

This provision is there and it will be our endeavour to place all the rules as early as possible after they are made.

With regard to the suggestion made by Shri Bade, about constituting an All-India Educational service, that is not relevant to the Bill. I must have notice for answering that question and so I am unable now to give an opinion on that question.

MR. CHAIRMAN: The question is:

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

The motion was adopted.

15.20 hrs.

TOKYO CONVENTION BILL

MR. CHAIRMAN: we shall now take up the Tokyo Convention Bill.

THE MINISTER OF TOURISM AND CIVIL AVIATION (SHRI RAJ BAHADUR): I beg to move:

"That the Bill to give effect to the Convention on offences and certain other acts committed on board aircraft, as passed by Rajya Sabha, be taken into consideration."

This is a Bill which seeks to achieve mainly the objectives underlying the Convention on the Offences Committed on Board the Aircraft, which was adopted at Tokyo in 1963 under the auspices of the International Civil Aviation Organisation (ICAO). The Diplomatic Conference, which adopted the Convention, was attended by a representative of India, in view of the importance of the Convention. The Convention came into effect on December 4, 1969 on ratification by 12 States, as required by the Convention. With the increase in the incidents of hijacking, more and more States ratified the Convention, and presently 74 States are parties to it, including important States such as UK and USA.

The growth of international air transport has led to increasing concern as to the international aspects of the commission of offences on board aircraft. International air transport also raises the basic problem of the respective jurisdiction of national States over offences committed on board the aircraft as an aircraft during the course of its flight may fly over the high seas or territories which may not be subject to the jurisdiction of any one State, and may traverse the boundaries of more than one State in a short space of time. In such cases, it becomes difficult to ascertain exactly the place where the offence took place. Further, there were no international rules such as those applied to master of ocean going ship, in respect of the commander of an aircraft.

The attention of the International Civil Aviation Organisation had been engaged by these matters since 1950. These matters were considered by the Legal Committee of ICAO from time to time and the final draft of the Convention produced by the Legal Committee was considered by the Diplomatic Conference held in Tokyo in 1963. The Convention was adopted with a view to partially solve these problems.

The Convention's major area of application is towards offences against penal laws or acts which jeopardise the safety of aircraft, and of passengers or property therein. However, offences against penal laws of a political nature, or those based on racial or religious discrimination, are excluded from the application of the Convention. It recognises that the State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

The Convention gives powers to the Commander of aircraft to use preventive measures such as restraint on passengers who commit penal

[Shri Raj Bahadur]

offences or acts which are against the safety of the aircraft, or persons and property on board. In certain circumstances, he can disembark such persons or deliver them to proper authorities.

The Convention also lays down the obligation of States for exercising jurisdiction and in respect of persons disembarked or delivered by the Commander. There is a provision; regarding the offence of 'hijacking' under which the State in the territory of which such aircraft lands has the obligation to return the aircraft and cargo to its lawful owner and to allow the crew and passengers to continue their journey as soon as practicable.

In recent years there has been a high incidence of crime against or on board aircraft. The House is aware that an Indian aircraft was involved in hijacking in early 1971. The Convention is the first important step towards reaching an international understanding on the complex issue of criminal jurisdiction and in respect of hijacking of an aircraft. The powers given to the Commander are of great practical value to both the airline operators and their crew, because the Convention also grants the commander and others protection from legal actions brought against them for the measures taken.

In view of the importance of the measure, the Government has taken a decision to ratify the Convention.

MR CHAIRMAN: Motion moved:

"That the Bill to give effect to the Convention on offences and certain other acts committed on board aircraft, as passed by Rajya Sabha, be taken into consideration."

SHRI SOMNATH CHATTERJEE: (Burdwan): So far as his Bill is concerned, there are one or two things which I would request the hon. Minister to take note of. One is that

this Convention, which was the result of the deliberations which had taken place at Tokyo in the year 1963, came into force in December 1969. Our Government have taken only another five years to prepare this short Bill and to bring it before the House, although according to the Statement of Objects and Reasons, it has assumed some importance because of the frequency of the skyjacking or hijacking, whatever you may call, which is increasing day by day. Then, why did the Government take five long years to come out with this Bill to give legal shape to the Convention? Because, without the passing of this law, the convention will have no effect, so far as the domestic jurisdiction of the different countries is concerned.

One point to be noted is that it excludes aircrafts used in military, customs or police service. It also does not apply to all types of acts. What are the nature of the Act to which the Convention does or does not apply? So far as this Convention is concerned, the question that arises is whether by passing this law, or enacting this Convention, or the coming into force of this Convention the incidence of skyjacking or hijacking is going to decrease or increase. Certainly, everybody admits that skyjacking or hijacking is a crime.

Why is it increasing? There are some incidents which have been of a political nature. So far as the Palestinian friends are concerned, it has been thought of by them as a method of expressing their sentiments and aspirations and national desire to have their own State. This has been found to be an important weapon, according to them, to focus the attention of the world at large to their own problem. In some cases their objects have been fulfilled, but not in other cases. Therefore, merely passing a Convention or Bill of this nature will not solve the problem, though it may deal with some of the immediate problems like the jurisdiction of the court of the different countries. It has

conferred jurisdiction on the State of registration of the aircraft, apart from the question of jurisdiction of the State over whose area or air space the violation took place.

If you look at the Statement of Objects and Reasons, it says:

"The increasing number of hijacking incidents in recent years has lent urgency to the task of evolving uniform measures by all the States with a view to effectively dealing with such incidents."

The question arises whether the Convention has evolved a measure to deal effectively with the skyjacking or hijacking and whether this Convention has really made a determined effort on the part of the international community to meet the situation arising out of the incidents of hijacking.

It is good that the Commanders have been expressly given power to deal the situation as it develops. But I would appeal to the hon. Minister to indicate the policy of the Government of India towards this problem, which is not only a political and civil aviation problem but also a human problem.

How are they going to tackle this problem? What is the policy of this Government? It is true that as part of the civilised international community we have to accept this Convention and pass it early. So, we accept the principles of the Bill. But these are the problems which still require to be solved. Merely passing a legislation will not solve the problem. Therefore, it is essential that we tackle this problem properly. What is the policy of the Government of India with regard to this requires to be stated by the hon. Minister. Therefore, while welcoming the Bill, I would request the hon. Minister to bear this in mind and deal with it while he replies to the debate.

SHRI RAJ BAHADUR: The hon. Member has raised a fundamental question as to what has been done

to deal with the basic problem of hijacking or skyjacking. Actually the International Civil Aviation Organisation has been considering the steps that should be taken in respect of all offences committed on board the aircraft during flight. After long 13 years the ICAO came to a conclusion which is being enshrined in the Convention and also in the Bill.

The hon. Member asked why five long years were taken to come forward with this Bill, although the Convention was ratified in 1969. The reason is that we thought there was no need for any great hurry about it, because our foreign policy was such that we were the friends of all. So, there was no threat of any of our planes being hijacked. But, unfortunately, we suffered a bad incident of this nature and a plane of our was hijacked in 1971. So, we thought that we should hurry up with this measure and pass it as early as possible. Till then we did not hurry with it because our planes were not affected. Therefore, there was no urgency for it in comparison with other legislative measures which had to be taken up early.

As to the question in regard to types of acts covered by this particular Bill, I have already pointed out that it provides for extra territorial jurisdiction of the aircraft over acts committed on board. It confers specific powers on the Commander of aircraft to use preventive measures such as restraint on passengers who commit penal offences or acts which are against the safety of the aircraft or persons and property on board. It also imposes certain obligation of States for exercising jurisdiction and in respect of persons disembarked or delivered by the Commander.

As far as our policy is concerned, we are strongly against acts of hijacking. We are taking all possible measures to stop hijacking. This Bill has taken good care to see that offences committed on board aircraft which are of a political nature or which are

[Shri Raj Bahadur]

based on racial discrimination are excluded from the application of the Convention and so also of the Bill. This is our policy. We are fully in line with this policy.

I think, I have been able to satisfy the hon. Member in regard to the questions that he raised. With these words, I move that the Bill be taken into consideration.

MR. CHAIRMAN: The question is:

"That the Bill to give effect to the Convention on offences and certain other acts committed on board aircraft, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: We now take up clause-by-clause consideration of the Bill.

Clause 2. There is an amendment in the name of Mr. B. V. Naik.

SHRI B. V. NAIK (Kanara): I am not moving..

MR. CHAIRMAN: So, there is no amendment to clauses 2 to 11.

The question is:

"That Clauses 2 to 11 stand part of the Bill."

The motion was adopted.

Clauses 2 to 11 were added to the Bill.

CLAUSE I—(Short title, extent and Commencement):

Amendment Made:

Page 1, line 5,—

for "1974" substitute "1975" (2)

(SHRI RAJ BAHADUR)

MR. CHAIRMAN: The question is:

"That Clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment Made:

Page 1, line 1,

for "Twenty-fifth" substitute—

"Twenty-sixth"

(SHRI RAJ BAHADUR)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Preamble and the Title were added to the Bill.

SHRI RAJ BAHADUR: I beg to move:

"That the Bill, as amended, be passed"

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed"

The motion was adopted.

MR. CHAIRMAN: We have to take up the Private Members' Business at 3.30 P. M. It is already 3.35 P. M. If the House agrees unanimously, then we can take up two other Bills. It is upto the House.

SHRI INDRAJIT GUPTA (Alipore): How long will it take?

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): If our friends cooperate, only 5 minutes.

SHRI S. M. BANERJEE (Kanpur: Sir, my submission is only this. This Bill is coming after such a long time. When Mr. Mirdha moved this Bill, there were a lot of objections from all sides of the House.....

MR. CHAIRMAN: That Bill has already been passed. This is another Bill.

SHRI S. M. BANERJEE: We do not know what is the object of the Bill. We want to know that.

MR. CHAIRMAN: Item 19.

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN): It is only to give effect to the recommendations of the Third Pay Commission concerning All India Services.

SHRI S. M. BANERJEE: I want to speak on that.

MR. CHAIRMAN: In that case we take up the Private Members' Business. When the House is not in agreement, we shall take up the Private Members' Business.

—

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS
FIFTY-THIRD REPORT

SHRI S. P. BHATTACHARYYA (Uluberia): I beg to move:

"That this House do agree with the Fifty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th March, 1975."

MR. CHAIRMAN: The question is:

"That this House do agree with the Fifty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th March, 1975."

The motion was adopted
15.37 hrs.

RESOLUTION RE: GROWTH OF
FASCISM IN THE COUNTRY—
Contd.

MR. CHAIRMAN: Now we take up further discussion of the Resolution moved by Shri Shyamnandan Mishra. The time allotted was 3 hours and 30 minutes, and already 3 hours and 15 minutes have been taken. I have got a long list of speakers here..

SHRI H. K. L. BHAGAT (East Delhi): The time should be extended.

SHRI INDRAJIT GUPTA (Alipore): I have no objection to the time being extended. But I want to seek a clarification from you. The next Resolution in order of priority is mine which, on the last occasion, could not be moved by me. But under the rules, under the Directions by the Speaker, it was protected in the sense that because the time for Mr. Shyamnandan Mishra's Resolution was extended, it did not mean that my Resolution lapsed; it remained. But I want to know what will be the position now. As it is, if the whole of the Private Members' time today is taken up again with Shri Shyamnandan Mishra's Resolution, the whole of the time, I will not be in a position even to move my Resolution. Then, does it lapse or is it protected for the next time? I want to know this.

SHRI S. M. BANERJEE (Kanpur): Sir, I have no objection to the time for Shri Shyamnandan Mishra's Resolution being extended. But this must come to an end. We have not been able to come to a conclusion as to who is fascist. I do not know if more time is needed. It is better that the matter is referred to arbitration.

Another thing is that Mr. Indrajit Gupta's Resolution, the next Resolution, is extremely important. This is International Women's Year. I want that he should be allowed at least to move his Resolution.

Another request of mine is that, during this year, the International