: There is such a provision in the Bombay Port Trust Act.

Shri G. R. Bal: We shall examine that point further. The only thing that I would like to mention is that even in the absence of any specific provision to this effect in the Calcutta Act, the port trust concerned has not found it difficult to meet this particular situation.

Shri Raj Bahadur: The amount of Rs. 50 as the maximum penalty even in the case of evasion was considered

to be inadequate. The penalty for evasion should be much more than that. So that a sum of Rs. 50 has been made the minimum, and the amount of penalty may be prescribed subject to that, and the provision made in the relevant clause of the Bill would cover the purposes of sections 82 and 83 of the Bombay Port Trust Act and sections 105 and 106 of the Madras Act.

Shri A. L. Dias: I am not sure whether it would cover it. For, here is a specific issue regarding the under-stating of the quantity. I do not think that there is any penalty prescribed for that.

Shri Jagjivan Ram: We shall have it examined further.

Shri Indrajit Gupta: If this suggestion is accepted, would it not act as an additional check along with the normal checks by the customs authorities on the practice of under-invoicing etc.?

Shri G. R. Bal: I think that even under the Indian Ports Act, they have got to declare the tonnage and so on. So, there are independent provisions regarding the matters which are being raised now. For instance, there is a provision in the Bombay Act which refers to the tonnage also. In the Indian Ports Act, there is already a provision in this behalf; if wrong tonnage is declared, then it is made punishable. So, there are independent provisions to cover such a case. Probably, that is why in the Calcutta Act, a provision such as is contained in the Bombay Act was not found necessary.

Shri Jagjivan Ram: We shall have it examined.

(The witness then withdrew)

The Committee then took up clause by clause consideration of the Bill.