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Monday, December 20, 1971
Agrahayana 28, 1893 (Saka)

LOK SABHA DEBATES

(Third Session)

(Vol. X contains Nos. 21 to 31)

LOK SABHA SECRETARIAT
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No 28—Monday, December 20, 1971/Agrahayana 29, 1893 (Saka)

LOK SABHA

Monday, December 20, 1971 Agrahayana 29, 1893 (Saka)

The Lok Sabha met at Ten of the Clock.

[MR SPEAKER *in the Chair*]

PAPERS LAID ON THE TABLE

REVIEW AND ANNUAL REPORT OF HINDUSTAN STEEL LTD.

MR SPEAKER Papers to be laid on the Table Shri Shahnawaz Khan

THE MINISTER OF STATE IN THE MINISTRY OF STEEL AND MINES (SHRI SHAHNAWAZ KHAN) On behalf of Shri Mohan Kumaramangalam, I beg to lay on the Table a copy each of the following papers under sub-section (1) of section 619 A of the Companies Act, 1956 —

(1) Review by the Government on the working of the Hindustan Steel Limited, for the year 1970-71

(2) Annual Report of the Hindustan Steel Limited, for the year 1970 71 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon [*Placed in Library See* No LT-1311/71]

COPIES ACT UNDER THE GUJARAT AND THE MYSORE STATE LEGISLATURES (DELEGATION OF POWERS) ACTS, 1971

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K R GANESH) I beg to lay on the Table–

(1) A copy each of the following Acts (Hindi and English versions) under sub-section (3) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1971 –

(i) The Bombay Entertainments Duty and Advertisements Tax (Gujarat Amendment) Act 1971 (President's Act No 9 of 1971) published in Gazette of India dated the 30th November, 1971.

(ii) The Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Act, 1971 (President's Act No 10 of 1971) published in Gazette of India dated the 30th November, 1971

(iii) The Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1971 (President's Act No 11 of 1971) published in Gazette of India dated the 30th November, 1971

(iv) The Bombay Stamp (Gujarat Amendment) Act, 1971 (President's Act No, 12 of 1971) published in Gazette of India dated the 30th November, 1971

(v) The Gujarat Sales Tax (Amendment) Act, 1971 (President's Act, No 13 of 1971) published in Gazette of India dated the 30th November, 1971 [*Placed in Library See* No LT-1312/71]

(2) A copy each of the following Acts (Hindi and English versions) under

[Shri K.R. Ganesh]

sub-section (3) of section 3 of the Mysore State Legislature (Delegation of Powers) Act, 1971 :—

(i) The Mysore Entertainments Tax (Amendment) Act, 1971 (President's Act No. 14 of 1971) published in Gazette of India dated the 30th November, 1971.

(ii) The Mysore Motor Vehicles (Taxation on Passengers and Goods) (Amendment) Act, 1971 (President's Act No. 15 of 1971) published in Gazette of India dated the 30th November, 1971.

(iii) The Mysore Motor Vehicles Taxation (Amendment) Act, 1971 (President's Act No. 16 of 1971) published in Gazette of India dated the 30th November, 1971.

(iv) The Mysore Stamp (Amendment) Act, 1971 (President's Act No. 17 of 1971) published in Gazette of India dated the 30th November, 19 1.

(v) The Mysore Sales Tax (Amendment) Act, 1971 (President's Act No. 18 of 1971) published in Gazette of India dated the 30th November, 1971. [*Placed in Library. See* No. LT-1312/71].

REVIEW AND ANNUAL REPORT OF DURGAPUR PROJECTS LTD.

SHRI SHAHNAWAZ KHAN : I beg to lay on the Table a copy each of the following papers (Hindi and English versions) under sub-section (3) of section 19A of the Companies Act, 1956 read with clause (c) (iii) of the Proclamation dated the 19th March, 1970 issued by the President in relation to the State of West Bengal :—

(1) Review by the Government on the working of the Durgapur Projects Limited, Durgapur, for the year ended 31st March, 1971.

(2) Annual Report of the Durgapur Projects Limited, Durgapur, for the year ended 31st March, 1960 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-1313/71].

UNION PUBLIC SERVICE COMMISSION (EXEMPTION FROM CONSULTATION) AMENDMENT REGULATION, 1971

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI K.C. PANT) : On behalf of Shri Ram Niwas Mirdha, I beg to lay on the Table a copy of the Union Public Service Commission (Exemption from Consultation) Amendment Regulations, 1971 (Hindi and English versions) Published in Notification No. G.S.R. 1654 in Gazette of India dated the 6th November, 1971, under clause (5) of article 320 of the Constitution, together with an explanatory Note. *Placed in Library. See* No. LT-1314/71].

REVIEW ON FILM FINANCE CORPORATION LIMITED, 1970-71

THE MINISTER OF STATE IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRIMATI NANDINI SATPATHY) : I beg to lay on the Table a copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956 : —

(1) Review by the Government on the working of the Film Finance Corporation Limited, Bombay, for the year 1970-71.

(2) Annual Report of the Film Finance Corporation Limited, Bombay, for the year 1970-71 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-1315/71].

GUJARAT SURVIVING ALIENATIONS ABOLITION SECOND AMENDMENT RULES, 1971

THE MINISTER OF STATE IN THE

MINISTRY OF AGRICULTURE (SHRI ANNASAHEB P. SHINDE) : I beg to lay on the Table a copy of the Gujarat Surviving Alienations Abolition (Second Amendment) Rules, 1971 (Hindi and English versions) published in Notification No. GHM-4125-M-GSA-1071/8175-Y in Gujarat Government Gazette dated the 29th September, 1971, under sub-section (2) of section 28 of the Gujarat Surviving Alienations Abolition Act, 1963, read with clause (c) (iv) of the Proclamation dated the 13th May, 1971, issued by the President in relation to the State of Gujarat, together with an explanatory Note. [*Placed in Library See* No. LT-1316/71].

CORRECTION OF ANSWER TO USQ NO. 6719 RE GROWTH OF INDUSTRIAL HOUSES

औद्योगिक विकास मंत्रालय में उपमंत्री (श्री सिद्धेश्वर प्रसाद : मैं औद्योगिक गृहों मे वृद्धि के बारे में श्री बी०के० दासचौधरी के अतारांकित प्रश्न सख्या 6719 के अगस्त, 1971 को दिये गये उत्तर को शुद्ध करने के लिये तथा उत्तर को शुद्ध करने मे हुए विलम्ब के कारणो का एक विवरण सभा पटल पर रखना हूं।

Statement

In the answer given to the Unstarred Question No. 6719 in the Lok Sabha on the 3rd August, 1971, it has *inter-alia* been stated that "the Monopolies Inquiry Commission listed in its Report 75 Groups whose total assets were found to be not less than Rs. 75 crores in 1964". This statement may kindly be corrected to read as under :—

> "The Monopolies Inquiry Commission listed in its Report 75 Groups whose total assets were found to be not less than Rs. 5 crores in 1964".

Also the figures of assets given in the Statement attached to the answer are in 'Crores of Rupees'.

NATIFICATIONS UNDER EMPLOYEES PROVIDENT FUNDS AND FAMILY PENSION FUND ACT, 1952

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR AND REHABILITATION (SHRI BALGOVIND VERMA) : I beg to lay on the Table a copy each of the followiug Notifications (Hindi and English versions) under sub-section (2) of section 7 of the Employees' Provident Funds and Family Pension Fund Act, 1952 :—

(1) The Employees' Provident Funds (Second Amendment) Scheme, 1971, published in Notification No. G.S.R. 731 in Gazette of India dated the 22nd May, 1971.

(2) The Employees' Family Pension (Third Amendment) Scheme, 1971, published in Notification No. G.S.R. 1252 in Gazette of India dated the 1st September, 1971.

(3) The Employees' Provident Funds (Third Amendment) Scheme, 1971, published in Notification No. G.S.R. 1488 in Gazette of India dated the 9th October, 1971. [*Placed in Library. See* No. LT-1318/71]

GUJARAT GOVERNMENT NOTIFICATION UNDER BOMBAY PRIMARY EDUCATION ACT, 1947

THE DEPUTY MINISTER IN THE MINISTRY OF EDUCATION AND SOCIAL WELFARE AND IN THE DEPARTMENT OF CULTURE (PROF. D. P. YADAVA) : I beg to lay on the Table a copy each of the following Gujarat Government Notifications (Hindi and English versions) under sub-section (3) of section 63 of the Bombay Primary Education Act, 1947 read with clause (c) (iv) of the Proclamation dated the 13th May, 1971, issued by the President in relation to the State of Gujarat :—

(1) The Bombay Primary Education (Gujarat Second Amendment) Rules, 1971, published in Notification No. K/SH/2847/PEA/1470-26317-K in Gujarat Government Gazette dated the 20th May, 1971.

(2) The Bombay Primary Education (Gujarat Third Amendment) Rules, 1970, published in Notification

[Shri D.P. Yadava]

No. K/SH/3383/PRF-1069/73395-K in Gujarat Government Gazette dated the 30th September, 1971. [*Placed in Library See* No. LT-1319/71].

10.03 hrs

SALARIES AND ALLOWANCES OF MEMBER OF PARLIAMENT (AMENDMENT) BILL*

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR : I beg to move for leave to introduce a Bill further to amend the Salaries and Allowance of Members of Parliament Act, 1954.

MR SPEAKER : The question is :-

"That leave be granted to introduce a Bill further to amend the Salaries and Allowances of Members of Parliment Act, 1954."

The motion was adopted

SHRI RAJ BAHADUR : I introduce** the Bill.

10.04 hrs

NEWSPAPERS (PRICE CONTROL) BILL*

THE MINISTER OF STATE IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRIMATI NANDINI SATPATAY) : I beg to move for leave to introduce a Bill to provide for the control, in the interests of the general public, of the prices of newspapers with a view to ensuring that newspapers continue to function, in the prevailing conditions, as effective mass communication media and for securing their availability at fair prices.

MR. SPAKER : The question is :

"That leave be granted to introduce a Bill to provide for the control, in the interests of the general public, of the prices of newspapers with a view to ensuring that newspapers continue to function, in the prevailing conditions, as effective mass communication media and for securing their avalability at fair prices."

The motion was adopted

SHRIMATI NANDINI SATPATHY : I introduce the Bill.

10.05 hrs

PREVENTION OF INSULTS TO NATIONAL HONOUR BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AEFAIRS (SHRI K. C. PANT) : On behalf of Shri F. H. Mohsin, I beg to move :

"That the following amendment made by Rajya Sabha in the Bill to prevent insults to national honour, be taken into considerations" :-

'Clause 2

That at page 2, lines 5-6, the words 'without exciting or attempting to excite hatred, contempt or disaffection towards the Government' be *deleted*.' "

This is a simple amendment. I do not think I need say much on it.

MR. SPEAKER : The question is :

"That the following amendment made by Rajya Sabha in the Bill to prevent insults to national honour, be taken

*Published in Gazette of India Extraordinry, Part II, section 2, dated 20-12-71.
**Introduced with the recommendation of the President.

into consideration :—

'Clause 2

"That at page 2, lines 5-6, the words 'without exciting or attempting to excite hatred, contempt or disaffection towards the Government' be *deleted*." '

The motion was adopted

MR. SPEAKER : The question is :

'Clause 2

"That at page 2, lines 5-6 the words 'without exciting or attempting to excite hatred, contempt or disaffection towards the Government' be *deleted*." '

The motion was adopted

SHRI K.C. PANT : I move :-

"That the amendment made by Rajya Sabha in the Bill be agreed to"

MR. SPEAKER : The question is :-

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

The motion was adopted

10.08 hrs

CONTEMPT OF COURTS BILL

THE MINISTER OF LAW AND JUSTICE (SHRI H. R. GOKHALE) : I beg to move :-

> "That the Bill to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto, as passed by Rajya Sabha, be taken into consideration."

As the hon. Members are aware, it was felt generally that the present law relating to contempt was uncertain undefined and unsatisfatory. It really touched on two very vital rights of the citizens, namely the right to personal liberty and the right to freedom of expression. That is why in 1961, an expert committee was appointed, presided over by the then Additional Solicitor General, Mr. Sanyal. The Committee had made a comprehensive examination of all the aspects of the matter. They obtained information prevailing in our country and in other countries. When the recommendations were made, they took due note of the right of freedom of speech and personal liberty and various provisions of the Constitution relating to contempt of court. The recommendations of that Committee were generally accepted by the Government. Before accepting the recommendations, the Government took into account the considered views of various State Governments, union territory administrations, Supreme Court and other courts. On that basis, a Bill called the Contempt of Courts Bill 1960 was moved before the House.

It was referred to a Joint Committee of two Houses and, after the report of the Joint Committee, the present Bill as moved in the Rajya Sabha is on the basis of the recommendations of the Joint Committee It is true that in the Rajya Sabha certain amendments were proposed by the Government mainly because the Government felt that in some respects if the recommendation of the Joint Committee were accepted, they were likely to infringe on the constitutional position as obtained in articles 129 and 215 of the Constitution.

But excepting for one amendment which was accepted by the Rajya Sabha ultimately, two other amendments were not acceptable to the House and following the consensus of the opinion in the Rajya Subha, those amendments were not pressed in the Rajya Sabha by Government.

The Bill which is now before the House is as accepted by Rajya Sabha. It takes care of all possible situations which arise in the law relating to contempt. I commend the Bill for consideration by the House.

MR. SPEAKER : Motion Moved ?

> "That the Bill to define and limit the powers of certain courts in punishing contempts of courts and to regulate thair procedure in relation there to, as passed by Rajya Sabha, be taken into Consideration "

SHRI MADHURYYA HALDER (Mathurapur): This Bill has been introduced from a class-outlook. This Government speaks loudly of socialism, but still they are giving a separate class-status to the judges Ours is a class-ridden society. In spite of the formal statement, "We, the people of India", the State-structure evolved out of the Constitution is class-ridden. It is an instrument of oppression by the oppressing minority against the oppressed majority. Today the role played by judiciary as an arm of the State structure comes very often under discussion and people having different philosophical and political outlooks have their respective points of view of it. Whenever a particular point of view which our party has given expression to in publice, it is taken to amount to contempt of court. We find that the judiciary by its strict legalistic and technical interpretation of the law misinterprets the will of the people and the spirit of the law. The judiciary offends the sentiments and aspirations of the people. The judiciary as it is today is constituted by people who naturally have a particular class affiliation. Therefore, the judges are guided and dominated by class-hatred, class-interests and class-prejudices, and where the evidence is balanced between a well-dressed, potbellied rich and a poor ill-dressed, illiterate person, the judge favours the former. Therefore, our judges have got to be corrected. Why should the courts be free from public scrutiny, public vigilance and public criticism in this respect so that the people can also say what they feel about the judges ? They are surely not going to be dominated or influenced by a single utterance or a single publication. They are men of learning and knowledge. The peple who administer justice should be men of guts, men of learning and knowledge. Justice means social justice in social background. We are not satisfied with the manner in which the judiciary interprets, understands and administers the law. A common man who has been seeking justice all the time has been denied it all his life.

There are other reasons also to criticise courts. When from 1962, to 1965, Fundamental Rights were suspended and leaders of our party were put behind the bars for holding a certain view, we moved from court, but they did not protect us. Under legal and constitutional niceties, they invalidated some Acts of Parliament very recently. They issued injunctions in favour of jotedars and zamindars regarding vested lands against the spirit of tht law and thus against the wishes of the people. They issued injunction in favour of jotedars restraining the Government from collecting levy of foodgrains. They issued injunctions in favour of monopolists against the workers, who *gheraoed* against closure, lay-off, dismissal and many other grievances.

They issued injunctions in favous of the dishonest school managing committees who misappropriated Government monies and even the teachers' provident fund money. All these are done in the name of legal and constitutional niceties. They have been incurring people's disrespect, if not hatred, and this disrespect comes from the judges also.

I may give you some instances. Sir Biren Mukherjee, an eminent industrialist made a statement attacking the UF Government of West Bengal in 1967 and Mr. Wanchoo, a Judge of the Supreme Court, congratulated him over trunk telephone. Sir Biren Mukherjee while narrating this to Mr. Jyoti Bosu, the then Deputy Chief Minister of West Bengal, commented—these are the judges.

Another Judge, Mr Bachawat was transferred from Punjab High Court to the Supreme Court because the Birlas wanted this and they recommened his name to the Chief Justice, Mr Gajendragadkar....

MR SPEAKER : Please dont comment on the conduct of the Judges. That is not allowed according to our Rules. They may be facts, but they are not allowed according to the Rules.

SHRI MADHURYYA HALDER : This disrespect is also created by the ruling party. Mr. Ramaprasad Mukherjee was appointed a Judge of the Calcutta High Court, when his brother, Dr Shyamaprasad Mukherjee was a Union Cabinet Minister and Mr. Sankar Prasad Mitra was appointed a Judge of the Calcutta High Court.

MR. SPEAKER : This Bill is not about the conduct or appointement of Judges. It deals with contempt of courts.

SHRI MADHURYYA HALDER: Another Judge has been appointed who was a member of the Congress Cabinet. He has been...

MR. SPEAKER: Why do you raise these things at this time?

SHRI MADHURYYA HALDER: Immediately after his defeat in Assembly elections.

MR. SPEAKER: If Judges and the people are not read our proceedings, then I can keep quiet. But people read the proceedings and naturally they will ask as to who was presiding, who was the Speaker. That is why I have to interrupt you.

SHRI DINEN BHATTACHARYYA (Serampore): In that case, nothing can be said against the Judges in spite of the fact that they were against it and our feelings are....

MR. SPEAKER: I am against so many things, but I cannot express it.

SHRI DINEN BHATTACHARYYA: Even the Parliament cannot express?

MR. SPEAKER: The Parliament is not allowed to comment on the conduct of the Judges. There is a special procedure for that.

SHRI MADHURYYA HALDER: In view of all these that I have said this Contempt of Court Bill is unnecessary. Further, the definition is very vague and wide. The area of uncertainty is there. The definition is exactly on the same lines on which the Courts have been awarding punishment for contempt of court. By this law you can net in any person whom you want to.

If you look at the wording of clause 2(c) (ii) and (iii), you will see that the Criminal contempt has been defined this way. I am saying this because actually this is the criterion on which the courts have been punishing persons for their supposed decision for cantempt of corut.

Once a Chief Minister of West Bengal, while explaining certain policy in a radio broadcast, was held for contempt of court. Another Chief Minister was charged with contempt of court for his general criticism of the judiciary. Journalists are very often convicted under this Act.

So, contempt of court should be as put by Oswald in his book entitled *Contempt of Court*, namely:

> "General criticisms on the conduct of a judge not calculated to obstruct or interfere with the course of justice or the due administration of the law in any particular, even though libellous, do not constitute a contempt of court."

As the definition of contempt of court is very vgaue and wide, we feel that this law is intended to defend the touchiness of judges rather than to ensure the proper administration of justice. So, I oppose the Bill I feel that there is no need for a measure of this nature. Both criminal and civil contempt may be tried under the Indian Penal Code Therefore, this Bill is unnecessary. Hence, I oppose the Bill once again.

SHRI C M STEPHEN (Muvattupuzha): Mr. Speaker, Sir, the measure which is now before the House is certainly a welcome one, because it seeks to define and specify beyond the realm of confusion the law relating to contempt of courts. So far, the law relating to contempt of courts was being governed by judicial pronouncements and general jurisprudential concepts. But after the Constitution was enacted, an abridgment of this concept of contempt of courts was attempted, because the Constitution provided freedom of expression, freedom of ideas and freedom of faith etc.

Therefore, it was tested before the courts of law whether where there is a conflict between Fundamental Rights and freedom of expression and the law relating to the contempt of courts, we should have the higher position. It has now been established by a *catena* of rulings that the freedom of expression will stand limited by the restrictions to be placed on the rights of a citizen by the claims of the court to be above contempt at the hands of the people.

Nevertheless, the law continues to be

[Shri C.M. Stephen]

confused and all sorts interpretation are possible and are attempted to be injected into it. This particular law seeks to define specifically what exactly is contempt of court, and what exactly the procedure should be to proceed against cases of commission of contempt of court, and what exactly the punishment to be inflicted should be. So, this law is certainly welcome because it has long been overdue.

Having said so, I feel that certain aspects of this law deserve closer examination, because in the attempt to define the procedure and the concept, certain other fundamental concepts have been overstepped or overlooked. But the basic scheme of the measure seems to be this, that the law of contempt of court must remain as it has been, that the defences available to the citizen against charges of contempt of court as they were before the law enacted should continue to be available to him, and whatever was not contempt of court before this law is enacted must not become contempt of court by reason of the fact that this law is enacted. That is to say, this law attempts to limit the sphere of contempt of court to where it was, and from there seeks to take out certain exceptions and say that these shall not be contempt of court. Some new exceptions there are about which I have got my own misgivings.

One of the new ideas introduced in this Bill is the idea of *mensrea* with respect to the distribution of documents. With respect to the publication of documents, *mensrea* continues to be irrelevant But under clause 3 (3), with respect to the distribution of documents, the law says that unless the person who distributes a document is aware or has reason to be aware that the document contains any Statement tantamount to contempts of court, the act will not be a contempt of court.

Honestly, I fail to understand the necessity for the distinction So far contempt was not related to *mensreu*. Now with respect to everything else, contempts continue to be unrelated to *mensrea* but with respect to distribution of documents, it is sought to be inducted into the concept. I would like a clarification as to why this is necessary.

There is another distinction. With respect to documents which are published under the Newspapers and Books Act, this protection is available, whereas with respect to distribution which does not fall under this category this protection will not be available. If *mensrea* is really a basic factor in the whole concept. The distinction is uncalled for because it is a criminal offence. Criminal offence must be a criminal offence by whatever means it is committed. If by puplication of a book under the rules of this particular Act there is no contempt of court, publication of the same statement through a document outside these rules cannot under the provisions of the penal law amount to contempt.

Another point, If a contempt is committed before a presiding officer, then action can be taken. Understandable. But there is another thing. It is stated that the presiding officer need not be asked to give evidence. A statment would be enough. That Statement will have evidentiary value against the accused. May I submit that this is a very fundamental departure from the concept of the rule of law we have been following so far because the accused is entitled to cross-examination of the complainant before he is charged? Therefore, this departure is certainly untenable.

The third point to which I wish to draw specific attention is whereas it is specified that in a civil contempt he may be imprisoned in a civil jail when a criminal contempt is committed, he may be imprisoned elsewhere. I do not really follow this distinctinon. Civil contempt is where there is wilful disobdience of the order of a court According to me, the offence there is more grave because if the orders of the court are disobeyed and they go scot-free, no order of a court can properly be implemented, particularly the order of a civil court. Therefore, this distinction is uncalled for. I would request the Minister to look into this.

One more point. Here there is a drafting difficulty which needs looking into. According to this Bill, any proceeding under contempt has got to be tried by a

division bench, but subsequently in cl, 19, we find :

> "An appeal shall lie as of right from any order or decision of a High Court on the exercise of its jurisdiction to punish for contempt, (a) where the order or decision is that of a single Judge, to a Bench of not more than two Judges of the Court."

Once you say that every proceeding must be before a Division Bench of two Judges, how does the question of an appeal against an order of a single Judge arise ? It does not. Either the one or the other must go. This may be an oversight which has got to be scrutinised.

Lastly, here is a provision which says that the praceedings which says that the proceedings with respect to contempt of court can be initiated by the Advocate Generel or by anybody with his consent. This is a very dangerous provision. I may cite an example. In Kerala, when Shri Shankaran Namboodiripad was the Chief Minister, he made a certain statement, according to some. proceeding were sought to be initiated. The advocate-General was approached. But he declined. The Bar Association initiated the proceedings. The Advocate-General appeared in defence of Mr. Namboodiripad and opposed the petition. Finally, the high court held Mr. Namboodiripad guilty. Mr. Namboodiripad took up an appeal before the Supreme Court. The Supreme Court upheld the decision of the high court and found that the contempt was committed. Here is a case where the appointment of the Advocate-General is generally supposed to be a political appointment. Governments come and governments go, and a Chief Minister or somebody makes an attack on the judiciary, very naturally as was done in Kerala ; the Advocate-General refuses to come in. The Advocate-General refuses to give the permission also. What happens about it ? Is it not the people's right, anybody's right, to move the high court and bring to their notice that a contempt has been committed ? That has been the law so far. Why should that law be departed from ? Is it the intention that if contempt is committed by the Minister, then that contempt must go unchallenged through the instrumentality of the Advocate-General ? Why should they give protection to anybody ? Once it is accepted that contempt, is contempt whoever may commit it, once it is admitted that the prestige and the inviolability of the judiciary is something which has got to be maintained by the people also, once it is accepted there is a penal thing involved in it, why should yon insist that the Advocate-General must give you permission ? May be the court may feel that they must proceed, but the persons being what they are, it is not likely that they will initiate proceedings. We must give it to the people, give the right to the people to move in this matter. My Submission is, a departure from the current law with respect to this particular provision may kindly be not insisted upon, because in that case, contempt will go scot-free if it is committed by people who have got an authority on the Advocate-General. These are a few points which I wanted to bring to the notice of the hon. Minister in order that he may have a second look into the matter.

One last point and I shall finish. Here it is stated that a contempt committed *per se* in the province of the high court and the Sugreme Court can be proceeded against immediately and the person can be detained. But a contempt committeed *per se* before a subordinate court cannot be proceeded against and the person cannot be detained. Is this distinction warranted ? Contempt against the judiciary, whether it is in the high court or the Supreme Court or the subordinate court is contempt ; wherever it may be. Here you say that if it is contempt committed before the high court that person can be detained but then if it is committed before the sessions court, the judge can only blink and send up his report and wait for the final decision of the high court. Is this distinction warranted—that the detention is permissible in the case of the high court or the Supreme Court only ? May I enquire whether detention is not warranted if the contempt is committed before a subordinate court ? The attempt must be to protect the judiciary, to protect the fair name of the judiciary, to protect the prestige of the judiciary, and any violation

[Shri C.M. Stephen]

must be met, if at all it has to be met, equally, whether it is before the Supreme Court or before the lower court.

These are the few observations I wanted to make. I request the hon. Minister to look into this aspect and give a clarification when he replies to the debate on the motion for consideration of the Bill.

SHRI S. M. BANERJEE (Kanpur) : Sir, since we had no time to put in any amendments—I was a member of the Joint Committee—and since we wish to express our opinion, I may be given some time. We know we cannot put in any amendment...

MR. SPEAKER : If you were a Member of the Joint Committee, you could not give an amendment.

SHRI S. M. BANERJEE : I have given a Minute of Dissent which is four pages long.

MR. SPEAKER : Why are you worried about it ?

SHRI S.M. BANERJEE : I shall repeat what I wrote in the minutes of dissent before it was finalised. I said the law of contempt of court is one of the begacies of the British rule in this country.

MR. SPEAKER : It is already there before the House.

SHRI S.M. BANERJEE : I wrote :

> "Under the colonial regime, the concept was transplanted into India and then distorted and vulgarised to suit the convenience of the British rulers."

We find that some of the judges I do not want to mention the particular judge behaved like judicial touch-me-nots. They may say whatever they like but whenever anything is said either by the concerned people or the organised political parties against some of the judgments which according to them may be correct but according to us may not be correct, immediately we are told that it amounts to contempt of court.

At the time the bank nationalisation case was going on before the court, it was brought to our notice that two judges had some share in one of the nationalised banks, the Punjab National Bank and we said in this House that those two judges should not sit in judgment on this particular case. This was raised by the learned council who pleaded in that case but since objection was not taken by the Attorney General the judges remained where they were. But is it fair on the part of the judges to sit in judgment over a case where they are shareholders of a bank which has been nationalised ? If those two judges are criticised will it amount to contempt of court ?

The same question was posed by Subodh Banerjee, the then Labour Minister in Calcutta. Mr. Bhandare my hon. friend who was there put in a question to support the judges. Suppose when the judges go to attend the court, to attend to their duties, there is a peaceful *gherao* will it amount to contempt ? The reply was that if the *gherao* was peaceful it should not be. That was the reply given by Shri Subodh Banerjee.....(*Interruptions*)

SHRI R. D. BHANDARE (Bombay Central) Do not put in my mouth the words which, I had not spoken.

SHRI S.M. BANERJEE : You put the question and he replied.

MR. SPEAKER : Tomorrow if some Members of Parliament are *gheraoed*, what will be the position?

SHRI S. M. BANERJEE : There are certain clauses in the Bill and my point was that people should be permitted to make honest criticism of the judges and their judgments. I am not talking about the conduct of judges ; in judges their personal life may or may not do something; I am not bothered; I am only concerned with their judgments.

I am told that recently the Chief justice of India had written a letter to the Prime Minister about some proceedings which

took place in the House on the 25th and 26th Constitution amendment Bills Though it has been contradicted, the fact whether he has written a letter or not has not been contradicted Perhaps in that particular letter he had not mentioned this or thrown any aspersions on the conduct of the Members of the House, while delivering speeches here, especially the speech delivered by my friend Shri Gokhale I would like to know from him whether any letter has been written by the Chief Justice, and if so that letter must be placed before the House

MR SPEAKER They have already contradicted it

SHRI S M BANERJEE I am putting this question It may not be on the 25th amendment it may be on the 26th amendment

MR SPEAKER They may be writing on a number of things

SHRI S M BANERJEE If it concerns the functioning of Parliament at any time I would request the hon Minister to place it on the Table of the House There are various aspects to it

As I have already mentioned, some of the judgments, according to us, are not progressive but retrogressive, what we call in our political language 'reactionary judgments," There, we should have every right to criticise

It is provided here

> "A person shall not be guilty of contempt of court for publishing any fair commenton the merits of any case which has been heard and finally decided-"

What is meant by fair comment" My fair comment can be that the Judges were unfair, but according to the Judges the comment may be unfair The word "fair" is not definedet at all

Again, it is provided

> " A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer of any subordinate court to—
>
> (a) any other subordinate court, or
>
> (b) the High Court, to which it is subordinate"

What is meant by ' statement made in good faith"? I make a statement in good faith that the Judges should never have held shares in the Punjab National Bank and sat in judgment in the Bank Nationalisation case I make this statement to remove and apprehension in the minds of the people of this country about the integrity of the Judges, to save the integrity of the Judges Will that be taken as being in good faith or not' So, I would like the hon Minister to define those two expressions

Clause 16 says

> "Subject to the provisions of any law for the time being in force, a judge, magistrate or other person acting judicially shall also be liable for contempt of his own court or of any other court in the same manner as any other individual is liable are the provisions of this act shall, so far as may be, apply accordingly "

This is also not very dear to me

Suppose I appear as a witness befor a court and make a statement which is true according to the best of my knowledge, but the facts mentioned by me do not suit the convenience of the hon Judge or the hon Court, will that be contempt ?

That is why I say that we should not hurry up with this Bill. Let us wait for some time This particular Note of Dissent was not given by me alone, but by one of the most learned Members of this House, Shri Tenneti Viswanattham

In our Minutes of Dissent, we have said

> "We must also add a word of our profound appreciation to the evidence given before the Joint Select Committee by several eminent jurists "

[Shri S.M. Banerjee]

The Chief of the Bar Council, one of the oldest lawyers of Calautta, appeared before the Joint Committee. He is 72 or 73 years old. He is not a very radical lawyer, and I have verified that he was neither a Communist nor a Socialist nor anarchist nor terrorist. He said in his evidence that what we were doing in the Bill would simply make any observation of any man impossible as far as the judges were concerned. The Judges are also citizens of this country which is supposed to be moving towards socialism. If any judge does anything which harms socialism, I want to know whether this Parliament or the peoples chamber will have any authority to remove that judge. Changes are taking place in this country. Changes have taken place, We have seen the conduct of the judges in the matter of abolition of privy purses and bank nationalisation. I am surprised that they could not keep pace with the country. When the judgment was delivered, there were 10,000 people waiting at the Supreme Court shouting slogans. If that is also going to be contempt, I do not know how people can possibly express their indignation dissatisfaction or anger against a particular pronouncement of the Supreme Court or High Court,

> "We will consider our collective effort amply rewarded if the changed law brings some relief and assurance in the Press and the Public, constantly haunted by the spectre of the law of the centempt of Court."

Freedom of the press is very dear to us. I am not talking of the jute press. I am talking of the press whose judgment will not be coloured by big bourgeois, big capitalists and monopolists, The press, the public, trading organisation and political organisations are all haunted by the spectre of the law of contempt of courts.

> "We are confident that the future will justify not only the correctness of our stand in the Joint Select Committee but also the need for further radical changes in this particular law. We hope our judiciary will take due cognizance of the mood and wishes of the people which were partially mirrored in the work of the Joint Select Committee."

When I read this sentence, I am sounding like a prophet. At that time, not only me, but our leaders like Mr. Viswanatham, Mr. Bhupesh Gupta, Mr. Sen Gupta and others who jointly signed this, visualised that a day will come when this Government shall try to move towards more radical reforms and there will be a clash between the Parliament and the judicary. Both are creatures of the Constitution, but it has been amply proved that this House is supreme and the Suprpme Court is not supreme.

With these words, I hope the Minister who during the discussion of the Constitution Twenty-fifth Amending Bill in this House tried to expose the conduct of the judges and who analysed their pronouncements and dissected them, will defiitely hold the banner of parliamentary democracy aloft and save the press and the peoplefrom this spectre of the law of contempt which is haunting us.

SHRI H. R. GOKHALE : Sir, the discussion shows that the impression is that the law as it were is intended only to protect the judges. It is not only intended for that purpose but it is also as much intended to protect the accused in a criminal trial and the litigant in a civil case. The principle is that while the adjudication of a dispute in a civil court is in progress, or when a trial of a criminal offence is in progress, criticism of what is taking place in the trial or in the civil litigation in the press or outside on the platform should not affect the independent judgement of the court which is dealing with that particular litigation. Therefore, I would first like to dispel the impression that the whole object of the law is only to protect the judges and has no other object. In fact, the law relating to contempt of court is primarily intended to see that the litigation or adjudication pending before a court of law is protected from unfair criticism when the progress of the litigation is on in a court of law. It is also intended to protect the accused against whom charges are levelled in a criminal court so that while the trial is in progress—and a fair trial, of course, is what is

intended to be there by everybody—criticism made outside on the platform or in the press should not affect the conduct of a criminal prosecution. That also is an important, perhaps an equally important, basis of the law relating to contempt which, I respectfully submit, has been ignored in the discussion which has taken place so far. Therefore, let us not look at the Bill only from the point of view as if it is intended to protect the judges. No doubt, judges are intended to be protected because if judges are subject to all kinds of criticism in such matters in which they are required to adjudicate, they will not be able to apply their mind fairly and independently to the case or the adjudication on which they are called upon to sit in judgment. Therefore, let us look at the Bill in a more comprehensive way and not only criticise it on the ground that it seeks to protect the judges and does nothing more

Then, as I mentioned in the opening remarks, there was a Joint Committee of Parliament on this Bill. No doubt, there were some dissenting notes and my hon. friend, Shri Banerjee, was one of those who dissented. But the government accepted the opinion of the majority in the Joint Committee and the Bill gives effect to the recommendations of the Joint Committee. At the stage when the Bill was before the Rajya Sabha I had felt, Government had felt, that if all the recommendations of the Joint Committee were accepted, there was a danger of some of the provisions at least being struck down by the courts on the ground that they took away the right which is guaranteed to the Supreme Court and the High Court in articles 129 and 215 of the Constitution as courts of record. Only in respect of one matter, I think clause 14 of the Bill, my recommendation was accepted by the Rajya Sabha. With regard to others, not only one only section of the House but the general consensus of the House was not in favour of accepting the amendments which I had proposed before the Rajya Sabha. In deference to the wishes of a large body of members of all sections of the House in the Rajya Sabha, I gave up the amendments with the result that for all practical purposes the Bill which is before the House now is as was recommended by the Joint Committee.

Some hon. Member asked me in the course of the speech as to what are the improvements that have been effected. In some matters it was found that the intention which was there in the Report of the Joint Committee should be expressed in a better way, with better elegance, so that there will be no difficulty in interpretation ; some verbal expressional changes were made to improve the Bill. So far as the basic recommendations of the Joint Committee are concerned, they have been incorporated and these alterations are only to make the drafting more accurate to see that there is no difficulty about interpretation. The changes that were made, and they were not many, were made to improve the Bill so that the Bill can be saved from any attack on the ground of vagueness or any similar criticism.

Several questions were raised on how judges behave. I have been at the bar for at least thirty years and I know here and there we found judges who had behaved in the way in which they should not in the discharge of their duties by making uncalled for remarks, losing their balance and hurting many people, litigants as well as others. Nobody wants to say that this kind of making remarks by judges should be justified But I am also proud of mentioning that by and large the entire judiciary do not use such expressions while deciding things which come before them.

As to the criticism of judgments, hon. Members know that there is an express provision made in the Act that when a judgment is delivered the case ceases to be before the courts and fair criticism of that judgment is now permissible. Now what is fair and what is in good faith are such well-accepted terms in law. They have come in for interpretation all through in Indian courts and courts outside that my hon. friend, Shri Banerjee, if he opens up a few cases will find that there is complete safeguard, because if it is not motivated by malice, motivated by ill-will, then it is permissible.

SHRI K. MANOHARAN (Madras North) : Who decides whether it is fair or not ?

SHRI H. R. GOKHALE : Certainly the court.

Either you have some faith reposed in the courts or you do not have. If you have still some faith reposed in the courts and you charge them with the duty of dispensing justice, while you want to protect the litigant, you want to protect the accused, you want to protect the judiciary also. There is a three-fold objective underlying the provisions of this Bill. The final word must be given to the judiciary. Until the court is satisfied that this was actuated by nothing else but malice, that this was actuated by facts which have no basis at all, the court will not accept it. If the facts are there which substantiate the criticism, if it is shown that intention was not to bring the court to contempt but to expose a certain situation in the public interest, that is a different thing.

Recently, there was a case and on the remarks by a Member of the house the matter was taken to and court, following the observation of law, the Supreme Court said, "We need not be so sensitive, so hyper-sensitive." That was the word used, It said, "We should also work under public gaze." So, they took the view that it was not contempt of the court. The cases are not wanting where a fair view of all these matters is taken. I think, we need not be very critical because some Judges may have behaved in a particular way. As I mentioned, I do not want to justify those cases. But, by and large, I think, it is wrong to criticise Judges on that ground. Unless you protect Judges from unfair criticism, I think, it is also wrong to expect an independent, a fair and an impartial judgment from them. If individual cases arise, they can be dealt with, When a fair criticism has been levelled, the Judges have corrected themselves. If they do not correct themselves, there are other ways.

My request to the House is not to regard this measure only as being for protection of the Judges. For example, you keep in mind an accused who is facing a murder charge. What happens if even before the completion of the trial and the verdict delivered, the person is already judged in public. Therefore, we do not go to that extent as in some other countries they have gone. We have followed this measure that when the court is seized of the matter, an unfair criticism should not be allowed while the litigation or the trial is in progress. That is basic the idea underlying this Bill.

I would again like to repeat that the Bill which has now come before the House is substantially in conformity with the majority of the recommendations of the Joint committee. The changes are only formal and verbal only to put the various provisions beyond doubt.

Then, a few things were mentioned by the hon. Member, Shri stephen. When he came here, I pointed out the difficulty to him. Article 129 refers to the powers of the courts as a court of record to punish for the contempt. I had made clear before the Rajya Sabha that while in deference to the wishes of the House I was agreeing to drop the amendments. I have always the fear and have it now that some of the provisions may not stand scrutiny in a court of law. What is a right to punish for contempt by a court as a court of record has been very well established at and those powers have been protected by two express provisions in the Constitution. We are not amending the Constitution, and we are only trying to make a law so as to fit in with the four corners of the constitutional provisions.

11.00.hrs

A reference was made to the right of appeal. It was said, if it has to be heard by two Judges, where is the need for referring to a single Judge ? What has not been noticed is that the provision says that the two Judges must hear the case relating to criminal contempt. But it does not say that in the case of civil contempt, a single Judge cannot. Therefore, the right of appeal takes into account all cases, criminal contempt as well as civil contempt. If a Judge has decided in a Single Bench, then it is a protection given to the accused that he has a right of appeal to go before a Division Bench, and further an appeal as of right to the Supreme Court. Now, there is a two-pronged protection, one to the Division Bench if the Single Bench has decided and second, a right of appeal to the Supreme Court even when a Division

Bench has decided against him. Only in the case of the Judicial Commissioner an exception is made because most of the Judicial Commissioner courts are composed of only one Judicial Commissioner. It is impossible to find two persons in those courts to sit and adjudicate on a case. Even then when a Single Judicial Commissioner has decided, a right of appeal has been provided as of right to the Supreme Court.

Now, a reference has been made as to why the intervention of the Advocate-General is necessary. These are two extreme points of view. On the one hand it has been said that there should be absolute freedom of speech, nothing like contempt of court. On the other hand, it is said that one should have the right to go to the court for prosecution for contempt. Now, the provision really finds out the *via media* that the highest Law Officer of the High Court, only if he is satisfied that a *prima facie* case is made out for prosecuting contempt of court, then only at his instance prosecution for contempt of courts can be taken. These are not provision for the first time found in this law. The Advocate-General has figured in the CPC. He is a lawyer, he knows. In many matter there at the instance of the Advocate-General, these matters are initiated. Therefore, this is a sort of *via media*. While, on the one hand saying 'No contempt at all', on the other hand,- an individual who for his own presonal reasons might move a court for contempt, he is prevented from doing so because a third officer, a highest officer of the court, namely the Advocate-General, has to step in before proceedings can start So, this will be really a protection from frivolous cases of contempt. This is the whole idea underlying this Bill.

SHRI C. M. STEPHEN : I tell you what really happens. In Kerala that is the danger. There is the danger. That is why I instanced that particular occuurence. The Advocate-General can go on to screen persons who want to carry on their contempt activites and they may be screened. So far, under the contempt law Advocat-General was not necessary. Anybody can go to the court. What is the specific consideration that weighed with the Government to make a change in the taw?

SHRI H.R. GOKHALE : I have already answered it. If you proceed on the basis that the Advocate-General in Kerala or in some other State is going to act *mala fide*, that is a different matter. The law proceeds on the basis that an officer holding a constitutional post under the Constitution as Advocate-General, he will act in good faith and without ulterior motives, and I think the assumption is not wrong, merely because in Kerala, as my friend says, something might have happend. It is wrong to think that in Kerala the Advocate-General is not fair and somewhere-else he is fair...

SHRI INDRAJIT GUPTA (Alipore) : What you are saying is not political realism.

SHRI H. R. GOKHALE: He was referring to Kerala and I assume even in Kerala the Advocate-General will perform his duties according to his conscience and without any ulterior motives.

I think I have clarified most of the points raised and I would recommend that the Bill be taken into consideration.

SHRI S.M. BANERJEE : He has not said anything whether a letter has been received. Otherwise, impression will go round in the country that the letter has been received.

MR SPEAKER: I am not allowing it. Now, the question is :

> "That the Bill to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR SPEAKER: There being no amendments, I will put all clauses to vote. The question is :

> "That Clauses 2 to 24, clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 2 to 24, clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. R. GOKHALE: Sir, I move:

" That the Bill be passed."

MR. SPEAKER: motion moved:

"That the Bill be passed."

SHRI V.K. KRISHNA MENON (Trivandrum): with great respect, I entirely agree with the Law Minister in saying that there must be provision to protect a citizen against comments of newspapers in matters that are pending before the courts, particularly in criminal cases. But again, with regret and yet with respect, I should say that the Law Minister should not use this argument which is necessary to defend something which it is necessary to defend, to defend something which is indefensible. It is necessary for this House to realise that the whole law of contempt of court is an inroad into the system or the concept of natural justice. It is the judge who is the prosecutor and the judge in this case.

I fully agree that there must be some provision for what is called contempt *ex facie*. That is to say, if a man throws a bottle of ink against a judge or does something of that kind, there must be some provision to punish him for contempt and some limitations in regard to punishment. But under the law as it stands, that is not the situation. It would be entirely defensible if there was a special provision that matters that are *sub judice* should not be commented upon in regard to the subject-matter so as to prejudice the trial. Otherwise, you will have situations where newspapers may try cases. I entirely agree with the hon. Minister there. But the situation in this country is different.

I regret that some reference has been made here to the Kerala case. I had also something to do with it. The crux of the matter was that the person who was the contemner made some comment of a philosophical character, and I believe he said that the judges were dominated by class prejudice, because they came from particular classes. He did not say that any particular judge was ; he did not say that the court was. In fact, the person concerned did not say that the judgment should be in a particular way and so on, but he had merely given a quotation, and rightly or wrongly he had quoted the sentence that judges were dominated by class prejudice. This sort of thing has been said by very conservative judges like Justice Cordozo and also by liberal judges before, who said that you could not take away from a judge his sub-conscious impulses; the fact that he belongs to a particular calss which believes in protection of property would make him believe that any talk of inroads into property would be regarded as very inexcusable. So, to meet this kind of situation, this kind of observation was made; Justice Corodozo was dominated by this feeling so much so that he had to impose the guilt upon himself or the guilt consciousness and he had put it that way.

Therefore, when you have a situation where the judge is the prosecutor and the judge at the same time then it is a very serious position, especially when a person can be held guilty of contempt of courts by judges at any level and you cannot make any distinction in regard to them.

My submission would become clearer if I narrate two or three facts in history. In the legal history of India, there is a very famous case of contempt of court, and the same law continues now also. That was the worst case of contempt of court, namely the case of *Lala Agar Krishna Lal;* this case had gone even to the Privy Council for contempt upon contempt. At that time, they could not deal with this at the level of the judiciary, and, therefore, they had dealt with it in other ways. There, it was a matter of judicial prosecution. That machinery is still there.

All the World over, there has been oppositon to the utilisation of contempt of court in many cases. In countries like the UK, very few judges take notice of small matters. But we cannot say tnat, that is the situation in our country. And what was the answer given when the contempt law was sought to be removed? There is the famous judgment which says that while this law may not be necessary in other countries, in the case of colonial countries

or countries inhabited by coloured people, you cannot remove this law. And that is the law which the Law Minister wants to perpetuate now, because he also seems to feel that in the case of colonial countries or in the case of countries inhabited by coloured people—where the colour goes into the brains also—this kind of law must be upheld. Then, there was the famous case of a newspaper which had said something about the system of law in this country

Then, we had the Namboodiripad case. First of all, I would like to take this opportunity of saying that it is very wrong even to allow a suggestion that there was any attempt on the part of the Advocate-General not to go on with it. I am not trying to defend him here, because he can defend himself. But let me tell you what the correct position was, and it was that the Government there did not want to go on with it, just as it happens in criminal cases where other private parties are involved. Therefore, it is not correct to have made any such remarks in regard to the Advocate-General.

If the law is merely for the protection of the citizen, than we are all at one with the hon. Minister. But if the law is for the protection of a judge as against a citizen, we are entitled to turn round and ask what exactly Government have in view. A judge is protected by various laws. For instance, there is the penal law of the country. The judges should not be more sensitive than anybody else. Then, there are other provisions to protect the judges. So, why should we add these proisions here ? And what is more, there may be cases of the type of the Namboodiripad case which has been referred to earlier. That is an instance where it would unleash that type of feeling, to put it very midly, and in fact, one of my colleagues in the Bar who is now a judge of the Supreme Court, said that there was no contempt.. Another colleague said ; 'there is contempt, but a small fine would do'. A third judge said : 'I would like to send him to imprisonment'—that is to say for an expression of opinion. And this will happen once there is the power to do so. You cannot expect human beings—even judges are, I believe, human beings—not to use it according to their prejudice. You cannot escape the fact that we have a judiciary which, for good reasons, I think, is comparatively isolated from the trends of public opinion. When great social changes take place, and very sharp words had been used, if the courts were to go by the technicalities and say 'this is contempt', there is no freedom of speech.

There is also a provision here which says that anything by way of fair comment is not contempt. There I think the Minister gives the case away. Who decides what is fair comment ? The judge. Fair comment has always been—even if it is libel—overlooked. My submission is that judges should not live in an ivory tower in this way. They should be open to the glare. They can go to court for action under sedition, slander, libel or whatever it is. All provisions for it are there in the code. If it is a question of spreading hatred, setting one class of people against another, that also is provided for in our penal law. Our penal law is so drastic, left as Macaulay drafted at that time, that there is no necessity for anything else. With the contempt law as provided which makes an inroad into the fundamental rights in the Constitution and says that it does not cover the law of contempt, with a special exemption, you are handing it over to the judges who will say : the matter has been before Parliament and Parliament still thinks that we should have this power. I think the power of imprisonment is unjustified except in cases where there is comment on a criminal cases pending action or where there is a provision which says that there is room for appeal and so on.

It must be understood that these are very expensive and lengthy proceedings. Contempt action is an extremely lengthy proceeding. In this particular case, to which reference was made—otherwise I would not heve alluded to it—the longest judgment was a dissertation on Marxist theory which could itself have led to comment afterwards. The main contention of the judge was that he knew German and counsel did not know German.

So these things happen. I do not think the law of contempt should be allowed to have such wide scope and create a

[Shri V.K. Krishna Menon]

situation as happened in the case of Lala Har Kishan Lal whe e the proceedings dragged on for years, the man was im poverished and rendered bankrupt and everything gone, because the Chief Justice did not like him—that was all there was to it.

The other case was, as I said, that in colonial countries, in places inhabited by coloured peoples this kind of law was necessary. If we accept that, we can have this. But I thought we had gone past that.

I may sound a bit unorthodox if I were to refer to the way Parliament works over here. But this has been put in, God knows why. It is an instrument of oppression in the hands of the judiciary, nothing else. After all, the judiciary can and should stand criticism. In writing, we criticise judges. We say the judgment is perverse. You cannot do anything about it. Everyday you go to the superior court and say that the judgment of the lower court is perverse, *mala fide*, this that and the other. That can be said there. It can be said here also. But a newspaperman cannot publish it. I can say here that a judge has been actuated by malice. But if the newspaper chap publishes it, he gets into trouble. I can say it here but I can not say it outside.

AN HON. MEMBER : That is his privilege.

SHRI V. K. KRISHNAMENON : The whole of this law of contempt is like setting fire to a house in order to get rid of a house or something like that.

There is enough provision already in existing laws. We should not have a law which is of an omnibus character. It should be confined to the judicial processes, where either by tampering with evidence or by maligning the character of somebody who is under trial, as it often happens, for example, you have situations in the United States where newspapers try cases, the whole trial is vitiated and brought into contempt. There I agree with the Law Minister that that should be prevented. But I was very surprised to see that it has come back. I thought it had died down in course of time. Instead of that, it has come back. We have to solidly fight this contempt of law. They are arming the judiciary-and judiciary includes, the magistrates, I presume, or, any magistrate for that matter,—and arming them with the power to sentence people to undergo imprisonment in jail. The Corporations of course would be in a different position. I therefore think this measure aims at curbing our fundamental rights, the free expression of opinion and speech and also it prevents even academic comments about the nature of society, about what the Government thinks; these are matters of the sub-conscious mind; if you say I have my own views in my sub-conscious mind, it is in my head or somebody else's head, then, it cannot be brought into or within the ambit of the contempt of judges Act. There should be no case for contempt even in regard to a general statement in regard to the institution as a whole in order to change it. That is what we want. When there is no particular contempt or when there is no contempt of a particular judge or a particular court or a particular cause of action, why is this necessary ? There may be a provision saying that it must be of a serious character. But there is no provision, if I have understood it, but even then, a judge again has to decide what is substantial and what is not substantial.

SHRI C. M. STEPHEN : Not the same judge.

SHRI V.K. KRISHNA MENON : May be; they are of the same brother-hood of judges, because other factors come into it. If it is not done in this way, then it may come back on him and there may be a contempt of judiciary and so on. If there is a real contempt, as I said, in the court, when somebody insults a judge, the person concerned may be given punishment; it may be a case for punishing immediately, but these long cases go on for months just because he expresses his opinion in regard to the state of society or he may be a person who knows anything about the social psychology. So, the judges are not dominated by one way or the other. The judge of a particular community may have one view; the judge of a particular area

may have one view or something like that.

I remember in a small magistrate's court in England, when an Indian seaman walked in to give evidence, the magistrate said, "Yes; I know what he will say." It goes on every day. The magistrates say, "I know him; I know what he is going to say." That can be cited here. Conferring powers, arbitrary powers on people who are prosecutors and judges at the same time is violation of the principle of natural law, natural justice where a judge sits in judgment on whether he has been attacked or not.

Therefore, these measures should be limited merely to cases which are sub-judice, where the citizen is affected. The provision says that only in the case of fair comment it is not contempt. It does not mean anything at all, because fair comment is decided by the judge ; whether it is fair or not.

I would say that the law of libel has provision for a penal law and the general respect in which the community holds the judiciary, which happens fortunately in our country, is adequate protection for a decent judge, and we should not be so sensitive as to be worried about something of what the newspaper says.

श्री आर० वी बड़े (खारगोन) : माननीय अध्यक्ष महोदय, यह जोकन्टेम्प्ट आफ कोर्ट बिल पास होने जा रहा है, मैं यह समझता हूं कि पहले यह कन्टेम्प्ट आफ कोर्ट था, जब तीन जजेज होते थे, ब्रिटिश गवर्नमेन्ट के बारे में कन्टेम्प्ट आफ कोर्ट था। पहले जितने जजेज होते थे, वे समझते थे कि हम कोई सुप्रीम अथोरिटी हैं, हम विदाउट प्राइवेट प्रेजुडिस है। वे समझते है हम न्याय मन्दिर में बैठे हैं तो हम कोई देवता है, कोई भगवान हैं, वे लोग कैसे इस में प्राइवेट प्रेजुडिस लाते हैं। उसके बारे में जजमेन्ट में स्ट्रिक्चर्स पास करते हैं और उसी तरह से उन के जजमेन्ट आते हैं। अगर कोई क्रिटिसिज्म करे तो वह क्रिटिसिज्म फेअर हैं या नहीं, इस का निर्णय करने वाले जजेज का क्या तरीका है, वे अपनी कोई ओपीनियन फार्म कर लेते हैं। जैसे कोई वकील आता है, अमुक वकील बहुत बोलता है, कन्टेम्प्ट करता है, उसके बेसिज पर वे स्ट्रिक्चर्स पास करते है। उसके बाद कोई दूसरा जज आता है तो वह भी ऐसा ही सोच लेता है। इस मे दिया गया है। ऐसे ही क्लाज ३ मे लिखा है :

"For the purpose of this section, a judicial proceeding is said to be pending until it is heard and finally decided."

What do you mean by that ? He should wait for the decision of the Supreme Court ?

इसके बारे में भी माननीय मन्त्री जी को साफ करना चाहिए।

दूसरी बात जो इसमें लिखी है कन्टेम्प्ट आफ कोर्ट के बारे में वह कोर्ट को प्रोटेक्शन देने के वास्ते है। आज 25 साल की आजादी के बाद यही कोर्टस को कटेम्प्ट आफ कोर्ट की इस प्रकार से तलवार दे दी जाये तो मैं कहता हूं कि न्यूजपेपर में आना या कही बात करना भी गुनाह हो जायेगा। उसमें पांच सौ रुपए और इम्प्रिजनमेन्ट की बात दी है। और जहां तक क्षमा मागने की बात है, क्षमा मांगने के बाद में कोर्ट मे उसका फैसला होना चाहिए था लेकिन इसमें उसका प्राविजन नहीं है। इसमें कटेम्प्ट आफ कोर्ट के लिए पनिशमेन्ट दिया हुआ है। तो यह बात भी गौर करने की है। इस बिल में इतनी बात जरूर है कि कटेम्प्ट आफ कोर्ट की डिफनीशन दी गई है और मैं समझता हू इसके बारे में कोर्ट में काफी छिलके निकाले जायेंगे। जब कंटेम्प्ट आफ कोर्ट का कानून बनाया जा रहा है तो मैं समझता हूं इसको अच्छी तरह से कपड़े पहनाकर एक अच्छा कानन बनाना चाहिए। यहां पार्लियामेन्ट मे तो क्रिटिसिज्म हो सकता है। गोलकनाथ केस के जजमेन्ट के खिलाफ बहुत कुछ हुआ। यहां पार्लियामेन्ट में तो हम जो चाहें कह सकते हैं लेकिन यदि इसी प्रकार हम बाहर बोलें तो हमारे खिलाफ कंटेम्प्ट आफ कोर्ट हो सकता है। तो मैं माननीय मन्त्री जी से इतना ही कहना चाहूंगा कि मैंने ज्वाइंट

[श्री आर०वी० बड़े]

कमेटी की रिपोर्ट पढ़ी है और उसके साथ में जो नोट है उसको भी देखा है, मैं चाहूँगा कि कंटेम्प्ट आफ कोर्ट में कुछ इस प्रकार के प्राविजन किए जायें जिससे कि यह तलवार न्यूज पेपर्स और पब्लिक पर लटकी न रहे।

SHRI SEZHIYAN (Kumbakonam) : I do not want to take much of the time of the House. I want to endorse a particular point ear stressed by Mr. Krishna Menon, as it deserves the serious attention of the Government and the House. When comment is made on a particular judgment or on a particular trial, that can be taken into consideration. But suppose an opinion is expressed on the state of affairs in society and if that is also treated as contempt of court, I thing we may not be able to express any radical opinion in the country. In one particular case, Mr. Namboodiripad was reported to have said at a Press Conference that judiciary was not impartial in a class rule, that it was an instrument of oppression and judge's were guided by class prejudicies..... (Interruptions). This opinion may or may not be correct; it is for the society to judge.

SHRI PILOO MODY (Godhra) : What is your reading ?

SHRI SEZHIYAN : I do not agree with him totally ; to a certain extent I agree.....(Interruptions) Mr. Namboodiripad expressed an opinion on the state of society and he was held before the court for contempt and fined a thousand rupees or sentenced to imprisonment for one year.

MR. SPEAKER : We are in the third reading,

SHRI SEZHIYAN : Even in Tamil Nadu, Mr. Annadurai once said that courts are like dark chambers and where light is provided by costly advocates, it helps the people to get justice, Somebody may say that he called the courts dark chambers and hence committed contempt of court. Therefore, I say that if some one expressed an opinion about the state of society, it should not attract the provisions of this law. If anybody takes up a specific case and comments upon the conduct of the judge, that can be gone into, I endorse the views expressed by Mr. Menon.

SHRI H. R. GOKHALE : I have nothing to add, except to point out that in Clause 19 of the Bill there is a printing mistake. In line 4 the word "less" is missing. It should be "notless than".

MR. SPEAKER : The printing mistake will be corrected.

The question is :

"That the Bill be passed"

The motion was adopted

11.26 Hrs.

PREVENTION OF FOOD ADULTERATION (EXTENSION TO KOHIMA AND MOKOKCHUNG DISTRICTS) BILL

THE MINISTER OF WORKS AND HOUSING AND HEALTH AND FAMILY PLANNING (SHRI UMA SHANKAR DIKSHIT) : I beg to move :

> "That the Bill to extend the Prevention of Food Adulteration Act, 1954, to the Kohima and Mokokchung districts in the State of Nagaland, be taken into consideration."

Prior to 1954 almost every State in India had its own food laws to deal with the prevention of food adulteration and, as such, the laws and standards were not uuiform. The need for a uniform legislation was keenly felt and the result was that the Central Government enacted the Prevention of Food Adulteration Act, 1954. The Act applied to the whole of India except the State of Jammu and Kashmir and Kohima and Mokokchung Districts in Nagaland. A Bill to extend the Act to Jammu and Kashmir has been passed by both the Houses of Parliament.

At the time of the enactment of the aforesaid legislation the State of

Nagaland had not come into existence. The state of Nagaland was formed under the state of Nagaland Act,1962 with effect from 1st December, 1963 only. The State of Nagaland comprises three districts Kohima, Mokokchung and Tuensang. The districts of Kohima and Mokokchung originally formed part of the Naga Hills District which was then included in part A of the Table below paragraph 20 of the Sixth Schedule to the Constitution. The administration of the District vested in the Governor of Assam. Under Paragraph 19 (1) (a) of the said Schedule, the Prevention of Food Adulteration Act, 1954 did not apply to the areas comprising the districts of Kohima and Mokokchung as the Governor of Assam did not issue a notification. But the position of the Tuensang district was different because it had been included in Part B of the Table in the Sixth Schedule to the Constitution under the name 'the Naga Tribal Areas'. The result is that before the formation of the State of Nagaland, the Prevention of Food Adulteration Act applied to the area covered by the Tuensang district, while it did not apply to the area covered by the Districts of Kohima and Mokokchung.

There was no change in this position even after the transfer of the Naga Hills District from part A to part B of the Table because Section 7 of the Naga Hills-Tuensang Area Act, 1957 by which the transfer was made, specifically provided that the territorial extent or the application of any law would not be effected by such transfer.

The subsequent formation of the State of Nagaland by the State of the Nagaland Act, 1962 did not also make any difference, as Section 26 of the Act provided only for the continuance of existing laws and their adaptation.

To secure uniform application of the Act which would enable the Government of Nagaland to prevent the sale of adulterated and sub-standard food containing substances which are harmful and poisonous and thereby protect the health of the general public the Government of Nagaland have come up with a proposal that the Act may be applied to the districts of Kohima and Mokokchung also. The Bill seeks to give effect to the above proposal.

MR. SPEAKER : Motion moved :

> "That the Bill to extend the Prevention of Food Adulteration Act, 1954, to the Kohima and Mokokchung districts in the State of Nagaland, be taken into consideration."

May I remind Members that this is not a general debate on food adulteration ? The Act is already existing, and this Bill has very limited scope. It is just an extension of the Act to two districts of Nagaland. Kindly do not take it as a general debate on food adulteration.

SHRI DASARATHA DEB (Tripura East) : Sir, there is nothing as such to oppose the extension of the Prevention of Food Adulteration Act to Kohima and Mokokchung districts,because this Act is has already been in force in the rest of the country. But my question is, all these years, armed with this Act, has the Government been able to if not stop food adulteration at least lessen it ? My answer is a definite no. Rather it is increasing day by day. Our country suffers very badly from the disease of adulteration of everything—food, milk, cement, oil, ghee and what not. It has creptint the political arena also. The capitalists are spearheading the introduction and nursing of this disease to remain and to grow more and more in the life of our society as an incurable disease. The Government has not been able to check it.

The *Hindustan Standard* of 31-1-1970 says :

> "The CBI has detected a case of adulterated milk supply to the army in Calcutta by a contractor who supplied 1500 litres of milk daily to the army after extracting cream and by adding some solvents and chemicals to make it taste like normal milk. The bill per month for this contractor is Rs. 1 lakh."

Nothing has appeared in the newspaper as to what happened to this contractor even though nearly a year has gone by. What is the present position ? I want to know

[Shri Dasaratha Deb]

whether the CBI has dropped the matter and if not, the name of the contractor and the punishment given to him.

The *Hindustan Times* dated the 21st May, 1970, says

> "In the Mikado Restaurant case, the court took a serious view of the present provision of issuing licences to restaurants in the name of the employees When the case of food adulteration arose,, the owners of the restaurants went unpunished The court observed that it was the duty of the New Delhi Municipal Committee to issue licences in the name of the owner and master of business as provided in the Prevention of Food Adulteration Act."

The provisions of the Act are being diluted . I want to know whether Government has taken note of the observations of the Delhi High Court and whether the existing lacuna, namely, issuing of licences in the name of the workers rather than the owners, has since been rectified

Sir, I am not opposed to the extension of this Act. But Government should be more strict to implement this Act in the country for the good health of the citizens. We are living in a capitalist society and adulteration has become the inseparable companion of the capitalist society They build up their wealth at the cost of the common man, the worker, the consumers That is why they are indulging in adulteration of everything throughout the country

श्री राम सहाय पांडे (राजनदगांव) : अध्यक्ष महोदय, मैं जो खाद्य अपमिश्रण निवारण अधिनियम 1954 को नागालैंड राज्य के कोहिमा और मोकोकचुंग जिलों में लागू करने वाले विधेयक को यहां रखा गया है उस का समर्थन करता हूं। यह बहुत ही अच्छा काम किया गया है । इस के पहले जम्मू काश्मीर तक इसका विस्तार किया गया था। इस के बाद अब उत्तर, दक्षिण, पूर्व और पश्चिम चारों दिशाओं में यह लागू हो जायेगा।

मेरा इस पर कोई भाषण करने का इरादा नहीं था। मैं केवल दो तीन बातों की तरफ श्री दीक्षित का ध्यान आकर्षित करना चाहता हूं। मिलावट की जो प्रक्रिया है यह डिमान्ड ऐंड सप्लाई से सम्बन्धित होती है, प्राफिट से सम्बन्धित होती है और इम्मारल ट्रेड प्रैक्टिस कारण होती है। मैं चाहता हूं कि आल इंडिया रेडियो तथा दूसरे माध्यमों से यह सेंस आफ कांशसनेस जनता में पैदा करें कि किन चीजों में किस तरह से मिलावट होती है। मैं आप का ध्यान आकर्षित करना चाहता हूं कि अभी कुछ दिन पहले संसद् भवन के बाहर एक प्रदर्शनी हुई थी उस में एक अपेरेटस को प्रदर्शित किया गया था जिस के द्वारा कुछ चीजों को मिलाकर फिर डिसइंटेग्रेट कर के बतला दिया था कि इस में इतनी मिलावट है। मैं समझता हूं कि देश के सब प्रदेशों में हर डिस्ट्रिक्ट में उस तरह का अपेरेटस बना देना चाहिये जिस के द्वारा जो भी चीज मिलावट की हो उसको अलग करके दिखलाया जाये। उसके बाद मिलावट करने वाले पर केस दायर किया जाये इम्मारल ट्रेड प्रैक्टिस अपनाने के लिए। इस तरह से काफी असर पड़ता है और लोगों में विश्वास बढ़ता है वह सोचेंगे कि जब उन से पैसा लिया जाता है तब उन की खरीदी हुई चीज में मिलावट क्यों की जाये। इस तरह से लोगों को सही चीज मिलनी आरम्भ हो जायेगी। साथ ही जो लोग इस तरह की करप्ट प्रैक्टिस में लगे हुए है उनके सोशल बायकाट का भी सिलसिला होना चाहिये। आज हम अक्सर सुनते है कि चावल में पत्थर और हल्दी में रंग मिलाये जाते है। इसी तरह से दूसरी चीजों में भी मिलावट होती है। मैं समझता हूं कि यह हमारी मारल ड्यूटी होनी चाहिये कि लोगों में एक काशसनेस पैदा करने के लिये मिलावट की चीजों के एग्जामिनेशन की सहूलियत दी जाये। इस से देश को भी मालूम होगा कि हम मिलावट के प्रति जागरूक है और श्री दीक्षित हमारी हेल्थ के कस्टोडियन है तथा जिस तत्परता से वह हेल्थ की तरफ ध्यान देते हैं उसी तत्परता से वह इस बात की इजाजत नहीं देंगे कि कोई भी किसी चीज में

मिलावट करे।

मैं चाहता हू कि चीजो मे मिलावट भी बन्द हो और जो करप्ट प्रैक्टिस देश मे चल रहा है वह भी बन्द हो।

अध्यक्ष महोदय : मैं तो समझता था कि यह बिल एक मिनट मे पास हो जायेगा। यह तो आलरेडी पास्ट है। इस मे सेक्ट मे तो कोई अमेंडमेंट हो नहीं सकता। यह सिर्फ एक्स्टेंशन के लिए है।

श्री झारखन्डे राय (घोसी) अध्यक्ष महोदय, खाद्य अपरिमिश्रण निवारण अधिनियम का विस्तार नागालैंड के दो जिलो मे किया जा रहा है। इस से मेरी कोई असहमति नही है। मैं इस अवसर पर केवल दो सुझाव देना चाहता हू, आप के भाषण के बावजूद भी। इसका सीधा सम्बन्ध मूल अधिनियम से होगा, लेकिन इस के लिए मैं आप से चाहूगा कि आप मुझे क्षमा करे।

मैं चाहता हूँ कि पीसमील प्रक्रिया मे कोई भी अमेंडमेंट इस सेक्ट मे न हो। इसके लिये एक सम्पूर्ण विधेयक लाया जाये, एक कान्प्रेहेंसिव विधेयक नई हालात मे पूरे देश के लिये लाया जाये। जो सजाये निर्धारित की गई है या आगे की जाये वह कठिन से कठिन की जाये और उस मे बडे पैमाने पर तस्करी करने वाले व्यापारियो के लिए फाँसी की सजा कर दी जाये।

दूसरा सुझाव यह है कि अपरिमिश्रण का कार्य राष्ट्रीय अपराध घोषित कर दिया जाये और समाज के प्रति विद्रोह के रूप मे उस को लिया जाय। इन दो चीजो का महत्व इस लिये है कि यह बिल हमारे सीमान अचल से सम्बन्धित है। अगर किसी प्रकार से भी हमारे सीमाँत क्षेत्रो मे कोई असन्तोष बढता है तो उस से राष्ट्रीय एकता और सुरक्षा की हानि होगी।

मैं चाहता हूँ कि इन दो सुझावो को ध्यान मे रख कर कोई सम्पर्ण विधेयक लाया जाये और वह पूरे देश पर लागू हो और आज कल जो स्थिति है उससे जनता की भावनाओ का आदर करने वाला हो।

*SHRI P VENKATSUBBAIAH (Nandyal) Mr Speaker, Sir, as mentioned by the Hon Minister of Health it is sought to extend the jurisdiction of the original Prevention of Food Adulteration Act, 1954 to the districts of Kohima and Mokokchung in the State of Nagaland through this Bill Though the scope of the Bill therefore is limited, I feel it necessary to bring to the notice of the Hon Minister the various malpractices and lapses indulged in by the traders in violation of the provisions of the parent Act

It is common knowledge that the menace of adulteration has assumed such serious proportion that it is posing a a serious challenge to the public health The anti-social and vile crime is not limited to adulteration of food products only. Almost everything that we consume is adulterated It is thus obvious that the provisions of the Act are not being stringently implemented

Here and there, no doubt, cases are registered under this Act against traders But it is mostly the small traders and hawkers who are prosecuted and convicted for violation of the Act The big manufacturers and wholesale traders take advantage of the various loopholes in the Act and escape detection and punishment I therefore request the Hon Minister to take serious note of this situation and take necessary steps to bring to book such culprits

The implementation of the Act is so tardy and half-hearted that the anti-social elements who indulge in such malpractices have become audacious and commit these crimes openly and with impunity A case in point is an industry started in Hyderabad which specialises in manufacturing small white pebbles resembling rice These are mixed with rice and sold to people

*The original speech was delivered in Telegu

[Shri P. Venkat subbaiah]

Sir, when these big sharks go scot-free, what do we find ? There are ever so many instances of small traders, vendors and hawkers in the villages and towns who are rounded up and prosecuted for violation of the Act. In my State particularly this is quite common. These poor people have neither the financial capacity nor the clever competence to adulterate food stuffs they sell. I am stressing on this aspect because they are innocent of the crime they are accused of. I would, therefore, request the Hon'ble Minister to kindly do something to stop the harassment of these innocent and poor people.

We are all aware that food grains are exported from one place to another, one region to another and from one State to another. At the time of retail sale to the consumer it is found that non-permitted colouring agents are used for adulteration. But it is usually the retailer who is presecuted. It is only the wholesaler who is responsible for this anti social crime but he manages to go scot-free because he is rich and can manipulate things in his favour,

These facts have been brought to the notice of the then Minister of Health and other concerned authorities but I regret to say that no action has been taken on the various memoranda and petitions sent to them in this regard.

As I have said earlier, Sir, the practice of adulteration has assumed alarming proportions and has enveloped almost every edible product. This is posing a serious threat to the well-being and health of the common man. Also this malpractice is not limited to one region or another. It is, therefore, essential that this anti-so ial and criminal propensity should be curbed and done away with before it does further damage. The Act of 1954 has proved ineffective, in checking this crime. The machinery for detection analysis and enforcement of the provisions of the Act should be augmented and strengthened. A thorough survey of the extent of the adulteration should be carried out and charted out. And as the present Act has been inadequate I request that the Government should bring forward a comprehensive legislation to encompass the entire gamut of this malpr:ctice of adulteration in the interest of the well being and health of the citizens of this country. The sooner it is done, Sir, the better it is for all concerned.

*SHRI P. A. SAMINATHAN (Gobichettipalayam) : Mr. Speaker, Sir, I am thankful to you for giving me an opportunity to say a few words on the Prevention of Food Adulteration (Extension to Kohima and Mokokchung Districts) Bill. However defective the original Act itself might be, we have to welcome its extension to places where this Act is not in force. You will accept that it will to some extent relieve the sufferings of the common people on account of supply of adulterated foodstuffs.

We find, Sir, that all the essential commodities like foodgrains, tea, coffee-seeds, sp'ces, milk, ice-cream, sweets/consumed by the children, edible oils, kerosene, cool drinks and so on are adulterated. Nobody can deny that these are the daily basic necessities of the people. Minor ailments to dreadful diseases like cancer are caused by the in'ake of adulterated commodities. Though this Act was enacted in the year 1954, I am sorry to say that this has not been implemented so far vigorously and energetically. This has resulted in wide-spread adulteration throughout the country. I am reminded of the Tamil prverb that only when the scorp'on bites, it will be recognised as a scorpion; otherwise it will be taken as a bettle.

I would like to give some statistics to substantiate my point. During the year 1968, under this Act in Andhra Pradesh, Gujarat, Kerala, Tamil Nadu, Maharashtra, Mysore, Punjab, Uttar Pradesh and West Bengal, a sum of Rs. 25,07,289 was collected as fine. I agree that this is a revenue to the public exchequer. But, all the same it shows the magnitude of the problem. 4,534 persons were sentenced under this Act. 1,36,939 samples were taken for examination and out of this about 30% samples were

*The original speech was delivered in Tamil.

found to be adulterated. If samples from the remaining 15 States are also taken for inspection, perhaps this percentage may go up. It is not known how effectively this Act was implemented in these 15 States for which no statistics are available.

Only recently this Act has been extended beyond the limits of municipalities so that the Panchayat Unions and the Panchayats can also implement the provisions of this Act. You will no doubt agree, Sir, that they have niether adequate financial resources nor technical personnel to implement this Act.

I would refer to another important aspect also. Under this Act, we find, that reference has been made to adulterated food and to misbranded food. But there is no mention of sub-standard food in any provisions of this Act. Similarly, canned and processed foods are also not covered by this Act, with the result that adulteration in these food items goes scot-free. I would request the hon. Minister to remove these loopholes in this Act and also implement it with a real sense of purpose. Then, only the common people of the country can be saved from the anti-social elements indulging in adulteration for their own aggrandisement.

I may point out here that so long, perhaps, the ruling party needed the help of these big producers, merchants and such others for their electioneering in the country. With the resurgence of the ruling party with absolute majority here and with the vast majority of our people having reposed their faith in the ruling party, it is time that the ruling party takes cognizance of this fact and does something to ameliorate the hardships of the people at large. I agree that of late the Government have been taking some laudable steps which will lead to this objective. After twenty five years of independence we see that the Government are keen to implement some progressive measures in the country without giving undue importance to the erstwhile Maharajas and Princes, monopolists and capitalists. That is because they have the strength of the people behind them. A new era of egalitarian society is being ushered in by the Government and as means to achieving this objective, even the Constitution of the country has been amended. The Government for 25 years had been hampered in their activities by the influence of the affluent section of our society to whom I made a reference earlier. Now the Government have cast a side the shackles and come forward with welfare measures for the people of the country.

It is an acknowledged fact that our country is faced with innumerable problems. The people are steeped in poverty and the problem of unemployment is assuming serious proportions. India is dotted with millions of villages and majority of our population lives in rural areas. I am sure you will agree with me when I say that our people should be given at least uncontaminated and unadulterated foodstuffs and it is the foremost duty of the Government to ensure this. The only weapon in their hands is the Prevention of Food Adulteration Act. It should be implemented earnestly and whatever loopholes are there in the Act, they should be removed. In fact, I would say that the Government should declare that adulteration is anti-national and the severest punishment should be awarded to those indulging in this anti-social activity. I am sure that this House will give whatever powers are required by the Government for this purpose. I appeal to the hon. Minister that he should amend the original Act incorporating the suggestions I have made. I would also plead with him that this Act should be implemented more stringently.

With these words, I conclude.

श्री आर० बी० बड़े (खरगोन) : इस बिल का नाम है प्रिवैंशन आफ फूड एडल्ट्रेशन (एक्सटेंशन टू कोहिमा एण्ड मोकोकचुंड डिस्ट्रिक्ट्स) बिल। 1954 में यह बिल पास हुआ था। जब से यह कानून बना है मैं यह जानना चाहता था कि क्या तब से फूड एडल्ट्रेशन में कमी हुई है या वह ज्यादा हुआ है। मैं समझता हूँ कि यह बढ़ता जा रहा है। आप इसको अब ट्राइबल एरियाज में एक्टेंड करने जा रहे हैं। मैं ट्राइबल एरिया से आता हूँ। मुझे मालूम है कि वहां बहुत ज्यादा एडल्ट्रेशन होता है। जो इसकी देखभाल करने के लिये कर्मचारी रखे

[श्री आर०वी० बडे]

जाते हैं, दुकानदारों को उनको भी रिश्वत देनी पडती है। वे लोग बहुत खाते है। दुकानदार कहता है कि एक हजार रुपया तो उनको दण्ड का देना पडता है और पाच सौ रुपया रिश्वत का देना पडता है। उसके पास इतना ज्यादा पैसा कहा से आ सकता है। वह कहता है कि इस वास्ते उनको और ज्यादा एडल्ट्रेशन करना पडता है। अब आप इस कानून को कोहिमा और मोकोकचुंग डिस्टिक्ट्स पर भी एक्सटेंड करने जा रहे है। मेरी आप से प्रार्थना है कि आप ट्राइबल एरियाज मे बडे अच्छे और ईमानदार अफसर भेजे। ऐसे लोग न भेजे जो भ्रष्टाचारी हो। अगर आप ऐसा नही करते है तो यह एक्सटेंशन आफ एडल्ट्रेशन और एक्सटेंशन आफ करप्शन बिल हो जायेगा और इससे ये दोनों चीजे बढेंगी।

मै इस बिल का विरोध नही करता हूँ। लेकिन मै निवेदन करना चाहता हूँ कि ट्राइबल एरियाज म बडे इन्नोसेंट और भोले-भाले लोग रहते है, जो शहरो की चालो को नही जानते है। इसलिये वहा पर जो अफसर भेजे जाए, वे अच्छे होने चाहिये।

SHRI UMA SHANKAR DIKSHIT, Mr Speaker, Sir, as you have noticed, every Member who has spoken on this Bill has supported it both in principle and in its operational part and has said that the Bill should be passed

I quite appreciate the feelings that Members have expressed regarding the adulteration which is prevailing in many parts of the country, and adulteration of food, particularly, because it is true that it is a health hazard

The main points that have been made are firstly that the distinct penal provisions should be strengthened, and secondly that a comprehensive amending Bill should be brought forward before the House so that any loopholes which have been discovered could be plugged The various suggestions which have been made fall mainly under these two categories I have really no objection to considering this matter In this connection, I am thinking whether I should not take this matter up at the meeting of the consultative committee attached to the Ministry of Health, and if some proposals are formulated there, I would be very glad to proceed with them But, of course, we shall have to go to the states because the implementation machinery rests inthe states I would request all hon Members to remember that the entire implementation except in the Union territories rest with the States, in fact, even in Union territories like Delhi, there is the corporation and the metropolitan council, and particularly the corporation, which has to implement the various provisions of the Act Therefore, it is not really possible for the Central Government directly to administer this or to take the responsibility in that sense But I fully share the feelings of hon Members, and so far as the question of bringing forward an amending Bill is concerned, as I have said, we shall have to consult the States But, earlier, several attempts had been made in this regard, and the last amending Bill which had been passed had strengthened the penal provisions and increased the period of imprisonment to six months in the first instance and to two years in the second instance

If I may put it that way, it is mainly or largely a matter of social conscience and also of the general character or our own character I do not want to say anything that would not appear patriotic or fully responsible so far as the country's general prestige and self-respect are concerned, but it is a sad story that for various reasons, particularly after the second World war, the general moral sense has been undermined and the general social conscience has not been active. If the people affected from unions or associations, and whenever it is found that a particular group of tradesmen or offending tradesmen have been in the habit of indulging in adulteration to any extraordinary extent, I am sure the provisions of the Act will be invoked, and the governmental machinery in the various States is bound to take notice of it, and better results would ensue

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

MR. SPEAKER: The question is:

"That the Bill to extend the Prevention of Food Adulteration Act, 1954, to the Kohima and Mokokchung districts in the State of Nagland, be taken into consideration".

The motion was adopted.

MR. SPEAKER: The question is:

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

The motion was adopted.

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

SHRI UMA SHANKAR DIKSHIT: I beg to move:

"That the Bill be passed."

MR. SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

11.56 hrs

BUSINESS OF THE HOUSE

MR. SPEAKER : We are very much behind schedule. We will have to sit late today and finish the agenda. Otherwise, we cannot keep to the schedule.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR) : May I take this opportunity to inform the House that we have to take up in this session and dispose of certain Bills which we cannot avoid taking up, for example cansequential action in regard to the creation of new States. Then there is the Gratuty Bill. There are some other essential Bill also.

MR. SPEAKER : We will have to sit a little longer to day and tomorrow. Of course, the agenda will show only the usual timings because it has already been printed.

SHRI RAJ BAHADUR : There may have to be a constitutional amendment in regard to the reorganisation of the States concerned.

MR. SPEAKER : He is adding one after the other everyday and saying it has to be passed. Government must stick to the schedule Of course, we are in an emergency. But everyday some Bills are added in this way

SHRI RAJ BAHADUR : I am so sorry.

SHRI H. N. MUKERJEE (Calcutta-North-East) : There is the Diplomatic Relations (Vienna Convention) Bill. It is a very important Bill.

MR. SPEAKER : We will pass it today.

SHRI H. N. MUKERJEE ; How can we ? We do not have time enough for a thorough discussion. I have tabled a motion for reference to a select committee. This requires a very serious and thorough-going discussion. This is the ratification of a convention which was signed in 1961 which we accepted in 1965 and have waited six years more. We want to have a full discussion. It cannot be hustled.

MR. SPEAKER , We will have some discussion on it. It will not be denied. Of course, we are at the tag-end of the session We have to see through all the business.

SHRI H.N. MUKERJEE : There must be some discussion in regard to the merits of the Bill.

MR. SPEAKER : That will not be denied.

MR H. N. MUKERJEE : The External Affairs Minister is not here. We have to seriously consider the provisions of this very important Bill. We are not going to put on the statute book such an important measure without discussion.

SHRI RAJ BAHADUR : We have no objection to the potsponement of this to the next session.

SHRI SEZHIYAN (Kumbakonam) : In that case, there should be no objection to

[Shri Sezhiyan]

reference to a Select Committee because during the inter-session it can be discussed in the Committee.

SHRI RAJ BAHADUR : That is a good idea.

MR. SPEAKER : Let the hon. Minister not jump to conclusions so quickly I was not prepared for this He should not take me anawares If this is his intention, he should inform me beforehand. I have been asking the House to sit longer hours, but suddenly he comes up with this idea.

Now, Prof. Mukerjee, the Government are agreeable that instead of postponing that Bill, it may be referred tothe Select Committee.

SHRI H. N. MUKERJEE : I said I would agree to it. I am in the hands of the House.

MR. SPEAKER : The Minister has agreed to it I cannot say what will happen the next moment. For the moment they have agreed.

SHRI RAJ BAHADUR : I am very sorry. It stands.

SHRI K. NARAYANA RAO (Bobilli) : May we take it that it is being referred to the select Committed ?

MR. SPEAKER : For the time being. it looks like that. Yes, Mr Pant.

12.00 hrs

DEPARTMENTAL INQUIRIES (ENFORCEMENT OF ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS) BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI K. C. PANT) : Sir, I move :—

> "That the Bill to provide for the enforcement of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected there with or incidental there to, be taken into consideration."

An important factor which holds up the progress of oral enquiries in departmental proceedings against Goverment sarvants is the absence of authority with enquiring officers to compelproduction of documents and summoning of withesses This is also explained in the Statement of Objects and Reasons attached to the Bill.

Under the existing rules, Inquiry Officers are being appointed to conduct departmental inquiries but these Officers have no statutory powers to enforce the attendance of withesses or production of documents in such inquiries While no difficulty is normally experienced in procuring the witnesses who are public servants, private parties called up as witnesses are often found to be reluctant in appearing before Inquiry Officers Quite often the hearings in departmental inquiries have to be adjourned just with a view to persuading the private parties to attend such inquiries in the interest of public Justice. On the other hand, there have been some cases which fell through because some private parties, who were material witnesses, refused to appear before the Inquiry officers.

The Santhanam Committee on Prevention of Corruption had *iuter alia* recommended that "Powers to summon and compel attendance of witnesses and production of documents should be conferred on the inquiry authorities in departmental proceedings by suitable legislation".

The Bill is intended to resolve the difficulties experienced by the inquiring authorities in this regard. There should be no objection to accept the provisions of the Bill which are only of a procedural and enabling nature. These provisions are a step in the direction of expediting Departmental Enquiries.

The amendments suggested to the Bill have been considered. The amendments have been suggested I presume with a view

to make the Bill more effective in its implementation but, for the reasons which I will mention hereafter the purpose is fully met in the existing provisions.

I have already stated this is a Bill of an enabling and procedural nature. There can be no controversy as to the purpose of the Bill. The provisions of the Bill are also simple. Therefore it is considered that the time of the Joint Select Committee may not be consumed in the consideration of this Bill.

The Bill does not extend to the State of Jammu and Kashmir because entries 12 and 13 in the Concurrent List to which the Bill is relatable have not so far been extended to the State of Jammu and Kashmir. It would also not be possible to extend the scope of the Bill to employees on deputation to the States or Universities since the borrowing authorities can take disciplinary action in respect of such employees on their own. An amendment has also been suggested that abuse of official position should also come within the definition of the word 'integrity' used in the Bill. I may assure the members that 'lack of integrity' is wide enough to include instances of abuse of official position when such abuse is relatable to corruption. The power to give requisite authorisation to the inquiring authorities in appropriate cases has been reserved with the Government with a view to ensure that discretion is exercised in calling of witnesses and also in calling for production of documents.

The Bill would enable effective conduct of Departmental Enquiries and I move that it may be taken up for consideration.

12.05 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

MR. DEPUTY-SPEAKER : Motion moved :

> "That the Bill to provide for the enforcement of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected therewith or incidental thereto, be taken into consideration."

There is an amendment to this motion that the Bill be referred to the Select Committee. Mr. Daga. are you moving it ?

SHRI M.C. DAGA (Pali) : No, Sir. I am not moving.

श्री आर० वी० बड़े (खरगोन) : उपाध्यक्ष महोदय, माननीय मन्त्री जी ने यह जो डिपार्टमेंटल एन्क्वायरीज (एन्फोर्समेंट आफ अटेंडेंस आफ विटनेसेज एंड प्रोडक्शन आफ डाक्यूमेंट्स) बिल प्रस्तुत किया है मैं उसका समर्थन करता हूँ। उसका कारण यह है कि इस डिपार्टमेंटल एक्वायरी के लिए स्टेट्स में तो अलग-अलग कानून हैं लेकिन उनमें विटनेसेज को बुलाने में दिक्कत होती है अगर विटनेस को बुलाना है डिपार्टमेंटल एन्क्वायरी में तो वकील करना है या नही करना है इस प्रकार का जब प्रश्न आता है तो उसमें आफिस की परमीशन लेनी पड़ती है। एक बार डिपार्टमेंटल एन्क्वायरी में मैं खुद गया था तो हमारे मध्य प्रदेश स्टेट में कानून है कि प्रिसाईडिंग आफिसर विटनेसेज को बुला सकता है और सिविल प्रोजीसर कोड के जो नियम है वह उस पर लागू होते हैं। सिविल प्रोसीजर कोड के नियम जो विटनेसेज को बुलाने के बारे में है उसके अनुसार उसको समन करना बुलाना और समन से नहीं आएं तो वारन्ट निकालना, इसके लिये प्राविजन है। लेकिन बैंक के एकाउन्ट्स के लिये प्रोविजन नहीं है। इसमें बैंक के एकाउन्ट्स के लिये जो प्राविजन किये गये है वे बहुत अच्छे है। क्योंकि बैंक के एकाउन्ट्स जो होते हैं जिनको कोई देख नहीं सकता हैं उनके लिये इसमें यह है कि प्रिसाइडिंग आफिसर बैंक को नोटिस देकर एकाउन्ट्स मंगा सकता है, उनको बुला सकता है। इसमें जो क्लाज दिया है उसमें यह है :

> "Even in the case of banks to produce any books of accounts or other documents which the Reserve Bank of India, State Bank of India, subsidiary bank or a corresponding new bank claims to be of a confidential nature."

स्टेट्स में इस प्रकार की सहूलियत नहीं थी; ऐसा कोई प्राविजन नहीं था। तो यह जो

[श्री आर०वी० बड़े]

प्राविजन है यह बहुत अच्छा प्राविजन है । हमने विटनेसेज को देखा है, जैसे मनी-लेंडर्स है वह चाहते है कि हमारे एकाउन्ट्स सामने न आएं । डेट रिलीफ कोर्ट्स जो स्थापित हुये हैं उसमें यह जाकर कम्प्रोमाइज कर लेते है । विटनेसेज अवायज करते हैं । वे नही आते । उस वक्त में समन करना पड़ता है और वारन्ट निकालना पडता है । तो यह भी एक प्राविजन इस ऐक्ट मे अच्छा है ।

मैं कहता हूं कि यह डिपार्टमेंटल एन्क्वायरी जो होती है वह बड़े महत्व की होती है क्योंकि आगे जब यही जूडिशियल कोर्टस में जाते है तो वहां यह चीज आती है कि यह डिपार्टमेंटल एन्क्वायरी का प्राविजन ऐडमिसिबल है या नहीं, इसमें डिफरेंस आफ ओपिनियम होता है । मेरा कहना यह है कि यदि बैंक के एकाउन्ट सामने आ जाएं और यह मालूम हो जाय कि किसके नाम से एकाउन्ट्स खुले हुए है या किस बैंक में वह अपना एकाउन्ट रखे हुये हैं तो काफी आसानी हो सकती है । अभी एक सबइंसपेक्टर के खिलाफ एन्क्वायरी चल रही थी । उसने अपनी लडकी के नाम से एकाउन्ट्स खोले हुये थे और अपनी पत्नी के नाम से एकाउन्ट्स खोले हुये थे । मैंने बैंक से कहा तो उन्होने कहा कि वह नहीं बता सकते है । उसके बाद ऊपर से उसके लिये आदेश ले आए । उसमें हमें यह डिफिकल्टी होती है कि प्रिसाइडिंग आफिसर तो देख सकता है, ऐडवोकेट या विटनेस नही देख सकता । प्रिसाइडिंग आफिसर उसमे अगर साइड लेना चाहे तो वकील या दूसरी साइड को भी उसे देखने का अवसर होना चाहिये । यह प्राविजन इसमे नहीं है । मैं चाहता हूं कि यह प्राविजन भी इसमें किया जाये कि कान्फिडेशियल एकाउन्ट्स बैंक के आते है तो

Other party of advocates or witnesses should be able to see the documents.

इसके साथ में यह भी है कि डिपार्टमेंटल एन्क्वायरी बहुत प्रोलांग होती है । एक-एक साल दो-दो साल चलती है । एक आफिसर चला जाता है, दूसरा आता है, वह भी चला जाता है तीसरा आता है । वह कहता है एविडेंस पहले हुई है, इससे काम नही चलेगा । तो यह भी प्राविजन होना चाहिये कि ज्यादा डिले इसमे नही होनी चाहिये । फिर यह जितने कानून बनेंगे उतने उस कानून के अवायड करने के रास्ते भी निकलते रहते है, फिर उसके लिये पार्लियामेंट में आते हैं, उसे प्लग करते है, फिर वह और रास्ते निकलते है, फिर प्लग करते है । यह चीजें चलती है । ताहम, यह कानून अच्छा है और मैं इसका समर्थन करता हूं ।

SHRI JYOTIRMOY BOSU (Diamond Harbour) : Sir, I fail to understand why this Government after the lapse of so many years has brought this Bill for implementation of one particular item of the Santhanam Committee. That report on prevention of corruption has dealt with various aspects. It has also charted the magnitude of corruption that exists in the country.

I would like to refer to the most scandalous case that we have come across. The Ministry of Petroleum and chemicals are maintaining duplicate files to headwink the Takru Commission and senior civil servents have been telling untrue things before this Commission and trying to protect themselves and their brethren.

It says here :

"Mr. P.R. Nayak, former Secretary of the Government of India today appealed to the Takru Commission not to allow its forum to be used to demoralise and denigrate public servants in the country through malicious, wild and unsubstantiated allegations".

I had raised this case on the floor of the House a number of times. It has shown the most heinous type of conspiracy where the top people of our departments had conspired with foreign companies to drain away most precious foreign exchange out of the country. Not only that. A public sector venture which should have served the cause of the people has been

subotaged. The most important thing in that undertaking is the underground pipeline. The cathoderlay treatment for prevention of corrosion in the pipelines was to have been undertaken, but the two companies involved, both of American origin one in Italy and another in America, Bechtel and SNAM were given all possible assistence by the officials in the Oil Ministry and the public sector oil concerns in a combined way so that they could get paid for the whole work though they did not do most of it.

The ex-chief of the IOC, an ICS man, Mr. Kashyap—just imagine—used this language :

> "He dinied that he was directly interested in cancneling the alleged seized or that he was involved in the misdeeds under enquiry."

Does it mean that he is indirectly involved ?

So, I want to ask the Government why they are trying to rectify others while they have got skeletons in their own cupboard.

I will also give you an example to show how they are using these corruption cases for their party and political interests. In Punjab they have appointed a Commission to enquire into the corrupt practices adopted by the Akali Ministers. We welcome that, but when it comes to Haryana where the ruling Congress is in the Government, though there have been numerous memoranda.....

SHRI K. NARAYANA RAO (Bobilli) : On a point of order. The scope of the present Bill is about the powers to be given to the enquiry officers for the production of witnesses and documments. Mr. Bosu has been very elaborately explaining the merits of certain actual cases relating not only to public servants, but also to Ministers. Therefore, it is my submission that whatever he has said about Ministers of Harayana is totally out of order.

MR. DEPUTY-SPEAKER : He is only citing these cases as examples to reinforce his point. Let him not elaborate them too much, but come to the main Bill and say how he would like it to be improved.

SHRI JYOTIRMOY BOSU : Elaborating too much or too little is a matter of opinion.

In Haryana there have been numerous corruption cases alleged against the Government. So many MPs and MLAs have written to the President and the Prime Minister. Because it is the ruling Congress, no action has been taken, but when it concerns the Akalis, they promptly installed a Commission.

The appointment of Judges to serve on these Commissions serves to corrupt Judges who are serving to look forward to such appointments in their retirement.

This is what the Santhanam Committee has said about corruption of Ministers :

> "Whenever allegations are made against Ministers and require to be enquired into, an *ad hoe* committee should be selected out of the National Panel by the President. The Committee may consist of three persons, one of whom ....."

I want to ask our dear friend, hon. Shri K.C. Pant, in how many cases they have followed this recommendation of the Santhanam committee ? Why is it that they have made a show-piece of the Vigilance Commission and nothing is coming out of it ?

I would support any measure that would mean ending of corruption and mis deeds. But I am quite confident that is the last thought in the mind of this Government.

श्री मूलचन्द डागा (पाली) : उपाध्यक्ष, महोदय, माननीय मन्त्री महोदय ने मेरे से पहले अपनी स्पीच में सारी बातें स्पष्ट करदी हैं। फिर भी मैं दो तीन बातें आपके ध्यान में लाना चाहता हूं।

पहला सवाल तो यह है कि डिपार्टमेंटल इंक्वायरी में 5 परसेंट केसेज भी मंत्री महोदय नहीं बता सकेंगे जिनमें कभी इंक्वारी समय पर

[श्री मूलचन्द डागा]

हो गई हो और होने के बाद किसी को सजा दी गई हो। जितना सरकारी कुटुम्ब होता है और जो इक्वायरी करने वाला आफिसर बैठता है ये सरकारी कुनबा अपने आपको समझता है और सब लोग जानते है कि डिपार्टमेंटल इक्वायरी बैठी है लेकिन कुछ नही होता। जो आपने बिल पेश किया है कि गवाहो को पेश करना चाहिए और इसके लिए अटेडेंस के लिए कम्पेल करने की अथारिटी मिलनी चाहिए मै समझता हूं कि इक्वायरी होने के पहले जितना डाकुमेंट्री इविडेंस है, या औरल एविडेंस है, उसका एक पूरा सैट बन जाना चाहिए और जिस आदमी के खिलाफ इक्वायरी हो उसे पूरे डाकुमेन्ट्स दिए जाने चाहिए। मेरा यह भी सुझाव है कि इक्वायरी का जो जवाब देने वाला हो उसको भी पूरे दस्तावेज और पूरी शहादत दे देनी चाहिए तो मै समझता हूं कि आपका परपज ठीक होगा। नही तो समय-समय पर आपका यही काम होता है और आप कहते हैं अटेडेंस के लिए फोर्स किया जा सकता है सिविल प्रोसीजर कोड के अन्तर्गत फोर्स किया जा सकता है। लेकिन अथारिटी के पास पूरी शहादत हो तो पहले ही दिन यह तय कर लिया जाए और डे-टु-डे इक्वायरी हो। डिपार्टमेंटल इक्वायरी के बारे मे लोग जानते है कि वर्षों इक्वायरी चलती है, इसका कोई नतीजा नही निकलता है, गवाहो को टेपर विद किया जा सकता है और गवाह टेपर विद भी होते है। डाकुमेंट्स भी अवेलेबल नही रहते इस पर मेरी दो तीन बाते है जो मैं कहना चाहता हूं।

पहली बात यह है कि इक्वायरी करने के पहले सारे दस्तावेज डाकुमेन्ट्री ऐविडेंस होनी चाहिए और डिफेंस जो पेश करे उसे भी सारी डाकुमेंट्स पेश कर देनी चाहिए। अन्यथा यह जो पावर देते हैं कि अगर कोई ऐफिडेविट दे देता है कि मेरे पास यह डाकुमेंट्स नही है तो आप की अथारिटी उसकी मर्च करवा सकेगी। सीविल प्रोसीजर कोड का जो कानून आप लागू करना चाहते है, मेरा सुझाव है कि यह लेजिस्लेशन लाकर उसका कोई परपज सर्व नही होता है। लेकिन डिपार्टमेंटल इक्वायरी के अन्तर्गत सारे हिन्दुस्तान मे जो इक्वारी होती है उसका परिणाम क्या निकलता है मेरी समझ मे 5 परसेंट केसेज मे भी आज तक किसी को सजा नही मिली और इक्वायरी मे एक बात यह साबित होती है कि डाकुमेंट्स अवेलेबल नही थे। गवर्नमेंट के पास डाकुमेंट्स होते है, आपको खुद की कस्टडी मे डाकुमेंट्स होते है, लेकिन आप चाहते है कि उन डाकुमेंट्स को तलब करने के लिए आपने प्राविजन निकाला है, लेकिन इसके अन्दर ऐसा है कि पहले से सारे डाकुमेंट्स कलेक्ट करने चाहिए और डिफेंस वाले को सारे डाकुमेन्ट्स दे देने चाहिए।

SHRI M KALYANASUNDARAM (Tiruchirapli) Sir, in principal I have no objection to giving powers to the enquiring officers to compel the attendance of withnesses and production of records, but may I know from the minister whether Government has cared to study why the non-officials are reluctant to come and give evidence ? Are they reluctant, or are they afraid or are they influenced ? This is a very important question which the government should have examined

This Bill seeks to accept one of the several recommendations which is not very important Will it help the government to have a radical drive against corruption ? I am not very hopefull The way in which the Bill is framed, the departmental inquiry will become a judicial inquiry, giving a lot of opportunities for lawyers and prolonging the inquiry as long as possible. I am not very hopeful that this will achieve results because the Code of Civil Procedure is sought to be introduced in the departmental inquiries Still, I have no objection to that But why should the records of the Reserve Bank and the State Bank be excluded from the purview of the inquire officer ? It may be that the accounts of the person accused in the Bank may be vital for coming to a decision It should not be excluded from the purview of the inquiry I think that clause should be

deleted from the Bill. While supporting the Bill I would urge upon the government to bring in a comprehensive legislation to implement the several recommendations made by the Santhanam Committee.

*SHRI J. M. GOWDER (Nilgiris): Mr. Deputy Speaker, Sir, I welcome the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Bill and I thank you for giving me an opportunity to say a few words on this Bill.

Sir, you are aware that Santhanam Committee to go into the question of Corruption in the country was appointed so long ago and they had also submitted their report many years ago. It is surprising that the Government should have come forward with this Bill incorporating one of the suggestions made by the Santhanam Committee after the lapse of so many years. Pernaps we are to be satisfied with the adage 'better late than never'.

Sir. this Bill will enable the Government to summon statutorily non-official witnesses and other relevant documents before an inquiry body which so far is handicapped for want of this power. It must be appreciated that the people are naturally reluctant to volunteer for deposing evidence against an officer involved in such an inquiry. You have to admit that the power of the people cannot be compared with the powers of the administrative machinery. If an officer of a particular district has been charged with corrupt proactices, how can we expect the local people to come before an inquiry body freely and fearlessly and depose against him ? They are naturally apprehensive that, in case nothing is proved against the officer, he can take revenge upon the people who gave evidence against him, when that officer is posted back to the same district. The people who give evidence firstly are not aware of the outcome of such an inquiry against the officer. They are also not sure whether the same officer will not be posted back to the same district after completion of the inquiry. They have also no other avenue to protect themselves against the vindictivity of such an officer. I have to point out that there is no provision in this Bill giving protection to the people who are willing voluntarily to give evidence. You will appreciate that this is a genuine fear on the part of the people and unless this is removed you cannot expect them to be of help to the Government in their effort to root out corruption in the country. When the Government want statutory powers to summon them, there must be statutory protection also for them. I would appeal to the hon. Minister that he should give serious consideration to this issue and then only this Bill will become meaningful.

Sir, the Central Vigilance Commission has been appointed by the Government and this Commission has been clothed with certain powers. But, the Commission is not able to fuuction effectively on account of this reason that the Inquiry Officers are not able to summon even records belonging to the Government, leavealone the question of calling non-officeal witnesses. I have come to know that even the officers are reluctant to appear before the Commission for giving evidence. In this Bill, it is stated that the Commission also can summon statutorily non-official witnesses and other records required from the private sector. No doubt the intention of the Government is laudable. But I would like to say that if the Central Vigilance Commission. which is expected to contribute for the elimination of corruption in the official machinery, is to do jnstice to its work, then the Government must be ready to cooperate fully with the functioning of the Commission. When powers are taken to summon statutorily witnesses from non-officical side, it must be ensured that whichever officer the Commission wants to examine, he must be made available immediately to the Commission so that the Commission can base its conclusions on the evidence of such officer or officers.

Though this may not be strictly relevant to the discussion, I would like to point out that the Government should find out ways and means for enabling an aggrieved labour also to have a look at the records maintained by the management. I doubt very much whether the Labour Officers also are enabled to have a look at the records of the management. It is

*The origianl speech was delivered in Tamil.

[Shri J.M. Gowder]

common knowledge that the records are tampered to benefit the management and the poor labourer is left high and dry in this process. I would appeal to the hon. Minister that a suitable legislation should be introduced in this House making compulsory the presentation of records maintained by the management in a labour dispute and the labour should also have statutory access to such records. You know that the management is utterly ruthless so far as labour issues are concerned. The top industrialists and manufacturers have resources enough to do what they like and the labour has not much say in the maintenance of records and papers by the management. I have taken this opportunity to mention this because it should be ensured that the aggrieved labour is also given the facility for going throgh the records and the management should not put any bottleneck m this.

Before I conclude, I would plead with the hon. Minister that legal protection must be given to those who are summoned statutorily to give evidence before an inquiry body. The Central Vigilance commission should be given all cooperation in this matter so that the Government are able to achieve the objective of rooting out corruption from the country.

SHRI K. C. PANT : Sir, as I said, in my opening speech, this is a measure which has limited scope and the discussion has been a little more wide-ranging.

There have been references to the Santhanam Committee's Report and the implementation of the recommendations of the Santhanam Committee Report. That is a wider question. I do not think this is a time for me to go into the details of the implementation of various recommendations of the Santhanam Committee. But I have here a statement which indicates that the bulk of those recommendations have been accepted and the majority of them have been implemented.

There was some referece to the fact that certain persons could appear on behalf of the officers who are appearing before the Inquiry committees. Well, the departmental inquiries are conducted under the Central Civil Services Classification Control and Appeal Rules 1965 and these rules do empower the Government servant to employ any colleague to defend him and the Government servant is permitted to engage a lawyer only when he is specifically permitted to do so by the Government. This is the position so far as the engagement of anyone to defend the Government servant is concerned.

Shri Bade and others raised a question of banks accounts. The reason for this particular provision in this Bill is that the Reserve Bank of India and the State Bank of India Acts make a provision that the Banks cannot be compelled to produce confidential documents. So, unless those Acts are amended, one cannot provide for the power to procure confidential documents in this particular Bill... (*Interruptions*) It makes the position quite clear.

Shri Bade referred to the fact that the departmental enquiries tend to get prolonged. That is quite true and is one of the reasons that I have said that tends to Prolong the inquiries and to the extent that these reasons are responsible, the failure of the witnesses to appear even when summoned and for documents to be made available even when requisitioned, to that extent the lacunae will be made up and the enquiries will be expedited.

My hon. friend, Shri Bosu, spoke of matters which really did not help directly in throwing light on the provisions of this Bill. He referred to the general question of Santhanam Committee's report which I have already mentioned. He referred to Shri Nayak's case. Now, I don't think that the House is unaware of all that has happened in the Nayak's case and I need not go into the details again. But the House is aware that the preliminary examination of the charges was conducted by Justice J. N. Thakru and a Special Commissioner for Departmental Enquiries in the C.V.C. was appointed enquiry officer to enquire into the charges and both these

gentlemen have submitted their reports.

AN HON. MEMBER : So also Mr. Chakravarthy.

SHRI K. C. PANT : Yes, he has also submitted his report. Mr. Thakru submitted his preliminary enquiry report on 13th January 1971 and Shri Nayak went to the court, he went to the High Court and then to the Supreme Court Court and the Supreme Court, by a majority judgment, quashed the suspension of Mr. Nayak. All these things are known to the House, So, I don't think I need take the time of the House.

About inquiry into the complaints regarding the Haryana Ministers, they do not come within the scope of this Bill.

Shri Bosu said and I think Mr. Daga also said that nothing has come out of the Vigilance Commission. That is, I think, an uncharitable remark and the House knows of the individual cases, the important cases as also the generality of the cases which the Commission deals with. Its reports are placed on the Table of the House. Again I don't want to burden the House with a lot of details, but the number of Government employees against whom action was taken was 2177 in 1965, 2473 in 1966, 2460 in 1967 and 2169 in 1968 and so on. Therefore, it would not be correct to say that the Commission is not doing its work or is not producing anything. It is acting as a deterrent to corruption and I think it is functioning fairly smoothly and any specific suggestions to improve its working can certainly be considered.

Shri Daga has been good enough not to move his motion to refer the Bill to a Select Committee. So, I do not want to go into that aspect. But I was intrigued to find that all the members of the Select Committee he has proposed are from Rajasthan. (*Interruptions*) I hope, Sir, even though his motion is not accepted, his position in the Rajasthan group will be strengthened ?

He said that power to summon documents is being taken but these documents are with the Governments. They are not all which the Government. Sometimes documents are with others and these documents also are required to be examined in cases of corruption charges.

Shri J. M. Gowder had raised a question which has wider implications, and he has said that certain officers would take revenge on the witnesses in case they appear against them. In this country, we have to begin to insist on citizens discharging their responsibilities. Otherwise, there can be no question of bringing corruptiou to an end, and even at some risk I think the citizens have to discharge their responsibilities, because one of the reasons why action cannot be taken against corrupt officers or action is not taken in case of hoarding or other offences is that the citizens in this country are not fully alive and are not fully responsive to the need to make their contribution to bringing corruption an end. All of us decry corruption in general terms, but when it comes to specific action, we do not always lay the kind of emphasis which we should on the contribution of individual citizens in this matter. As I have said, all of us, and I think Parliament too, ought to give a lead in this matter.

SHRI H. M. PATEL (Dhandhuka) : May I just seek one clarification in the light of the hon. Minister's reply ? He has said that the Reserve Bank and the State Bank have been excluded because of certain provisions in their respective Acts. Would the hon. Minister consider issuing instruction to these banks that unless there are grave objections, they should not seek the protection of those particular provisions but facilitate the conduct of those inquiries, just as they are going to press upon other banks to submit documents which are required for the purpose ?

SHRI K. C. PANT : This does not limit in any way the banks' discretion in supplying documents, and, therefore, I do hope, appreciating the spirit in which this question has been put, that the banks would supply documents unless they really

[Shri K.C. Pant]

consider them to be of such a confidential nature as would affect their business etc.

AN HON. MEMBER : The question is about the Government's issuing instructions to the banks.

SHRI H. M. PATEL : It is quite clear that the banks would exercise their discretion. But what I was requesting was this. Government may –issue instructions to them that they should not exercise their discretion in favour of not providing these documents. The same considerations that apply for obtaining these documents from other banks may also apply to these two banks.

SHRI K. C. PANT : We are interested now in the nationalised banks and we should see that their interests are also protected. We want more and more people to put their money in these banks. So, we have to leave it to the banks a certain amount of discretion in this matter.

As I have said, I appreciate the spirit in which he has made the point, and I hope the banks will also do so.

SHRI H.M. PATEL: That means that they are inviting more people to open accounts in the State Bank rather than elsewhere.

M. R. DEPUTY-SPEAKER: The question is:

"That the Bill to provide for the enforcements of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected therewith or incidental there to, be taken into consideration".

The motion was adopted.

MR. DEPUTY-SPEAKER: There are many amendment tabled by Shri B R. Shukla. The hon. Member is absent. So, I shall put all the clauses together to vote.

The question is:

"That clauses 2 to 7, clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clauses 2 to 7, clause 1, the Enacting Formula and Tital were added to the Bill

SHRI K.C. PANT: I beg to move:

"That the Bill be passed".

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed".

The motion was adopted.

12.40 hrs

DIPLOMATIC RELATIONS (VIENNA CONVENTION) BILL

THE DEPUTY MINISTER IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI SURENDRA PAL SINGH): I beg to move:

"That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be taken into consideration".

The purpose of this Bill is to give effect to the provisions of the Vienna Convention on Diplomatic Relations 1961, to which India acceded on 15 October 1965, particularly those provisions which should be given effect to under our law. So far we have been implementing the provisions of the Vienna Convention on Diplomatic Relations dealing with matters like exemption from dues and taxes by taking action under different existing laws. There are notifications issued, for example, under the Customs Act, 1962, and the Income Tax Act, 1961, to exempt diplomatic missions and their members from duties and taxes. The provisions of the Convention regarding the immunity of missions and their personnel from local, civil and criminal jurisdiction are based on established international custom and have been respected

by our Government and the Courts. The intention now is to provide in a single statute a statement of relevant rules on the subject in terms of the Articles of the Vienna Convention itself. The Bill sets out the relevant Articles of the Vienna Convention in the Schedule and clause 2 of the Bill states that they will have the forceof law in India.

The Vienna Conveation on Diplomatic Relations was adopted in 1961. India is a party to the Convention since October 1965. For the greater part, the Convention restates in a concise form the well-recognised rules of international law and practice which have existed from time immemorial, but on some points on which state practice was not quite uniform, it removes doubts, develops the law and provides uniform rules.

The Vienna Convention on Diplomatic Relations consists of 53 Articles. Broadly speaking, the scheme of the Convention is as follows :

It deals with the establishment of diplomatic relations in general, including functions, size and location of diplomatic mission in the first 20 Articles. Next, it deals with privileges and immunities which must he accorded to a diplomatic mission, its premises and its archives, like inviolability, exemption from all national, regional or municipal dues and taxes, freedom of communication etc. This is covered in Articles 21 to 28. Thereafter, it deals with the personal privileges and immunity from jurisdiction exemption from social security regulations, tax exemptions, customs privileges and so on (Articles 29 to 36). This is followed by provisions on privileges and immunitions of the members of a family of a diplomatic agent, other members of the staff of a diplomatic mission, such as technical and administrative staff, service staff and private servants, as well as provisions on the duration of privileges and immunities, and duties of third States through whose territory diplomatic agents may be passing (Articles 37 to 40). Finally, it contains certain provisions on the obligations of a diplomatic mission and its members towards the receiving State, provisions on the termination of diplomatic missions, provisions on the effect of an armed conflict on diplomatic missions etc. in Article 41 onwards. Articles 44 and 45 relate to the situation arising in armed conflicts as well as diplomatic relations are broken off.

Most of these articles do not require legislation for implementation. They can be fulfilled by executive action, such as those regarding the establishment, continuation and termination of diplomatic missions. The Articles—in all 18 in number which require legislation for implementation are included in the Schedule to the Diplomatic Relations Bill.

This Bill, as Hon'ble Members will see, is a very short Bill containing only 11 clauses in all. it is not my intention to comment on each clause while making this motion for the consideration of the Bill. But I will briefly highlight some of the main features of the Bill. In clause 2, as I stated a little while ago, the Bill seeks to give the force of law to the 18 Articles of the Vienna Convention set out in the Schedule. But it also reserves the power to the Central Government to amend the Schedule in future by a notification in the official Gazette in case amendments are duly made and adopted to the provisions of the Vienna Convention which are set out in the Schedule. In clause 3 the Central Government is given the power to apply the provisions of the Schedule with such modification as may be required to the diplomatic mission and members of a State which may not be a party to the Vienna Convention, 1961 but with which India may have a separate agreement, convention or other the instrument under which similar privileges and immunities have to be mutually accorded. Similarly, where privileges and immunities analogous to those of a diplomatic mission and its members have to be accorded to any other *ad hoc* or Special Mission and its members, this can also be done by a Notification in the Official Gazette by the Central Government.

To make it possible to take appropriate reciprocal and even retaliatory action promptly in cases where other countries do not accord the normal privileges and

[Shri Surenderpal Singh]

immunities which are required to be given under the Vienna Convention on Diplomatic Relations 1961 to our diplomatic missions abroad and to their members, a provision has been made in clause 4 of the Bill to enable the Central Government to withdraw the privileges and immunities conferred by this Bill from the diplomatic mission of such a State or its members in India by a Notification in the official Gazette. We hope that the provisions of the Vienna Convention will be strictly observed by all States with respect to our diplomatic missions and their personnel abroad and no occasion will arise for Government to exercise its power in India under this Clause. But in case such situations do aries, Government will have the fullest powers to act and insist on reciprocity.

While this Bill is mainly intended to give the force of law in India to provisions of the Vienna Convention dealing with matters like immunity of a diplomatic mission and its members from local jurisdiction and exemption from dues and taxes etc., opportunity has been taken in the Bill to deal with a few related matters such as the proper channel for serving any legal process, the manner in which the immunity of a diplomatic agent may be recognised and allowed, and the evidentiary value of a foreign office certificate. These matters are dealt with in clauses 8 and 9 which are intended to clarify doubts on these practical questions and state the correct practice which should be followed in such matters. Indeed, the rules stated in these clauses are well recognised in most countries, including India, and they have also been recognised and acted upon by our courts.

I shall be glad to provide any further explanation on the clauses of the Bill to which I have referred, or on any other matter directly connected with the Bill which may be raised during the debate.

Before I close, I might mention that the provisions of the Vienna Convention an Diplomatic Relations 1961 which should be given the force of law in India are set out in the Schedule to the Bill itself. As regards the Convention as a whole, we have placed 40 copies of the Convention in Parliament Library for reference by Hon'ble Members. I move.

MR DEPUTY-SPEAKER : Motion moved :

> "That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be taken into consideration."

SHRI SURENDRA PAL SINGH : Now, I understand that a large number of Members of the House have expressed a desire that the Bill be referred to a Select Committee. We have gone in o this matter and in deference to the wishes of the hon. Members, I am glad to announce here that the Government has no objection to accepting the proposal. The name of Members of the Select Committee can be read out by me now or later on.

MR. DEPUTY-SPLAKER . I have received two amendments to this motion that the Bill be referred to a Select Committee. Only one can be put. One is in the name of Shri Shivnath Singh, and the other is in the name of Shri H. N. Mukerjee. I do not know which one should be put before the House. I have been told there has been some informal discussion between the Opposition leaders and the Government, and in principle they have agreed to the constitution of a Select Committee. But even so, the motion has to be formally moved. If Shri Shivnath Singh does not mind, I think it will be more coming if it is moved by the Opposition.

SHRI SHIVNATH SINGH (Jhunjhunu): Yes ; my intention was only to refer it to Select Committee. I have no objection to its being moved by the Opposition.

SHRI. H. N. MUKERJEE (Calcutta-North-East) : I move :

> "That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for

matters connected therewith, be referred to a Select Committee consisting of 15 Members, namely :--

Dr. Henry Austin,
Shri B. R. Bhagat,
Shri R. D. Bhandare,
Shri Tridib Chaudhuri,
Shri Murasoli Maran,
Shri Nathuram Mirdha,
Shri Samar Mukherjee,
Shri H. M. Patel,
Shri N. K. P. Salve,
Shri Sant Bux Singh,
Shri S. N. Singh,
Shri Surendra Pal Singh,
Sardar Swaran Singh,
Shri Atal Bihari Vajpayee ; and
Shri H. N. Mukerjee

with instructions to report by the last day of the first week of the next session."

SHRI ATAL BIHARI VAJPAYEE (Gwalior) : Should we not invite the Rajya Sabha also ?

MR. DEPUTY-SPEAKER : This is only a select committee ; it is a financial Bill.

SHRI K. NARAYANA RAO (Bobilli) : My contention is, it is not a Money Bill.

MR. DEPUTY-SPEAKER : Have you read the Financial memorandum ?

SHRI K. NARAYNA RAO : Whatever it is.

MR. DEPUTY-SPEAKER : I expect the Members to read the Bill and the financial memorandum ; it is clear from the financial memorandum that it is a financial Bill. You say it is not a financial Bill. Are we to discuss it now ?

SHRI K. NARAYANA RAO : Simply because it has been mentioned in a Bill that it is a money Bill does it become automatically a financial Bill ?

MY. DEPUTY-SPEAKER : It is a financial Bill ; there is a financial memorandum and I have accepted it as such.

SHRI K. NARAYANA RAO : I shall stand corrected if the hon Minister can explain to me in what way it is a financial Bill.

MR. DEPUTY-SPEAKER : I am not admitting that motion now ; you can take it up when it comes up again for consideration. I put this motion for adoption by the House.

The question is :

" That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, be referred to a Select Committee consisting of 15 members, namely :-

Dr Henry Austin, Shri B.R. Bhagat, Shri R. D. Bhandare, Shri Tridib Chaudhuri, Shri Murasoli Maran, Shri Nathuram Mirdha, Shri Samar Mukherjee, Shri H. M. Patel, Shri N. K. P. Salve, Shri Sant Bux Singh, Shri S. N. Singh, Shri Surendra Pal Singh, Sardar Swaran Singh, Shri Atal Bihari Vajpayee and Shri H. N. Mukerjee.

with instructions to report by the last day of the first week of the next session."

The motion was adopted.

12.52 hrs.

MOTION-RE : MODIFICATION OF PREVENTION OF FOOD ADULTRATION (SECOND AMENDMENT) RULES, 1971

SHRI N.K.P. SALVE (Betul) : Sir, I beg to move :

" This House resolves that in pursuance of sub-section (2) of section 23 of the Prevention of Food Adulteration Act, 1954, the following modifications be made in the Prevention of Food Adulteration (Second Amendment) Rules, 1971,

[Shri N.K.P.]

published in the Gazette of India by Notification No, G.S.R. 992, dated the 3rd July, 1971 and laid on the Table on the 9th August, 1971, namely :-

(i) in rule 3, in clause (1), *after* item 22A, *insert-*

'22B. Sweet meats	250 grams
Coffee	200 grams
Colouring agents	200 grams.

(ii) in rule 3, in clause (6), in sub-clause (a), *after* clause (r), *insert-*

(s) light refreshments and snacks,.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution."

Sir, this motion seeks two slight amendments to the Prevention of Food Adulteration (Second Amendment) Rules, 1971. I am conscious of the fact that if this amendment is accepted, it is not going to make these rules so very comprehensive or all pervasive that it is going to block all the loopholes, nor do I for a moment expect that people would give up their pernicious habit of adulteration of food stuffs, nor do I expect the Government machinery which administers this law would burden itself with additional liability and streamline the administration. But I am sure the House will appreciate that this is an extremely important subject and this is the only manner in which some debate can be brought before the House. My motion suggests two amendments to the rules.

The first one seeks to enlarge the list of articles in the schedule to be sent to the public analyst by including therein an item: "22, B. sweet meats, Coffee, Colouring agents' The second amendment seeks to bring within the purview of the licensing authority the dealer in 'light refreshments and snacks'. Maybe, in that list of commodities which are to be licensed they are already impliedly there ; if so the hon. Minister will make it clear. But at any rate this will afford the House an opportunity to discuss what I consider an extremely important matter.

The problem of food adulteration has assumed extremely menacing dimensions. Starting from drugs and medicines, everything inclucing alcohol, wheat flour, milk, cream, ghee, cold drinks, spices, fruit juices, is mostly adulterated, even pan and masala. There are various other items which are mercilessly brought in for adulteration by anti-social elements. Rice is mixed with stones and my school-going son used to call them American vitamins. I thought it was a very uncharitable comment on American intelligence and American taste, but he used to call it so even before the Seventh Fleet moved into the Bay of Bengal and into disgrace. I am told also that pepper is nothing but 60 per cent papaya seeds.

There was a famous case in Nagpur where certain Ayurvedic medicines were sold as tonic, and people used to drink them in the evenings after sunset, but it was found that they were not worthy of human consumption and the manufacturers kept them away in the godowns. But one day when there was shortage, this lot which was not worthy of human consumption was smuggled out by one of the servants and then raket, with the result that 52 people became blind and 20 people died. Subsequent enqniries revealed that this stock was not worthy of human consumption because the corks had been eaten by somerats and the rats were found to be dead. So, in the process of manufacturing what is called tonic for human consumption, people have not been shy of manufacturing what becomes deadly rat poison. There is no dearth of anti-social elements willing to go to any exten to trade inhuman misery and misfortune to enrich themselves and aggrandise their interests.

The imperative necessity, therefore, is to administ of this law ruthlessly and very strictly, because it is found that in 1968 hardly ten cases came up for prosecution. Actually 40,000 cases were prosecuted under the Food Adulteration Act, and out of them about 20,000 were convicted. And what is the conviction? From six months to six years. Supposing we drink the milk that is given to us here at concessional rate and it is poison and all of us die, the maximum punishment for that man is to go to jail for six months to six years. I hope

it will not happen because it is a Government agency which is looking after this matter, and we will not be poisoned so easily.

MR. DEPUTY-SPEAKER : It is so simple, it does not need such a long speech.

SHRI N.K.P. SALVE : But the matter is so important. Probably you have not been eating adulterated things.

MR. DEPUTY-SPEAKER : How do you know ?

SHRI N.K.P. SALVE : If you had, you would have realised, because in Nagpur.....

MR. DEPUTY-SPEAKER: Nagpur does not have the monopoly of adulteration.

SHRI N.K.P. SALVE : People drinking a tonic and becoming blind or dying is unheard of.

Therefore, unless the Government machinery is also tightened up, it is extremely difficult to expect that we are going to be free from this menace of adulteration.

Finally, I would request the hon. Minister to consider whether or not he should change our law and make the provisions, so far as penalties are concerned, a little more stringent. when an adulteration case was being heard in the Supreme Court, the plea was taken that the accused could be prosecuted and sent to jail only if what is called *mens rea* in legal parlance was proved. But the Supreme Court said that the channels were so many and the whole idea of food adulteration was so fertile that it was impossible for any person administering the machinery to prove the *mens rea*, and hence from the very fact that there was adulteration it must be assumed there was guilt on the part of the person concerned and he should be ruthlessly dealt with.

The Supreme Court, at least for once, has come so much to the rescue of public welfare. Let Government take the assistance and help of the Supreme Court's judgment as it has come and amend the law and make the penalties really stringent. In cases where spurious articles are mixed up with eatables, let the punishment be extended to transportation for life.

SHRI R D. BHANDARE (Bombay Central) : One sentence should be expunged from the speech of my hon. friend, for whom I have the greatest respect. He said. "the hon. member is an authority on adulteration". That sentence should be removed.

SHRI N.K.P. SALVE : I did not say he is an adulterer.

MR. DEPUTY-SPEAKER : He said it in joke and the member is here to defend himself.

SHRI R. S. PANDEY (Rajnandgaon) : It only means knowledge of adulteration.

SHRI M. RAM GOPAL REDDY (Nizamabad) : Please give me two minutes.

THE MINISTER OF PASHIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR) : How has he gone there ?

MR. DEPUTY-SPEAKER : That is for you to explain. Mr. Vajpayee was trying to adulterate him !

श्री एम० राम गोपाल रेड्डी : उपाध्यक्ष महोदय, अभी हमारे साल्वे जी ने कहा है कि वह अमेरिकन विटामिन है लेकिन साल्वे जी को मालूम होना चाहिए कि जो रेत चावल में मिलाई जाती है उसकी वही कीमत होती है जो चावल की होती है । अगर चावल की कीमत 1 रु० 50 पैं० है तो उस में मिली हुई रेत की कीमत भी 1 रु० 50 पैं० होती है । इसलिए हर एक को बहुत ज्यादा टेम्पटेशन हैऔर इसके लिए स्ट्रिजेंट पनिशमेंट जरूर होना चाहिए । हमारे आन्ध्र प्रदेश में जो ताड़ी है उस में बहुत सी चीजें मिला देते है जिससे जल्दी से जल्दी आदमी को नशा आ जाय । उसके ऊपर कई बार आन्ध्र प्रदेश असेम्बली में चर्चा हुई और यहां पार्लियामेंट में भी मैं बोल रहा हूं । तो

[श्री एम रामगोपाल रेड्डी

मेहरबानी कर के उस सिलसिले मे कोई इंतजाम किया जाय । उस से नेशन की हैल्थ खराब हो रही है । 1962 और 65 की लडाई मे रेक्रूटमेंट के लिए फौजी अफसर गए तो 60-60 और 70-70 परसेंट लोग उस मे अनफिट पाए गए । उस का एक कारण यही है कि हमारे यहा बहुत ज्यादा मिलावट हो रही है । पैट्रिआटिज्म यह डिमांड करती हैं हर आदमी से कि इस प्रकार की मिलावट न हो, और जो मिलावट करते है उसके लिए जैसे कत्ल की सजा होती है वही सजा इस मे होनी चाहिए ।

THE MINISTER OF WORKS AND HOUSING AND HEALTH AND FAMILY PLANNING (SHRI UMA SHANKAR DIKSHIT) Sir, the amendments which the hon member has suggested in the rules are not really required In fact, they are entirely irrelevant He has suggested that the quantities in respect of sweet meats, coffee and colouring agents should be 250 grams, 200 grams and 200 grams respectively My I say, there are several articles and categories mentioned Item 14 says 'Prepared food 500 grams Foods not specified 200 grams" There is saffron, ice cream, a number of spices and other things mentioned Therefore, 'food' here is used in the technical sense in which it has been used in the Act and the rules

Therefore, all these are completely covered If it is prepared food, then it is up to 500 grams and for "otherwise not specified" 200 grams He has suggested a quantity of 200 to 250 grams In the case of sweet meats, it can also be treated as prepared food Then, depending upon the kind of food that is sold and sent for analysis, it may be 500, or 200 grams if it is very valuable Therefore, so far as the first change in rule 3, clause (1), is concerned I think the hon. Member will agree that it is not really necessary to change the rules

The second suggestion he has made is about light refreshments and snacks There also our list is very exhaustive and he now wants to introduce a new category of "light refreshments and snacks" Here the scheme of the rule is entirely different It mentions milk of all classes, milk products, cream, malai, curd etc then edible, fats vegetable oils, non-alcoholic beverages such as tea, coffee, chicory, artificial sweetners etc There is nothing that can be sold under the description of "light refreshments" or "snacks" which is not covered by this list Therefore, it would be unnecessary to change or amend the rules

SHRI N K P SALVE What about the punishment?

SHRI UMA SHANKAR DIKSHIT I would like to inform the hon Member that this is not the best way of raising a discussion I would submit that this is perhaps the least appropriate way of doing it It is a very minor matter and the broader aspects cannot be raised As I said in connection with an earlier discussion, I am willing to get this matter further examined in consultation with the Health Ministry In 1964 this matter was gone into in detail and in March 1965 the amending Act was passed, the punishment was increased and stringent penal measures were introduced Now the minimum punishment is imprisonment of six months and a fine of Rs 1,000

Here the main difficulty is that the implementation is in the hands of the local bodies and municipalities They have not got the funds enough to appoint inspectors and other officers So, they ask the sanitary inspector to serve as food inspectors as well. They do not have enough time to go and take adequate samples But as and when they do go and the samples are tested necessary action is taken.

The whole implementation is spread over the various States I am always ready to give information But if you expect the Central Government to ensure implementation by every local body, it is asking a little too much All the same, as I have said earlier, if ways can be suggested to

ensure better implementation by the members of the Consultative Committee I shall certainly consider them.

SHRI M. RAM GOPAL REDDY: What about the mixing of 'thali' I mentioned?

SHRI UMA SHANKAR DIKSHIT: All manners of adulteraion are there. If I may be permitted to use a stronger expression, because I hold strong views on this issue, it is a matter of national character and social conscience. If parties and Members of Parliament take up this matter outside the administrative machinery, much bette results can be ensured.

SHRI N K. P. SALVE: So far as the first part of my amendment is concerned, he has said that sweet meats are included in the list and I will take it as correct. Secondly, he said that there is hardly any light refreshment or snack which is excluded from the purview of rule 50, as contemplated in items (a) to (q). But the stalls which are selling tea, omelettes etc. would they be required to be licensed under this?

SHRI UMA SHANKAR DIKSHIT: I think so.

SHRI R S. PANDEY: Water is mixed with milk and that is not treated as adulteration.

MR. DEPUTY SPEAKER: Now, the question is:

"This House resolves that in pursuance of sub-section (2) of section 23 of the Prevention of Food Adulteration Act, 1954, the following modifications be made in the Prevention of Food Adulteration (Second Amendment) Rules, 1971, published in the Gazette of India by Notification No. G.S.R. 992, dated the 3rd July, 1971 and laid on the Table on the 9th August. 1971, namely:-

(1) in rule 3, in clause (1). *after* item 22A, *insert*--

'22B, Sweet meats	250 grams
Coffee	200 grams
Colouring agents	200 grams'

(ii) in rule 3, in clause (6), in sub-clause (a) *after* clause (r), insert—

'(s) light refreshments and snacks,'.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution,"

The motion was negatived

13.10 hrs

BUSINESS OF THE HOUSE—*contd.*

MR. DEPUTY SPEAKER: I want to make an announcement before we adjourn. On account of the Emergency, the Government could not get many important legislative measures through the House. So, the proposal is that the following items of business be taken up tomorrow and disposed of tomorrow:-

1. Government of Union Territories (Amendment) Bill;
2. Company Law (Amendment) Bill; and
3. Constitution (Twenty-seventh Amendment) Bill.

I thought this announcement should be made because these are all important measures and the Members may come prepared.

The House stands adjourned to meet again tomorrow at 10 A.M.

13. 11 hrs.

The Lok Sabha then adjourned till Ten of the Clock on Tuesday, December 21, 1971/ Agrahayana 30, 1893 (SAKA)

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