

SHRI A. K. PANJA : Sir, I introduce the Bill.

Statement re : Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinances

[English]

THE MINISTER OF STATE IN THE DEPARTMENT OF REVENUE IN THE MINISTRY OF FINANCE (SHRI A. K. PUJA) : I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988.

13.26 hrs.

MOTOR VEHICLES BILL—Contd.

[English]

MR. CHAIRMAN : The Motion for consideration of the Bill has already been moved. Hon. Members who wish to move their amendments may please do so.

SHRI C. MADHAV REDDI (Adilabad) : Sir, I beg to move :

That the Bill to consolidate and amend the law relating to motor vehicles be referred to a Joint Committee of the House consisting of 15 members, 10 from this House, namely :—

- (1) Shri Somnath Chatterjee
 - (2) Prof. Madhu Dandavate
 - (3) Shri Dinesh Goswami
 - (4) Shri Indrajit Gupta
 - (5) Smt. Geeta Mukherjee
 - (6) Shri Rajesh Pilot
 - (7) Shri Balwant Singh Ramoowalia
 - (8) Shri B. Ayyapu Reddy
 - (9) Shri K. Ramachandra Reddy
 - (10) Shri Amar Roypradhan
- and 5 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be on one-third of the total number of Members of the Joint Committee :

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

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

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 5 members to be appointed by Rajya Sabha to the Joint Committee. (1)

PROF. SAIFUDDIN SOZ : Sir, I beg to move :

That the Bill to consolidate and amend the law relating to motor vehicles be referred to a Joint Committee of the Houses consisting of 15 members, 10 from this House, namely :—

- (1) Shri G. M. Banatwalla
 - (2) Shri Somnath Chatterjee
 - (3) Shri Sharad Dighe
 - (4) Shri V. N. Gadgil
 - (5) Shri Indrajit Gupta
 - (6) Shri Haroobhai Mehta
 - (7) Shri Rajesh Pilot
 - (8) Shri Somnath Rath
 - (9) Shri Syed Shahabuddin
 - (10) Shri K. P. Unnikrishnan
- and 5 from Rajya Sabha;

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

that the Committee shall make a report to this House by the last day of the Budget session, 1989;

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

Committees shall apply with such variation and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 5 members to be appointed by Rajya Sabha to the Joint Committee. (103)

SHRI C. MADHAV REDDI: The Motor Vehicles Bill at least has come today for consideration. The Bill was introduced last year as Motor Vehicles Bill 1987. At that time a number of amendments had been moved by the Hon. Minister himself and also by a number of Hon. Members. I am happy that the Hon. Minister has considered many of those amendments. Apart from the Government amendments, some of the amendments moved by the Hon. Members have also been accepted and incorporated in this Bill—Motor Vehicles Bill 1988. So far so good.

I must congratulate the Minister for steering clear and ultimately for being successful in bringing this Bill. Because such a Bill was prepared in 1979; but it never saw the light of the day. The necessity for such a consolidated Bill was felt for a very long time. Several Committees have gone into this question of consolidating the law relating to the Motor Vehicles. The Police Commission, the National Transport Policy Committee and several other institutions had presented their Reports. They were all before the Government and the Government had to set up as it was told a working group which went into this question and the Report of the Working Group was presented as long ago as 1980.

Going through some of the chapters of the Working Group Report relating to the Motor Vehicles, I found certain discrepancies. Some very useful suggestions made by the National Transport Policy Committee and also by the Working Group could not be incorporated for perhaps practical reasons. When the matter was discussed in the meeting of the Transport Ministers of all the States in 1986, perhaps some States objected, and perhaps the Government felt that the recommendations proposed by the Work-

ing Group are not suitable. Whatever may be the reasons, now the Bill is before us running into about 217 clauses. Going through this Bill, through many of the provisions and sections are only repetitions or only reproductions of the sections which are contained in the 1939 Bill, yet there are certain very important chapters dealing with so many important questions which need to be thoroughly gone into, scrutinised and then an expert opinion taken before this Bill is enacted. It is for this purpose that I gave notice that this may be referred to the joint select committee. If this had been done earlier in 1987 itself when the Bill was introduced then by this time we would have got the report of the joint committee and that would have made proper justice to the various provisions of the Bill.

Since the Bill is before the House I would like to draw the attention of the House to some of the important aspects or some of the lapses which I feel should be rectified even at this stage. Going by the gesture of the Hon. Minister in accepting some of the amendments of the Hon. Members earlier I would request him to consider these suggestions in the proper perspective and even now to introduce some of the amendments based on our suggestions and accept them. I hope he will have no objection to doing so after all it is a non-controversial Bill.

Sir, first I come to the question of nationalisation which is very important and with which all the State governments are concerned because the States are going on nationalising routes. They have problems every day dealing with this problem of nationalisation because people are going to courts and getting stays. At some places the decisions are being delayed. The most important aspect in this is that as against the earlier Act the authority to prepare the scheme for nationalisation and the authority to call for clearance and publishing the scheme and sit on judgement on this particular scheme is only one. In the earlier Act the authorities were different. Earlier the transport undertakings were preparing the scheme for nationalisation because it is they who know better what routes are to be nationalised whether they have the infrastructure or not because it is ultimately they

[Shri C. Madhav Reddy]

who have to run it. It is they who have to prepare the scheme for taking over certain routes. Then it is for the Government to sit in judgement over the state transport undertakings as to whether it is right to taking over the route or not. Based on the objections received from the various parties and individuals the State Governments can take a decision like a judge. It is like quasi-judicial proceedings. They have to ask for clearance of objections and hearing has to be given. Final judgement has to be given by the Government. This is being denied in this Bill. In this Bill what we are doing in Chapter 6 is that the State Government itself is coming to the conclusion that this is the route which has to be nationalised. The State Government itself is publishing the scheme and then inviting objections and when the objections are received the State Government is sitting in judgement on these objections and finally taking a decision whether that particular route, is to be nationalised or not. This, I think is not fair. The existing provision is very good because a number of cases have come and in the last ten years of its operation several people have gone to the courts and obtained judgements.

Full case law is before us. The things are already settled and now we are disturbing the apple-cart. What we are doing in this is, once this is done, then again a case will go to the court and again the courts have to give their judgement. Not only this is against the natural justice, but also this is likely to create problems for the State Governments to nationalise a particular route. The parties are bound to go to court and find out some loopholes. Today, they can't because the courts have settled. The Supreme Court has settled. The case laws are before us. The cases are being decided in the light of not only the laws but also the case laws existing today. This aspect has to be seriously considered. I am sure, many State Governments have objected to this. I do not know for what reason this has been clubbed. This may kindly be considered.

The second aspect which I would like to come to is the case of compensation to be paid to the victims. I am happy that the Government has accepted the Supreme Court's judgement earlier that the compensation is to be enhanced. Now, the

compensation is about Rs. 25,000 in the case of death and Rs. 12,000 in the case of permanent disablement. The disablement has been defined in the Act. But I do not agree with the definition of disablement. Suppose if a limb is amputated, if an eye goes, if the injury is such that one of the limbs is lost, then that becomes a permanent disablement. But what happens to the person whose brain is injured in the sense that he has been injured in such a way that it cannot be found out. He has not lost any limb. In all the accident cases, it has been seen that it is the head injury which is most dangerous. Then, the man is actually alive. He is very well but he is useless. His mind is affected. In such cases, what are you going to do? He won't get any compensation unless it is proved on the principle of the default. That is very difficult.

You have yourself said in the Bill that the principle of default is very difficult to prove in the court. When a principle of default is proved, certainly he will get more. When he gets more, that should be an additionality and not to be adjusted against the compensation already paid. That may kindly be noted. Under this particular clause, subsequently on the principle of default if it is proved in the court that the driver was wrong, he was drunk or something was wrong with the vehicle or he was going on the wrong side, then he gets compensation award from the court. In that case, suppose he gets Rs. 30,000 and earlier you paid him Rs. 20,000, then, you are going to pay him only Rs. 10,000. What I want to say is that earlier when a payment has been made for an accident in which death occurred without any regard to the principle of default, this payment is being made. Am I correct or not? Kindly tell me.

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI RAJESH PILOT): Yes, you are right.

SHRI C. MADHAV REDDI: The point is even without proving in the court that there was a default on the part of the driver or the owner, the compensation is being paid. That is a very good principle. We appreciate that because it is very difficult to prove that the driver was wrong. Now,

whatever compensation is being paid, it will be adjusted against the future compensation whenever that compensation is awarded by the court after the default is proved. What I mean to say is that there should be an additionality. What is wrong with it? In many countries, this actually is being practised. In USA, this is the practice. Anyway, that is for consideration. But whatever has been done is a step in the right direction. Further improvement is possible. That is what I wanted to say.

Coming to another question of the testing facilities, we all know that many vehicles which are condemned, polluting the atmosphere are on the road. All types of vehicles are on the road. Sometimes, such buses of the State Road Transport Corporation are also on the road because of various reasons. I do not want to go into those reasons. But what we are doing is we are opening the floodgates by allowing private testing institutions to test these vehicles, whether they are roadworthy or not in addition to the existing facilities that the State Governments or the Central Government are having for testing. You are doing this for the reason that you do not have adequate facilities. What you are doing is that the private garages are going to be permitted to test the vehicles and give a certificate. That means that there is lot of scope for malpractices. Any vehicle will be passed and a certificate given by the private testing institutions. What arrangement is there to see that it is checked? How can we do that? It would be easy for anybody to approach a private garage and get a certificate. Of course, he will be an authorised for that purpose. That does not help us. My point is that the States will also be losing some revenue because for testing we charge certain fees and I think, nobody is going to come to Government testing institutions. I am sure that. This will actually aggravate the position and more and more condemned vehicles will be on the road polluting the atmosphere. This may kindly be looked into.

It is actually the regional or the State Transport Authorities which are executing the Act at the State level. After all, this is an Act which is to be executed by the State Governments and the Central Government has nothing to do with it. You are passing an Act, the implementation is in their hands.

Now, it is found that many of these State Road Transport authorities have a number of people on the Committee. There are States, where I was told there are 12 persons, 15 persons on the authority and whenever a meeting is held, quorum is never achieved and decisions are never taken and no judicious decisions is possible, particularly because a lot of condemned politicians are there. They come and sit in the Committee. The Government realised this and today we have fixed the maximum number to be on these Committees. Very good, but in the earlier Act, we had the minimum number. What we wanted was that there should be a minimum as well as maximum. What you are doing today is that you have done away with the minimum, you have accepted the maximum.

[Translation]

Earlier, there was a practice which you abandoned and started a new one. You have accepted the maximum.

[English]

The number for the State Transport Authority is four excluding the Chairman and minimum is two excluding the Chairman in the case of Regional Transport Authority. But what is the minimum. Minimum can be even one.

One Chairman and one member. Will they decide anything? What can they do? Is it possible? Again, there is a lacuna. What you have to do is that you must have a maximum strength as also minimum strength prescribed otherwise there is a possibility that it will be a one-man show. Only the Chairman will be sitting and deciding the things.

With regard to certain Road Transport Corporations, it was found that these transport authorities, State and Regional Transport Authorities, were exercising control over these State Transport Corporations also so much so that without any regard for certain problems, they were cancelling the permits etc. These complaints are there. Every day State Government receives such complaints

[Shri C. Madhav Reddi]

because the State Transport Organisations are run by the Government. And then they have the difficulties. Now, these difficulties had been examined by the National Transport Policy Committee and the Committee gave a very sound recommendation that in such cases you can delegate certain powers to the Chairman of the State Transport Undertaking. After all why cannot you do that? Why should the Regional Authorities or the State Transport Authority exercise those powers? Why not you give certain powers to the Chairman of these undertakings. Anyway, I could not find any clause in which it has been done. Obviously it has been missed. That should be done so that there may not be any unnecessary harassment to the State Public Sector Undertaking.

Coming to the question of special provisions and special Acts passed by the State Legislatures, I would like to say that while there was a Central Act in existence, certain States had been permitted with the permission of the Central Government, to take certain special provisions and pass certain special legislation for the implementation of this Act in their States in respect of certain matters because certain special circumstances may obtain in a particular State. It should be possible for every State to make certain provisions at the State level.

Now, under Clause 217 of the Repealing Act, we are repealing all those Acts and all those provisions. After this Bill is passed all those Acts or special provisions made by special legislation in various States for the implementation of this Act are going to be repealed. Now, I would like to ask, before doing this, have you discussed and have you consulted the State Governments. You have been consulting the State Governments very often I know. But the effect of passing this Act is that all the special Acts, or special provisions—they are not exhaustive Acts, they are only related to certain provisions in respect of certain States—will stand repealed. Now, what would be the effect of this? Again they have to pass certain Acts and certain provisions have to be made. You have validated the action taken before the passing of the Act but in future for implementing this Act they will find difficulty and again every State has to go the legislature

and pass certain amending provisions and come to you for approval, as far as this Act is concerned. This has to be looked into because it is likely to create problems for the State in implementing the Act.

Lastly, I will come to the question of National permits, and the various types of permits which are being issued for the goods carriages, etc. Sir, we have about 5 categories of permits. There is a District Permit, Intrastate Permit, Interstate Permit based on certain agreement and again there is a Zonal Permit and a National Permit. Why do you have these categories? Where is the need for these permits? You could have only a State Permit. Today transportation has increased to such an extent that there is no truck which can be called a district truck' which means that its area of operation is confined to just within the district. At some point of distance it has to cross and go to another district. Therefore, there is no meaning in having this district permit. There should be only be two permits—national permit and state permit. This permit system should be further simplified by saying that there should be only two categories of permits, namely State Permits and National Permits. Whether the area of operation is two States or five States or ten States, it should be covered under the national permit. Once it is beyond one State, it has to be a national permit. Let there be no inter-state permit because inter-state permit means entering into lot of negotiations, agreements and so on which is somewhat difficult.

These are some of the suggestions that I wanted to offer while speaking on this Bill. I request the Hon. Minister to accept some of my suggestions true to his tradition and see that this Bill which has come after a long time to consolidate the Motor Vehicles Act is made as perfect as possible.

[Translation]

DR. G.S. RAJHANS (Jhanjharpur): Sir, it is, in itself an exhaustive Bill. The clauses incorporated in this Bill are so large in number that one gets totally confused while reading it. Repetitions are seen off and on. I tried to read it a number of times and got confused with it. Even then by and large a good Bill has been brought

forward. Efforts have been made to remove all the discrepancies noticed in the Bill.

One thing that I find in the Bill is that it will be implemented by the State Governments. At the stage of its implementation it should be seen that nobody falls victim to the police atrocities or to the atrocities of the transport authorities. You said that anyone, who is 16 years old, can drive a motor cycle without fear. The driver will be granted a licence for this. But the driving rules provide that one should have attained the age of 19 years for having a licence for the motor cycle—and 20 years for driving a heavy vehicle. I think that a person becomes eligible for having a driving licence for a heavy vehicle at the age of 18. You should look to this aspect.

While going through the Bill I felt time and again that this Bill may become instrumental to exploit the poor. You can make a survey through out the country. You will find that there are very few owners who drive their own vehicles. Only poor people who come from rural areas and some how or the other learn driving, get employed as the drivers of their cars or trucks. You have made a number of provisions in this Bill. But, I am afraid, lest the owners of the vehicles should exploit their drivers under the cover of this Bill.

It has also been said that people above the age of 40 will have to get their licences renewed. Their licences will be renewed for the next 5 years and every time they will have to produce a medical certificate at the time of renewal. Everybody knows that it is both very easy and difficult to get a medical certificate. If somebody finds some lacunae in the certificate, the driver will lose his job at the age of 40. I, therefore, request you to change it to 55 years instead of 40. When a person above 55 years of age demands a licence, he should be asked to produce a medical certificate. If he has any defect in his eyes, he should be examined. But on the ground there should not be any injustice with him. One should not be harassed or made to suffer for minor defects such as being under-weight or having cough. I have seen that the driver pass their days in utmost poverty and resort to driving under very compelling circumstances.

[English]

MR. CHAIRMAN : How much you pay to your driver ?

DR. G.S. RAJHANS : That is not to be disclosed here.

[Translation]

We come across many such instances in which people own vehicles and do not have their own driving licences. They or their children go on joy riding and drive the vehicles carelessly. In the case of any accident, they shift the charge on to the driver with the statement that the accident took place when the driver was driving the vehicle. The driver accepts the charge, because it involves his job. This type of exploitation takes place on several occasions. If the stipulation of producing medical certificate after 40 years of age is enforced, the owners and private companies will threaten the drivers daily and warn them to work properly otherwise to lose their jobs. In this way the poor fellow will be ruined. I, therefore, request the Hon. Minister to have a practical approach in this regard. If any such person is having some defect in his eye, he should be asked to under go the eye test. In case of any other defect he should not be removed from service. Several opthalmological defects are curable. Hence he should be given the facility of treatment.

With reference to registration you have said that a car running for more than 12 months in a State will have to be got registered in that every State. In this connection I would like to point out that a number of States are situated quite adjacent to one another and people belonging to one State are required to stay in the adjoining State under the exigencies of work for quite a longer period. For example, a resident of Ranchi stays in the adjoining State of Orissa or West Bengal under exigencies of work for 14 to 15 months. You can very well imagine what difficulties he will have to face in these States if he is asked to get his car registered there. I, therefore, request you to extend this period to 3 years from 12 months. Everybody knows, how much difficult it is to get a vehicle registered and

[Dr. G.S. Rajhans]

to have a driving licence of it. So far as it is applicable in the case of the original State transport authority, I support the proposal.

You have mentioned a very interesting thing in clause—116 of the Bill.

15.59 hrs

[SHRI SHARAD DIGHE *in the Chair*]

The State Government may remove or cause to be removed any sign or advertisement which is likely to distract the attention or concentration of the driver.

14.00 hrs.

You may have seen that in big cities such as Delhi and Bombay, etc. advertisements are put on the buses. May be very few people know the fact that through advertisements, Government or the transport department earns a very large amount of money. Assume that on a bus, there is a picture of a beautiful girl in the advertisement and some fifty or hundred persons are looking at it, then the attention of the driver will naturally also be diverted towards it out of curiosity which may cause an accident. I have seen this. Advertisements should be put on the back side of the bus. It should not put on the sides of the buses and the State Governments should be instructed in this regard. Mention has been made about un-manned level-crossing also. Accidents occur due to the faults not only on the part of drivers but on the part of trains and pedestrians also. The Hon. Minister mentioned about the driving schools. The Hon. Minister might be knowing how the driving schools are being run in all big cities. Persons running driving schools with connivance of police and tauts issue driving licences to the needy persons. A driving licence is issued even in the name of a who is not in India running of a driving school is a very flourishing business which fetches a good amount of money. You have rightly said that a through investigation should be made about the instructors and personnels employed in the driving schools. I would rather suggest that this business of private driving school should be totally abolished. There should be only

Government runned driving schools and only bonafide persons should be given driving licences, be it a learner or a permanent licence. It is rightly said that driving of a motor-vehicle is a work of much responsibility. So a wrong person should not be granted licence. It is a very good provision that any person driving vehicle under influence of alcohol or drug will be punished. But it is very difficult to carryout blood examination of such persons on the spot. I know a case in which the guilty person was saved by the Hospital doctors. When he was brought in the hospital by the police for his blood examination as he caused accident under the influence of alcohol. In this connection I do not want to refer the name of Willington Hospital. It can be any hospital, that man was saved, but some one else surfered. So a provision should be made that if a person is found driving vehicle under the influence of alcohol, he should be arrested then and there on the spot on the basis of evidence, pending outcome of his blood test. In several states there are transport authorities where rampant corruption is prevalent. I know about one State where the Chairman of the State Trading Corporation auctioned a bus at a cost of Rs. 60 only. A person known to him might have purchased it and thus he got a property worth lakhs of rupees at a nominal cost of Rs. 60 only. My suggestion is this that the policy of nationalisation should be done away with and all the persons who want to operate buses on the roads under State transport be allowed to do so. Such arrangements should exist not only in Delhi but outside Delhi also. If fifty persons want to operate buses on one particular route, let them allow to do so. In that case there will be stiff competition and only such operators will survive who will give good service to the public. This is the law of the survival of the fittest. In that case there will not be monopoly of one persons...

SHRI RAJESH PILOT : This is in the Bill.

DR. G. S. RAJHANS : I know, I have read the Bill. You have liberalised earlier also. But, now, stop this totally. In order to provide better service to the public, maximum number of persons who are willing to operate tourist or passenger buses should be issued permits.

In the end, I would like to submit one thing that you have brought a good comprehensive Bill and welfare of poor drivers should also be looked into.

[English]

SHRI A. CHARLES (Trivandrum): I stand to support the Motor Vehicles Bill, 1988. At the outset, I may congratulate the Minister for the very comprehensive Bill which has now been introduced. The Act that was in existence from 1939 and the various amendments made thereafter were not sufficient to meet the requirements of the recent times and we know many of the frauds that are committed in the offices, in the RTO's office in getting the permits, in granting licences and all that. Sufficient care has been taken to see that those anomalies are removed, and the malpractices are to be removed. So, the necessity of the Bill cannot be overemphasised. I have been listening to the speeches of the earlier two speakers.

One thing that has been said is that this Bill ought to have been again referred to a Joint Select Committee. We know that when this was first introduced there were hundreds of amendments even from the side of the Treasury Benches and another hundred from the Opposition. I am glad that the Minister and the Ministry have given due consideration to all these amendments.

Much of the difficulties have been removed because everything has been compiled, recast and a very beautiful Bill has now been presented. If we again send this Bill to a Joint Select Committee, then I am afraid this Bill would not see the light of the day in the next three or four years because it has been our experience. There is a saying. If you do not want to act, you appoint a Committee, but if you want to act, you take a decision. I congratulate the Minister for taking a bold decision. There may be difficulties when we implement the provisions of this. But those difficulties can be taken care of by bringing amendments or whatever is required in future. I am glad that this Bill has been presented now.

Salient features are found in this Bill. Since it is a very large Bill, it is very difficult

for anyone to go extensively into the provisions of this Bill. There are stricter procedures relating to grant of licences; standards for anti pollution devices; fitness certificate for the private sector; nationalisation of route; maintenance of roads; road safety and a lot of other things. So, I am sure that when this Bill becomes a law, much of the difficulties that we experienced in this field would be removed.

I would like to draw the attention to one or two Clauses.

Fear has been experienced that a free licensing system will be given for giving permits. But if you go through the Bill very carefully, I am sure that fear has no basis.

Sir, nationalisation, I must say, must not be merely for the sake of nationalisation. I represent Trivandrum Constituency in my State. Trivandrum has got a totally nationalised route. But in most of the interior districts, there are both private and Government route. Our experience is that when there is a nationalised permit system alone, passengers find it very difficult and they have to stand for hours together because Kerala State Road Transport Corporation is the only agency which is plying buses in the city. In some of the other districts, they allow both the private sector and the State Government Road Transport Corporation to operate together. They fix a time limit and there is a real competition between the two. Though we are all for the nationalisation, we would not be able to nationalise all the routes throughout the country at one stretch. We have private sector in a very large area. So, I must say that there should be a real competition between these two, which will enable the ordinary passengers to have more comfortable time in getting the buses in time and other facilities.

I would like to draw the attention particularly to Clause 99. It relates to awarding of permit. It says :

"Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public

[Shri A. Charles]

interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme....."

This has been questioned by the first speaker. It is said that in the present system, the law is very clear because rules are there. I must say that in Kerala, even at present it is the Government which decides which routes are to be nationalised. So I do not think the point raised by the first speaker has any basis. There are very clear rules for the nationalisation of routes.

Regarding national highways, more care needs to be taken for their upkeep as most of the accidents take place on the national highways because of unsafe conditions of roads. Even though lot of funds are earmarked by the Government of India for the maintenance of national highways, it is very doubtful whether these funds are being properly utilised. I must say that there should be a Central agency to see funds that are earmarked are actually spent for the purpose for which they are given. Our experience is that when we go through the national highways from one State to another, we find that the conditions of these roads are not good at all. Certain State Governments are not at all keen in spending any money on these highways. So it should be ensured that whatever money is earmarked it should be properly spent for the maintenance of national highways.

I request that more roads be declared as national highways. In Kerala there is a request for declaring MC roads as national highways. I know, this is not the time to make such a request. However, it is good if the Government of India consider it favourably.

About the issue of driving licence, I congratulate the Minister for giving an exhaustive chapter on that because I know that many of the accident take place because of lack of proper training. That has been well taken care of,

Noise pollution, fuel pollution and other pollutions are creating problems. The Bill has taken care of that also. I am glad that sufficient care has been taken to remove the anomalies.

I am sure, when the implementation of this Bill starts, most of the difficulties being faced by the people will be removed and the roads will be more safer for the passengers.

SHRI AMAL DATTA (Diamond Harbour): After fifty years, this Bill has been brought to make new provisions, the need for which has been felt for quite some time.

As the Minister has explained in his introductory speech, circumstances have changed considerably since 1939. The number of motor vehicles on the road has increased from 3 lakhs to about 100 lakhs and the road network has also increased. But what he has not mentioned is that qualitatively there has been a big difference not only in the number of vehicles but in the type of vehicles that are using the roads. Previously we had small lorries.

When 1939 Act was passed, the maximum load which a truck could carry was one tonne, but now on paper it can carry 7.5 tonnes. But I am told on a very good authority that these trucks which we see on the roads-Tata trucks-they are really capable of carrying upto 15 tonnes. They, in fact, carry that much load. So, qualitatively there has been a difference which has also to be taken note of, which means that the motor vehicles of today, the goods vehicles and the stage carriages all have become much more lethal in character than they were in 1939. Then they were slow, they were lighter and the roads were not so congested. Secondly, the lethal quality has increased many more folds than will appear from mere numbers. I am afraid that this part has not been taken into account in formulating the provisions of the Bill. Adequate measures have not been brought forward to satisfy the needs of safety on the road, for which various other provisions will be required if safety is to be ensured to the people using the roads, either as pedestrians or as passengers in vehicles, and to ensure that the vehicles themselves do not damage

property alongside the road, and so on. In this matter I think that a lot of new thinking was necessary. Unfortunately for all the Committee Reports etc. which have been gone into by the Working Group, they have not really considered the needs that have arisen because of these technical changes which have already taken place and are taking place at a very rapid rate today. This Bill which will be enacted—I am sure that this Bill when put to vote will be enacted because the ruling party wants it—will again be continuing for another half a century. If that is kept in mind, then various other provisions could have been brought in, and that is why I will request the Minister to pay heed to the amendments which have been tabled and the requests which have been made to take it before a Joint Select Committee of Parliament so that due consideration can be given. I know that it is a time-consuming process but if we could have waited for fifty years—the need for a new Bill having been felt at least twenty or thirty years ago—we can wait for another one and a half, two or three years also so that something comes. In the mean time, it is not as if there is nothing at all. The Act is there, and some slight changes which are urgently, necessary might be made. But for the new Bill, I think it would be worthwhile to wait even for two or three years so that all the aspects of the changes which have taken place, technically and otherwise, can be taken into account, including the changes which are envisaged, which have already taken place in other countries and will soon come to this country. So, I would again request the Hon. Minister to think about it and see, if it is possible, even now to withdraw the Bill and to send it to a Joint Select Committee of the Parliament.

I would draw the attention of the Minister to certain aspects only. The Bill is a very long one and it is not possible, given the time which is allocated to Members, to go through the major portion of the Bill. So, I have to confine myself to certain portions only.

Before I do that, another aspect I will emphasise it that the Minister has said that the State Governments have been consulted so far as the Bill is concerned. It is possible that some State Governments might have sug-

gested some amendments to the Bill now existing, but I understand, and it is also stated in the Minister's introductory speech of today, that after the Bill was drafted on the basis of the Working Group's recommendations—of course, there is a lot of departure from the Working Group's recommendations also—there was a meeting convened only once of the Ministers of Transport of State Governments. That has not, in my view, given the States an adequate opportunity of present their views. Therefore, I believe that a numbers of States are still feeling aggrieved that they have not been properly consulted in bringing this comprehensive Bill before Parliament.

Now, let me pass on the aspect of the safety which is very predominant in my mind and it should have been taken care of by this Bill because it is something quite urgent. Now, what we see today and the Bill unfortunately does not take care of that evil which has crept in. The whole licensing procedure—licence to drive—has become rather a farce. A man does not know how to drive because there are no proper driving schools. Now, you are bringing some provisions to control the driving schools, but even these are not adequate because there is no way in which a person can teach the other persons to drive unless he is trained so teach. He has not enough training to teach others. So, there is no such training given as prescribed or thought of prescribing in the provisions which have been brought today. Now, that is it to be gone into. How to ensure that people can learn to drive properly and what kind of regulation the Government must have on these schools so that there are schools where people can go to learn driving and not just to get licences. In fact, that is exactly what is happening today that people go to the driving school and pay certain amount of fees and they get the licence. As Mr. Rajhans has said, irrespective of whether they are staying in India or not, the licence is given. These have become merely professional agents and in fact the Department has become corrupt and that is why this thing can proliferate. So on the money part, if Rs. 500 is given to the driving school and for getting a licence—and they are not teaching a person to drive, they are getting a licence—naturally they will take Rs. 200 or, Rs. 300 to the officials concerned to issue

[Shri Amal Datta]

the licence. This is what has been happening. Now, if people have some kind of training school, some kind of training they have to obtain before coming for a test. They have to go to the driving schools. The driving schools have to be properly regulated and controlled by the Government to see that they remain reliable when they send somebody or when they bring somebody for a test. It must be properly taken care of by appropriate vigilance on the officials themselves. I do not know whether the same sort of officials are continuing who have been continuing under the existing Act because they suddenly turn honest because corruption has gone to such a proportion that it is very difficult to eradicate. So, proper vigilance is very much necessary. There is no provision to see that this kind of vigilance is incorporated in the way the Department is organised or appointed. So, that should be done.

Then the danger to people may come from drivers, not merely because they have not been trained, but they have just got the licence by paying a sum of money directly or indirectly to the Inspector issuing the licence, but also he may after getting the licence on learning the proper driving, he may not drive properly. What one has to do is to see that traffic regulations are also appropriately followed and they are implemented. Now, the implementation machinery for traffic offences is very very weak. First of all, there is no way of catching a person who is violating the traffic rules, not to speak of actually getting him punished for such violation. The offences are there. But those offences do not allow a Policeman, even if he sees a person violating the traffic rules, to arrest because all these are non-cognisable offences. So, what can be done is not just to issue a notice or a summons to ultimately make him to appear or not appear before any court, but the point is whether at all the summons can be issued or whether at all the court is to take up the case. As I understand, most of these traffic offences are never actually tried. I hope that the Minister knows that this is the actual state of affairs. So, to ensure safety on the roads one has to see that the offences are not only created by the Act, but these offences are brought to book and bringing to book has got various stages—spotting the offence and apprehen-

ding the offender, bringing him to court for trial and all these stages. I am afraid these have not been taken care of in sufficient details in this Act which we should have done having regard to our experience under the existing Act.

So, that is one side of the thing. Of course, there is a provision now that the court may revoke the licence. This should be done in certain cases of offences, particularly of offences regarding dangerous driving and so on. This should be not an option given to court because the court may be sometimes unduly charitable to the offender and not to the persons who stand in danger of being killed or hurt grievously by this type of driving. So, what in fact should happen, what should be provided for in the Bill is that in the case of dangerous or reckless driving or driving under the influence of drinks or driving with excessive weight in case of heavy vehicles or with excessive passengers in case of public service vehicles, there should be a compulsory revocation of licence. If that is not done, then of course there is no appropriate punishment which will in fact safeguard the life and property of other people. So, that should be made compulsory and not optional as to whether the licence is to be cancelled or suspended.

The other aspect of it is the machine itself—how to ensure that even if a person knows how to drive, even if he is willing to or trying observe the traffic rules, if the vehicle itself is not fit to be driven on the road and fit for all types of situations which it may have to go through in the road while being driven on the road, there of course again the danger will not be removed from the users of the road. This requires the fitness certificate to be obtained by the vehicle. What is provided now and what is being envisaged in this Bill is that this fitness certificate will be brought once a year. Do you think that once a year is sufficient? Given the number of distances travelled by the heavy vehicles—a vehicle may ply from Delhi to Bombay and from Bombay to Bangalore and come back to Delhi, something like that, in the course of two weeks only, and in the course of one year it will be making the same trip may be 50 times or a little more or a little less. So, it is necessary that the vehicles having regard to the

nature of the journeys made by them should be obliged to obtain the fitness certificate much more frequently than once a year. I personally think that at least a quarterly fitness certificate is required for the heavy vehicles including the buses which carry so many passengers, so many passengers' lives are involved...*(Interruptions)*. Now, I am coming to that, what you have been indicating. *(Interruptions)*.

Now, the question is fitness certificate can be obtained by paying money. This is what Mr. Mushran has been indicating to me. I am going almost into the root of this evil which should be eradicated. Otherwise, if by paying money anything can be done, then you can do away with the annual fitness certificate also. I am assuming that the fitness certificate will be genuine, after proper test it will be issued and not only in exchange of money. In that case I would say that it is necessary for you to see that proper vigilance is exercised on the people who give the fitness certificate. And that also should be put in the Act itself. It is not only that the fitness certificate is given but the authorities concerned must see and check that these fitness certificates are given in a proper way and not by graft. The question has arisen and Shri Madhav Reddi has rightly said that it will not be proper that the fitness certificate to be obtained from private garages. I agree with him. But I would insist that private garages be properly equipped and private garages may give a certificate, and on the basis of that certificate, the vehicle will be tested. Otherwise, the vehicle will not be tested at all and then the fitness certificate will be given by Government Inspector only and the Government inspector must also have access to proper testing machinery. At the moment, nothing has happened in these 50 years, from 1939 to 1988, where have we proceeded with regard to the motor vehicles, in regard to proper maintenance and repair? Can you obtain even half a dozen garages in a place like Delhi which are equipped with proper testing equipment. You should not find it. There may be one or two garages in the State Transport Corporation and one or two in the private sector, etc. Otherwise, they have nothing at all. Even for a brake test what happens? If the brake in my car is not working and if I go to the mechanic, he will

drive it in the crowded street and see whether it works or not. If it does not work, there will be an accident. This is position because nobody is insisting on safety. This is the opportunity where Parliament could have insisted that first of all the certificates have to be obtained. At present you have to obtain the certificate from the garage. But that garage will have to be properly equipped. Otherwise this certificate will be of no use. That kind of control I want the Government to exercise because this is much more important perhaps than even the Factories Act. In the Factories Act, you are trying to save from danger the workers who are working in the factory with the same machinery day in any day out. Whereas here you are trying to save the lives of the users of road who are not faced with the danger, every time except whenever they are on the road. They are not habituated to it. They cannot anticipate what kind of danger they may have to face. Therefore, it is much more important. You could understand 15 tonnes or 20 tonnes of truck rushing around the street with great speed and what kind of danger it poses to the people. Unfortunately I see from the whole thing, the way the Bill has been framed, the people who have done this job, have no imagination as to the type of changes which have taken place and the type of dangers that people today face. Therefore, I will request you to kindly think about my suggestion that there should be two sets of tests, with proper equipment and the test should be much more frequent.

So far as the Claims Tribunals are concerned, the Claims Tribunals were originally set up for the purpose of disposing of claims in relation to accidents arising out of the motor vehicles in a very short period of time, because the court procedure was cumbersome. But even now what happens is, once a person goes to the Tribunal, he also does not get remedy for 4 or 5 years. There are two or three reasons. One is the Tribunal follows the same procedure practically as the court does. Secondly, the police who are supposed to bring the evidence before the tribunal at least of the accident and of the death, if death has occurred, do not cooperate. Thirdly the insurance companies who are ultimately to pay the money try to drag the case as long as possible. It is a settled policy to do so to tire the claimant

[Shri Amal Datta]

out. All these things should be taken care of through the Motor Vehicles Act by giving time limit within which, if these people do not cooperate, the award has to be given in favour of the claimant. In that case only, these people will cooperate with the Tribunal to see that the case is quickly disposed of.

The Law Commission has also given a report that the jurisdiction of the Claims Tribunal should be such that a victim of an accident or the kith and kin if he has died, should be able to bring the case in the Tribunal having jurisdiction where they are residing and not only where the accident has taken place or the defendant resides which is the principle today, as it will be very difficult for a person permanently disabled and for the widow and minor children of a person who has died, to go to a place of accident or where the defendant resides, to bring a case in the Tribunal. It is not possible for them to go. This is a Law Commission report. Kindly see whether you can incorporate that.

SHRI SRIBALLAV PANIGRAHI (Deogarh) : Mr. Chairman, Sir, I rise to support the Motor Vehicles Bill, 1988. At the outset, I congratulate the Government, particularly the Hon. Minister in charge of Surface Transport, for the strenuous efforts he has put in to bring this comprehensive Bill before Parliament.

As you know, the Act that we have at present dates back to 1939. About half a century, 50 years time, has elapsed in the meanwhile and in between we have also achieved our independence in 1947 and obviously after independence, economic development activities have been stepped up and things have changed miraculously. There has been a sea change in different fields and obviously much water has flown in the river Ganga since then and although this Act has been amended as many as 24 times so far, still much is left for this present Act to be relevant to the modern times. Therefore, it was good of the Government to come to Parliament with this comprehensive legislation. There was also a demand from different quarters for a comprehensive Bill and, therefore, I wholeheartedly support this Bill.

As has been pointed out earlier, it is a very long Bill with a large number of provisions and one cannot do justice to all these provisions.

There has been a demand from the Opposition for referring it to the Joint Select Committee and, I think it has been rightly rejected by the Hon. Minister. Some Hon'ble Members have also observed earlier that any reference to a Committee would further delay the matter and secondly, different provisions have been scrutinised in detail by different competent Bodies dealing with road transport like the National Police Commission and the Road Council. Different Bodies have discussed this and, as we know, it is the State Governments who are the implementing agencies for this sort of Act. They have also been consulted. So, that way, this Bill cannot be referred to a Joint Committee because of the urgency and time factor involved. Further, I would like to say that when the provisions have been scrutinised by different bodies and when the State Governments have duly been consulted, there is no necessity for referring this Bill to a Joint Committee...*(Interruptions)* What is not correct? Let me tell you that the State Governments have been consulted. *(Interruptions)*

MR. CHAIRMAN : Interruptions will not go on record. Mr. Panigrahi, you please continue.

*(Interruptions)**

SHRI SRIBALLAV PANIGRAHI : Sir, now I don't like to go into the salient features of this Bill because they have been dealt with by the Hon. Member who spoke, previously. Since there is paucity of time, I do not want to repeat those things. But, what is our problem in the field of road transport? Unfortunately, India has been a country where the road accident rate is very high. It has got to be brought down. I think 60 per cent of the road accidents in India is due to the carelessness, negligence and recklessness on the part of the drivers. This is one thing. The second point is that the road condition in different areas is not

*Not recorded.

very good. That is also a factor which contributes to this.

Sir, in the field of road transport, what we have come across is that there is rampant corruption in different transport offices at the time of issues of permits to motor vehicles, at the time of issue of driving licence to the drivers and there are so many such things. It is common knowledge that a large number of commercial vehicles and also buses ply on the roads without any valid permit, without paying taxes to the Government, they manage to run the services. With the fantastic growth in our population, there is heavy pressure on different fields including the field of transport. The result is that all the buses are over-loaded and crowded. I am sure, after the Bill is passed, if the provisions are implemented properly, there will be spectacular improvement in the situation. But again the implementation part is very important. In many areas, we are not in dearth of good pieces of legislation. But what is required is proper implementation and the necessary will power on the part of the implementing machinery to implement them, with the spirit that is underlying such legislations.

Sir, I would like to say here that some new definitions are added. Technology is changing Road conditions are changing and there is also increase in vehicular traffic. The vehicular traffic, that is, the number of motor vehicles in 1939 was about 3 lakhs. But, yesterday, the Hon. Minister was telling that it has now reached beyond the one crore mark.

About driving licence, I would like to say one thing more. In many cases, the drivers are plying the vehicles even after mid-night. Most of the accidents take place in between 12 O'clock of the mid-night and 4 A.M. in the early morning. Therefore, it may kindly be examined whether the heavy vehicles etc. plying on the roads after mid-night can be forbidden and or restricted. At some places, on the side of the highways, we come across country liquor shops. For Heaven's sake, please see that they are shifted to distant places. If they can be completely removed, it is well and good. Nothing like that if there could be a com-

plete ban on opening of liquor shops. At least they should not be located at short or approachable distance from the national highways or the main roads.

As I have said, the procedure has been simplified in this Bill. Also grant of permit has been liberalised. It is very good. By this, corruption, I believe, would be minimised. I again say that it will not be eliminated completely; that is a tremendous task. Looking to the proportion that corruption has reached, nobody can boast of doing away with it completely, but it can be minimised. Anybody can now put in an application; anybody who intends to come to the transport arena can now do so. There is no question of its being rejected. Two types of vehicles have been integrated into one. Grant of Stage Carriage permits is proposed to be liberalised so as to make all eligible applicants enter the field of transport. This is a very good provision. Coming to All India Permit, I would draw the attention of the Hon. Minister to one thing. I could not understand why the limit or ceiling on permits, both internally, inside the State, as well as for national permit, has been increased in the case of individuals and companies. When a large number of educated unemployed youths are there and banks are ready to finance such projects, naturally there should not be concentration like this that a single individual can possess upto five and a company upto 10 permits. It can be examined whether it could be reduced. The unemployment problem is growing out of proportion and that way, many more persons could be accommodated or absorbed bank finance. The insurance provision is there. The Supreme Court's observations in respect of accident claims have also been accommodated. There are many good things, many welcome measures. Actually we have been looking forward to such a comprehensive Bill since long, with the procedure simplified and all that. At the same time, as I said, it is the State Government which should be impressed upon to implement it properly. Traffic consciousness has got to be created. Traffic monitoring system should be effective. Road Safety Weeks should not be observed just as a matter of routine or as a ritual, but actually the road safety instructions, road signals, etc., should be followed. The awareness should be created.

[Shri Sriballav Panigrahi]

On the national highways, and also on many State highways, at so many places barriers are there. If there is a school or if there are some important places, then the barriers should be there. But at the same time when so many barriers, so many gates, are there, they are an impediment for speedy movement, etc., on highways, and such movements on highways should not be restricted because of time factor.

Also the road conditions at many places need improvement.

Bridges are now being built. There is a new trend. When a bridge is built on a national highway, there is a ceiling on expenditure and when the expenditure is above a certain amount, then that has to be realised by way of toll tax. There are toll gates fixed. But in some places, within a distance of 50 to 60 kms., there are more than one toll point. That should be looked into.

Regarding by-pass, the other day I gave a reference to Deogarh town in my constituency. The National Highway Number 6 connecting Calcutta with Bombay just passes through the heart of the town. It is not only Deogarh town alone but in many towns there are cases of accidents particularly killing children. Therefore, construction of by-pass also should be emphasised and given priority.

With all these things, I would support the Bill whole-heartedly. But, at the same time, there should be good understanding between the Centre and the States. It is not that we should have such good provision for issue of licence to the drivers and permits to the vehicle owners. But at the same time, there should be good number of recognised driving schools and also good workshops for proper training and testing. Therefore, recognised workshops and training schools should be located rationally all over the country in required numbers. Otherwise, the Bill, although with a very laudable purpose, will not be able to serve the purpose, and there should be a drive to create an effective awareness.

SHRI THAMPAN THOMAS (Maveli-kara): Sir, This is an old law and it has

to be changed. Several attempts were also made to change it. And also, I had the occasion to deal with this law for the past 25 years as a practising lawyer. I know some of the implications of it. I would like to urge the Minister that, in fact, the provisions regarding permits by which the present attempt also made to amend the law may have a very drastic consequences. And also it may go against the dictum laid down by various important decisions of the Supreme Court.

I can appreciate the eagerness of the Minister to see that things are more liberalised. But in the name of liberalisation, if things go as free and for all, then the motor vehicles and permits come in the hands of our officers to decide it in the light of the guidelines prescribed today in the present amendment how much is the authority or the officer will get out of these things. Whereas I can understand that there are so many lacunae in the existing laws. One is, the RTO's office or the Motor Vehicles Department' is now taken as an example for the nationalised corruption from one end to the other end of the nation. That is true. Every public man is very much concerned about it. But in spite of that corruption is there very much. I do remember in my State people staged a walk out saying that this is a right of the permit to given as a bribe to the officers and concerned people. It came as a naxalite movement in my State and making people aware of how much corruption is taking place. It is true that corruption has to be avoided. But for that purpose, if you are leaving these things entirely at the responsibility of the Regional Transport Officer or the authorities taking away quasi-judicial power by giving certain things in the hands of them in the nature of guideline, then how much it will affect is the question which we have to go into. Also, in that respect, I would like to point out one thing. A person can get a permit if he has got a vehicle. Now under Section 47(1) of the present Act which says that it is of paramount importance if that is of public interest. In all the theories about public interest, right from the period of Britishers, the Privy Council onwards has given interpretation to this Motor Vehicles law. They have said that the paramount consideration is the public interest. It is

not a person's right to hold a permit. It is not a business. It is not a profession. But it is a thing which is done by an operator in the interest of the travelling public. Therefore, restrictions are there. Therefore, the Supreme Court in many cases has said this. I do remember a case of 1975 of the Supreme Court at page 819. 1976 Supreme Court Page 2202—all these cases are reported in the AIR. They say, if there is a party which is not represented before the quasi judicial authority, then the Court will have to pay attention to that and the public interest is to be given the maximum priority in granting the permit.

15 hrs.

In this present Bill, instead of Sections 47 to 58 of the existing law by which the permits are issued, new sections 69 to 78 in Chapter 4 are provided. Here certain guidelines are given, that the Government will give certain administrative guidelines and the authorities concerned will decide on that. What is the guideline about? The first is the ownership of a vehicle and the second about the length of the route. In the length of the route it is said that one single man can get a permit for 50 Kms. and another company can get upto 10 permits. Like that some restrictions are made.

In the matter of issuing the permit this has been developed as one of the important case laws. The Supreme Court through their number of decisions have made a case law to this effect as to how this has to be controlled. Now more than a statutory provision the case law is the thing which is governed in the Motor Vehicles Act. I feel proper attention has not been paid to the various decisions of the Supreme Court in the haste to see that corruption is removed and things are liberalised, I fear that in the practical experience this liberalisation will go against the public interest.

There is a case law I make in the present comprehensive law. There will be a case of public interest and the personal entitlement of a permit. That practice will come in. You will have to check that in the control of vehicles. I would suggest that a serious study has to be made. There can

be two opinions. Perhaps the Minister is of the opinion that let us implement it, see it and then correct it. There can be another opinion that it may be referred to a Select Committee, let evidence be taken and then it should be brought. But I would like to point out that if the chapter on issuance of permits as at present envisaged under section 71 is implemented, it will create a lot of difficulties.

A permit has to be given to a single owner. Suppose a bus has to be run by a conductor, a driver and a cleaner. All the three want to own a bus. How are you going to give priority for them? I mean, under self-employment scheme some people want to find a job, have you given any provision for that?

A cooperative society is registered and in the name of that cooperative society suppose a few employees join together, make money, take loan and purchase a vehicle, have you given any preference for them? Something like that which are very important things are there. No statutory preference is there. Instead of that, I feel more freedom is given to the officers concerned to deal with this subject. Finally, when you try to eliminate corruption, corruption will consolidate at the officers level. That is my fear with regard to the permit matter. All steps taken to eradicate corruption in this Bill will have our whole-hearted support.

There is a dog in the manager policy with regard to nationalisation. Chapter 4(A) of the present Act says that there is a nationalisation scheme. When a scheme is notified, no permit can be issued on that route. Because of this provision the public is suffering. If the Maharashtra Government notifies a particular route for a public undertaking, no new bus service will come in that route and the public is suffering. Therefore you have provided a provision here.

Yesterday when you were making your introductory speech, you mentioned that for the time being if the notification is there and if they are not in a position to implement it, then automatically the permit will be cancelled.

SHRI RAJESH PILOT : Mr, Chairman Sir, I just want to clarify some doubts. I think the Hon. Member has not read the provisions provided in this Bill. As far as the nationalisation is concerned, I had clarified yesterday that suppose a route from A to B is at the moment being operated by 20 private operators. The moment the State Government or the Public State Transport Undertaking wants to nationalise that route because they feel that it is in the interest of the public and they give notice, after the notice has been given, all the private operators come running to the authorities saying that please don't nationalise it. So no nationalisation takes place. Whenever they feel like it they withdraw it. Now what we say is that within one year you nationalise that route and also when you are nationalising the system which is prevailing should continue and within one year if you do not nationalise then your notification becomes null and void. This will help not to encourage the wrong thing in the system. That is the idea.

SHRI THAMPAN THOMAS : Still I would like to point out that for twenty years the notifications were published and they were not implemented. There is what is called schedule 'A', schedule 'B', etc. and finally people were suffering. Then the advocates will have to make a case it is not overlapping. The cases went upto Supreme Court and in a number of cases the Supreme Court said that two overlapping points should not be there. You can cross or intersect. To overcome that difficulty my suggestion is that proper buses should be available for the people.

There is another thing also. Being an MLA or some local influential man his first interest is to see that a bus is taken to his constituency whether there is a necessity or not. Then he will say that this route should be nationalised. Now this process should be avoided. This happening every-day.

Finally if you look at the history of the transport undertakings in this country you will find most of them are incurring heavy losses. Even the other day you yourself told that DTC is running into heavy losses. On the other hand when a private operator gets

a licence he makes money. He purchases one bus, two buses and then three buses. So somewhere the restriction has to be imposed and the streamlining to be done.

I would like to say a few words about permit matters. Steps should be taken to streamline these things. The directions of the Supreme Court are there. While implementing you should see no contradictions creep in. There should not be anything contradictory. Stringent steps have to be taken in respect of driving licences. The provisions with regard to claims tribunals, etc. is good. At present there is cumbersome procedure which needs to be rationalised and necessary facilities given to the public to take advantage of the situation. At the same time I would like to point out that the road conditions are bad. There are notifications for limiting the permits and unhealthy competition takes place. Another important thing is inter-connecting services. Naturally there are decisions to that effect. When a permit is given one of the criteria is to see whether he has got coordinated bus service. The coordinated bus service is one of the factors but when you restrict it to a certain extent how the coordination function can be there. There are bus operators who have developed their bus service in different tangents and developed into a big concern. How that will be affected is a matter which will have to be investigated in the light of the provisions of this Act. Suppose coordinated transport system is available for the public will it be ruined. That is my fear because you are limiting the permits to five, ten, etc. Beyond ten permits nobody could get. Will it affect the existing system? It is a question which has to be gone into.

Since you are ringing the bell in conclusion I would like to say that on the whole the review of the entire matter and a new law is a must and it has to be there.

SHRIMATI GEETA MUKHERJEE (Panskura) : Mr. Chairman, unfortunately I was delayed a little and I have not been able to move my amendments myself but substantially it does not matter because Shri C. Madhav Reddi and Shri Soz have moved their amendments which I support. Now the question is that lot has been said about the difference between the earlier Bill and

this Bill. As I understand there are not very substantial differences but if there is a difference then it is in these terms.

I would like to mention that in sub-para (e) of para 3 of the Statement of Objects and Reasons in the Motor Vehicles Bill, 1987, it is stated :

"laying down clear parameters where the private and public sector can co-exist and develop in road transport field."

But in the present Bill, the same para has been totally substituted as under :—

"(e) simplification of procedure and policy liberalisation for private sector operations in the road transport field.

Earlier, there was at least some reference for co-existence of public sector and private sector in the transport field. Now, even that pretension has been given up. It has been clearly stated that it is only for simplification of procedure and policy liberalisation for private sector operators in the transport field. The public sector does not even feature there. This is in keeping with the present Government's policy of privatisation rather than laying stress on the public sector.

As the time is short at my disposal, I would hurriedly like to point out why some of the aspects should be referred to the select committee. As this is a long Bill and the time is limited, I would like to lay stress on two or three points. Firstly, this Bill does not do anything for increasing the benefits for ordinary users, who are not necessarily the owners of the vehicles. It gives advantage to private operators at the cost of state exchequer. I am saying this because there is a change in definitions which have been given for different types of vehicles. As a consequence of this change, they will pay less for registration fee and fitness certificate. For example, for 4000 kg of laden weight, earlier, one used to pay Rs. 50. Now, for 6,000 kg, the same fifty rupees will have to be paid. I am sure, this benefit will not be passed on to the users who will be using the vehicles for transporting their goods. There will be a loss to the exchequer.

SHRI RAJESH PILOT : It will be other way round.

SHRIMATI GEETA MUKHERJEE : Not the other way round. This is the practice. They will not pass on these benefits to the users. Crores of rupees will go out.

SHRI RAJESH PILOT : You have not read the whole Bill, Madam. If you see, up to 4,000 kg, no permit was required earlier. We have allowed up to 6,000 kg. We have put a permit at 3,000 kg. So, more revenue will go to the exchequer. It is other way round.

SHRIMATI GEETA MUKHERJEE : You come to next slab. As a whole, all the slabs decrease. It will actually cost the exchequer crores of rupees. There is no doubt about that. Due to relaxation in weight in different segments, Government revenue would be lost. But that will not pass on to the users. This is the first thing.

Secondly, as I said, it tends towards privatisation which is clearly written in the objective. It is also in the present provision of giving the private garages the right for fitness certificate. Then it is said that the Government inspectors are corrupt and so on and so forth. Who has ever said that these private garages have got all the virtues? That has never happened. Then you have said 'subject to the State Governments'. What right has the State Government got? Are these garages according to the specifications of the Central Government? If once they are according to the specifications of the Central Government, the State Government does refuse to give them permission to issue the fitness certificate. They will immediately go to the court and get it washed. Therefore, in reality the State Governments are not left with the power of option of not giving the private garages the right to issue the fitness certificates. There again, the question arises as to why have you given this? You yourself said in your statement once that driving and training will be better in the hands of the Government. But in the case of inspection of transport vehicles, the power should be given to the private garages. This is your own-statement at a particular time. If training is to be given by the Government, the

[Shrimati Geeta Mukherjee]

Government must guarantee that the fitness certificate is alright. If you want to give employment benefit to certain persons, let them repair the garages. Why the fitness certificate has to be given to them? Is it that this fitness certificate gives them employment? Repairs of garages will give them employment. Fitness certificate is a question of public safety. It should be in the hands of the Central Government and the State Government should have the right to exercise it. Your Bill has rightly denied that.

You have claimed that you have instructed the State Government. So far as my knowledge goes, Clause 56 giving the fitness certificate authority to private garages has been objected by the Governments of Orissa, Maharashtra, West Bengal, Andhra Pradesh, Goa, Karnataka, Kerala, Pondicherry and Tamil Nadu. The political colours of the States are not uniform. Obviously, the State Governments of different parties felt that this should not be given to the private garages. They are still of the same opinion but you have given that. Therefore, your object is being subjected to different phrases and is not an empty thing. It is there in the Bill. It cannot be denied. Public safety is endangered and the exchequer is robbed.

Thirdly, your concern for the public safety is also a little difficult for me to understand. A new provision that you have made is that if one takes the driving licence then one can renew it after twenty years. So far, three years was the time limit. Within twenty years, my hands or legs may be broken or I may be in shambles but my licence will be valued. What will happen to the public safety with regard to those things?

SHRI RAJESH PILOT : It is a personal vehicle driving licence. If I am driving my personal vehicle I must know whether I am fit or not. It is personal vehicle driving licence, not commercial licence.

SHRI INDRAJIT GUPTA : (Basirhat) Why should it be known after a gap of twenty years?

SHRI RAJESH PILOT : We have given permission for a personal vehicle licence up to the age of 40 years or for 20 years. This

is because I know myself when I am driving my vehicle, whether I am fit or not, or whether I may fall into a ditch. If I am not responsible enough to know whether I am fit to drive my personal vehicle or not, that is a different thing.

SHRIMATI GEETA MUKHERJEE : Pilots may be quite conscientious, I am glad, but if all the drivers in our country are half as conscientious as the pilots, then we could have avoided all the accidents. In fact, people do not want to go in for taking driving licences and on the top of it you are making it for twenty years. I do not think every private owner of the car will be as conscientious as you are. This should not have been done in the interest of public safety.

You have been piloting in the air and you seem to have a sympathy for the pilots on the road. But I must tell you that it is not in the interest of public safety.

This is such a big Bill and there are very many provisions, some of which have already been commented upon by my friends. I do not have much time.

The factors that I have mentioned would signify that our notice of amendment for referring this Bill to a Joint Committee of the two House is the correct course despite all your claims and many of the certificates which you have won from your side. I think, you should think over it seriously/ and agree to our amendment. Even if that takes a little time, that will improve matters. You yourself had to bring two Bills within one year. That itself shows that it is a matter for consideration by Select Committee. From all these considerations, I request you to reconsider the situation and refer it to a Joint Select Committee, so that all these aspects and many other aspects that have been raised can be gone into properly.

What is all this mad drive for privatisation and losing revenue, I do not understand. I hope you will reconsider it.

SHRI N. TOMBI SINGH (Inner Manipur) : Mr. Chairman, Sir, I rise to support this Bill. Undoubtedly, it is a very comprehensive Bill with so many provisions and

one can make reference to only a few of the provisions.

One of the portions in the statement of Objects and Reasons is very attractive to some of us—"the greater flow of passenger and freight with the least impediments so that islands of isolation are not created..."

As the Hon. Minister knows, I belong to one of the islands of isolation in North-East. In the North-East region beginning with Tripura, Mizoram, Manipur, Meghalaya, Nagaland, Arunachal, and we can take Sikkim also, there are no railway facilities, only vehicular traffic or roadway facility is there. That is the only facility that we get for passengers and freight. The importance of this Bill cannot, therefore, be exaggerated as far as that region is concerned. Sir, one of the provisions related permits for the buses to move State to State. Sir, I am not a lawyer myself. I have not been able to go through all the provisions skilfully. In this context, I would like to say that people in that region are scared of moving by train, they are not used to moving by the train. So, during the pilgrimage season, particularly in my State of Manipur, the majority Hindu population move out in buses and reach to the Hindu pilgrim places of the country. It is very difficult for these buses to move between the State passing the interstate borders because the border police and others who are in charge of the vehicles harass them. I am speaking of only of those cases which I know. But the situation may be same with other pilgrim or tourist buses coming from the Tamil Nadu and other Southern States from where the pilgrim buses go to all over the country, like Haridwar, Rishikesh and Banaras.

Now, most of the drivers, conductors and those who are in charge of the vehicles, are not very educated people. Here a mention has been made of giving licences to the conductors. This itself may or may not help because I am very doubtful about the utility of the licences being issued to the conductors. But, as the Government said, this Bill has been based on the recommendations, reports and other findings from various studies at different levels, I don't challenge and dispute this provision.

15.27 hrs.

[SHRI N. VENKATA RATNAM in the Chair]

But what is important is that due respect should be paid to such permits and issued by a State Transport Authority to cover a country side route. Such permits should be foolproof permit which does not give any room to the police on the interstate borders to harass such innocent drivers, conductors and passengers who are mostly not businessmen but mainly pilgrims. So, this provision has to be made. This can be covered only by having a national permit which will have a building impact on the State Transport Authorities. I think, this aspect has been taken care of in the Bill.

Then there is the provision of restriction of the hour of working for the drivers. It says that the driver has to take 5 hrs. duty at a stretch and then half-an-hour rest before he takes up the driving work again. So, according to this provision the total working hours for one week are 48 hrs. I think, this may create some problem to the Transport Authority. As the saying goes, the taste of pudding is in its eating, though these provisions seem to be very useful and good provisions, how useful they would be will be known only when we will reach at the implementation stage. Who is going to check these things and how efficiently and effectively they can be implemented.

Sir, when we talk about the small-small details like the limited hours for the drivers and so many other things, in the civil aviation flights we see that the pilots, the hostesses and stewards who are on duty have been given certain specific flying hours beyond which they don't remain on duty and other persons take over from them.

Now, I think that this provision only indicates that due attention has been given to the safety aspect of both the passengers and the vehicles by introducing strict number of driving or duty hours...

MR. CHAIRMAN : Are you going to conclude or do you want to continue ?

SHRI N. TOMBI SINGH : Kindly allow me to continue Sir.

MR. CHAIRMAN : All right. You may continue when we next take up this Bill,

—

15.30 hrs.

RESOLUTION RE : CENTRE-STATE
RELATIONS—Contd.

[English]

MR. CHAIRMAN : we may now take up further discussion on the following Resolution moved by Shri H.M. Patel on the 18th March 1988 :—

“This House expresses its deep concern over the present Centre-State relations and demands their early restructuring so that federalism underlying our Constitution is made more meaningful.”

Dr. Manoj Pande to continue his speech. He is not present in the House. Shri Jagatrakshakan may speak please.

[Translation]

*DR. S. JAGATHRAKSHAKAN (Chingleput) : Hon. Chairman, Sir, I support the resolution on Centre-State relations moved by the Hon. member Shri H.M. Patel.

Sir, federalism is the hallmark of our Constitution. Our Constitution says that there shall be a Union of States. But only when one particular language or culture is imposed upon one set of people, they develop secessionist tendencies. Therefore, imposing unwanted things on people, this very Government sows the seeds of secessionism in the minds of people.

Sir, 'nation' and 'Nationalism' are age-old ideas. The metamorphosis of these would continue for ages to come. It was

*Translation of speech originally delivered in Tamil.

Mazzini in Italy who first gave 'nationalism' a distinct political delineation. In those days nationalism meant loyalty to the ruler. Liberal ideas later crept in and 'nationalism' blossomed into a wider concept of 'nation state' in Europe in the 19th century and in Asia in the present century. The federalism and the golden principle of maintaining 'unity in diversity' came to India very recently in the middle of this century.

Sir, as far as Tamilians are concerned, they feel they are Tamilians first and Indians next. The broader feeling of being Indian, as it is of nascent origin, cannot shake off the pride of every Tamilian that he is a Tamilian first as it is ingrained in him since ages immemorial. The spirit of being a Tamilian is blended in his blood and flesh that the recent nationalist idea of being Indian cannot either alienate or take precedence to the former feeling of being a Tamilian. Sir, only when the Government tries to tame the Tamilians to sacrifice this in born spirit and pride of feeling that they are Tamilians first, we detest such moves and speak in secessionist tones.

When the Constitution was framed, it was framed to be a federal Constitution. Our Constitutional ideologies are based on those of the Constitutions of Canada, Australia and such other countries. Federalism is working very well and is being preserved in those countries. We have restructured the Constitution by amending it 59 times so far, yet we could not get at its spirit and make it shine. Without the concept of federalism our Constitution would be merely a code of alphabets arranged in readable syllables.

Article 356 is a spurious provision in the Constitution. There is no such parallel provision in any of the federal Constitution in the world. It is there only in our Constitution. This provision is the Government's trump card. They will misuse the same provision to keep an unpopular Government on saddle as they did in Meghalaya and misuse it again to deny an opportunity to forming a majority Government in Nagaland. This is an anti-democratic provision. This provision is there to serve as an handle for the Central Government to murder democracy. This is not there in the Constitution