

DR. RANEN SEN : Quite a large number of employees are being transferred from Calcutta to Dhanbad.

SHRI S. MOHAN KUMARAMANGALAM : I will deal with that point. The total number of workers that are now employed in the Bharat Coking Coal Company is 1,20,000. The total number of workers employed by the different headquarters in Calcutta was 210. Out of these 210, about 100 persons are being retained in Calcutta. 110 employees have been asked to shift to Dhanbad.

The hon. Members will appreciate the dilemma with which the coking coal organisation was faced when we took over management of these mines. Out of these 214 coking coal mines, 211 mines are situated in Jharia. So, naturally, the proper place where the headquarters of the coking coal organisation should be in Bihar, in Jharia and in Dhanbad. Therefore, necessarily we have to place the headquarters there. However, we do need a Sale and Purchase Organisation in Calcutta. The maximum number of employees whom we can employ in that organisation have been employed in Calcutta and the only balance have been shifted to Dhanbad. Not only that. If you investigate the facts, the Bharat Coking Coal Co. have been fair to the employees, giving them free accommodation until they could find proper accommodation, helping them and giving transfer allowance and so on and so forth. But you will understand that we do not want to make it a Bengali-Bihari issue. I know, you will agree with me that it should not be made such an issue. You will appreciate that we have to do this because, otherwise, we will have 200 persons doing 100 persons work and engage 100 persons more in Dhanbad. I think, we have been quite fair.

MR. DEPUTY-SPEAKER : The

question is :

"That the Bill, as amended be passed".
The motion was adopted.

1.57 hrs.

DIPLOMATIC RELATIONS (VIENNA CONVENTION) BILL

DEPUTY MINISTER IN THE
MINISTRY OF EXTERNAL AFFAIRS
(SHRI SURENDRA PAL SINGH) : Mr.
Deputy-Speaker, Sir, I beg to move :*

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

The Bill was introduced in the Lok Sabha on the 25th November, 1971. It was referred to a Select Committee of the Lok Sabha in December, 1971. On that occasion, I made a detailed statement indicating the need for enacting this legislation and I also explained the broad features of the Bill. I need not, therefore, take the time of the House in going over the subject-matter of the Bill in detail.

All I wish to emphasize is that the Bill will give effect to the Vienna Convention on Diplomatic Relations 1961, to which India is a party. Certain provisions of the Convention which require to be given the force of law will be given that force under the provisions of the Bill. These relate to the privileges, immunities, exemptions and facilities which a Diplomatic Mission and its members will enjoy from the local criminal and civil jurisdiction. Until now these matters were governed by international custom and practices and in India by legislative provisions and administrative

* Moved with the recommendation of the President.

regulations. These will hereafter be consolidated in a single Bill

The Select Committee held 10 sittings in all. The Bill as amended by the Select Committee was laid on the Table of the House on the 24th May, 1972.

As the hon. Members would have noticed, the Select Committee has made five changes in the Bill as originally introduced. The changes made in the preamble and in clause 1 are of a technical nature and are consequential upon the lapse of time in the consideration of the Bill. The change in clause 8 is of a drafting nature. The change in clause 11 is also of a drafting nature and has been made in order to conform to the model clause of Subordinate Legislation of both Houses of Parliament.

The material change made in the Bill relates to clause 4. In the original Bill, clause 4 related to restrictions on privileges and immunities of diplomatic missions or members thereof which the Government of India may impose by way of reciprocity or retaliation against another country because that country had imposed similar restrictions on Indian Missions abroad and their members. As it was then drafted, it appeared that the clause did not include cases where there were breaches of the Vienna Convention by the other country. In order to cover that lacuna, another sentence has been added in clause 4 to include not only restrictive application of the Vienna Convention but also breaches of the Convention so that the Government of India can take appropriate action in either case.

Since the Select Committee has intensively examined all aspects of the Bill, I have the honour to move that the Bill as reported by the Select Committee may now be taken into consideration.

MR DEPUTY-SPEAKER Motion moved

“That the Bill to give effect to the Vienna Convention on Diplomatic Relations (1961) and to provide for matters connected therewith, as reported by the Select Committee, be taken into consideration.”

SHRI SOMNATH CHATTERJEE (Burdwan) This Bill has been introduced to give effect and statutory recognition to some of the provisions of the Vienna Convention of 1961 which was held under the auspices of the United Nations and to which this country acceded on 15th October, 1965. This Bill seeks to put on the Statute Book the privileges and immunities that are enjoyed by the diplomats and which have been recognised in the Vienna Convention.

Diplomacy has been defined in some quarters as providing the machinery and personnel for carrying out the foreign policy of the Government. A diplomat has also been described as the eyes and ears of the Government, and his chief functions are to execute the policies of his own Government in those countries so far as diplomatic relations are concerned and to look after the interests of the country which he represents. In one of the well known books on international law it has been observed that the main functions of a diplomat can be classified into four basic phases: one is representation, he is the normal agent of communication of the country which he represents, the second is negotiation, diplomats are by definition negotiators, and negotiation is the pursuit of agreement by compromise and direct personal contact, the third is reporting, reports from diplomats form the basis on which the foreign policy of the country is drawn up, and as it is said, a good diplomat must also be a good reporter, the fourth is that he has to look after the interests of

[Shri Som Nath Chatterjee]

his own country in the foreign land and has also to look after the interests of his nationals, including business.

Before the Vienna Convention was held and drew up the provisions, these diplomatic privileges and immunities were based primarily on some unwritten codes of conduct and informal conventions. After this Convention has been held and it drew up the provisions it is necessary that it should form part of the municipal law of the country. If I may quote, with your permission from one of the most well known and leading authorities on international law that is Oppenheim

“All the privileges which are possessed by diplomatic envoys are not rights given to them by international law but rights given by the municipal law of the receiving States in compliance with an international right belonging to their home States. For international law gives a right to every State to demand for its diplomatic envoys certain privileges from the municipal law of a foreign State.

For proper discharge of their duties and functions, diplomatic privileges are taken to be inseparable attributes of the very existence of the diplomatic envoys. A diplomat's position is derived from international rights and duties belonging to his State and not from international rights of his own.”

This shows that the claims for privileges and immunities really go along with the status of the diplomat. For discharging his proper functions and duties, it is essential that he should be outside the control of the receiving State, his activity should not be under the jurisdiction of what is called the ‘receiving State’ in international law, and he should be independent of the jurisdiction and control of the receiving State. Therefore, in a sense, it was somewhat overdue that the provisions of the

Vienna Convention which was held in 1961 and to which we became a party in 1965 were made part of the municipal law of this country because, after all, the sanction is obtained from the municipal law of the country and not from international law.

So far as the clauses of the Bill are concerned, Clause 3 contains a very proper provision in the sense that in the expanding sphere of international activities and relations it is necessary that those countries which have not been parties as such to the Vienna Convention but which are following the ordinary norms of diplomatic relations and are allowing diplomatic privileges and immunities to all envoys should also be put on the same footing although they have not been strictly parties to the Vienna Convention.

So far as clause 4 is concerned this also, I feel is a welcome provision which has been made namely that the principle of reciprocity has been recognised in clause 4 and it is a desirable and necessary provision that in appropriate cases, whether we want it or not a reciprocal attitude has to be adopted. Therefore we support this Bill in so far as it gives statutory recognition to an international agreement, if I may use that expression, which has been arrived at under the auspices of the United Nations and to which this country acceded as early as 1965.

So far as the discharge of the duties and functions is concerned, it is essential that this country should honour these privileges and immunities. Not only they would honour it, I take it, always but they would expect other countries also to honour that and give proper facilities to our envoys in their countries and if there is any infraction, then we should adopt a reciprocal attitude.

With these observations, I support this Bill.

SHRI MOHANRAJ KALINGARAYAR (Pollachi) : While supporting this Diplomatic Relations (Vienna Convention) Bill, I would like to make two remarks on behalf of my Party.

The Vienna Convention was adopted in the year 1961 April and only after four years we joined the Convention in 1965 and after seven years from 1965, the Government has brought this Bill here for giving legal effect to it. Initially we have wasted four years in becoming a Member. Secondly we wasted another seven years to give it a legal clothing. I am not able to appreciate the Government in dealing so lightly with these international Conventions.

I would also like to know the attitude of our Government towards those countries who have not become a member of this Convention. Due to these delays, our foreign policy has not become strong. These international conventions should be recognised at the proper time.

So, there is not much to say, as my friend has dealt with all the important points. I would just make one request to the hon. Minister for External Affairs, to kindly tell us why there was this inordinate delay in giving legal effect to this Vienna Convention and, secondly, how our Government was dealing with those countries who have not become members of this Convention.

Thank you, Sir.

SHRI H. N. MUKERJEE (Calcutta—North-East) : Mr. Deputy-Speaker, Sir, it is perhaps appropriate that our ratification of the Vienna Convention and diplomatic relations is followed up as it has been by legislation; but in spite of what the hon. friend who just sat down said a little while ago, I think that in the condition of things as they are in the international set-up, there is no very special obligation on countries concerned to incorporate in their statutes provisions for a treaty which they had

ratified earlier. As a matter of fact, out of 130 countries which have adhered to the Vienna Convention, some 43, up till now, according to the figures supplied by the Government, have incorporated the Vienna Convention in their own respective statutes and I say, it is because international law is in such a posture that perhaps it is sometimes better even to have an elastic position. Perhaps even without incorporation in our own municipal law, we will be observing those conventions to which this country is a party, in pursuance of its own norms of international conduct.

I say this because even in the USA, we do not find that the acceptance of the Vienna Convention has led to the acceptance of these provisions in their own statutes. The word as it is conditioned, behaves badly, but we in this country seem to have the special predilection for behaving like a very good boy, almost turning the other cheek in so far as international incidents are concerned, and trying to behave in the most virtuous manner possible, but, at the same time, getting a reputation in the world, that we are not as virtuous as we ought to be. That is to say, in international relations things are determined not merely by what we profess to do or what we even do under some kind of a duress, but things are determined by the real role we are playing in world affairs.

Sir, I do not object, but, on the contrary, I welcome this idea that we have put into our statute, our adherence to the Vienna Convention. I have been a Member of the Select Committee and we have examined the provisions of the Vienna Convention which we have appended to the statute. I would not object to it but I wish to point out at the same time that this picture of reciprocity which is mentioned in this legislation is something which we can only get the other countries to abide by if our foreign policy is conducted in the right manner.

[Shri H N Mukerjee]

I say all this because we have always tried to behave decently in regard to international relations. Certain other countries have not done so. I am not proposing that we should have a belligerent attitude or posture. I am not suggesting that we should behave in a manner that Pakistan behaved, for example, in 1965 or even in 1971. I am not suggesting for a moment that we follow that kind of an example. I am not suggesting for example that what was done by China to many diplomatic personnel at a particular point of time should be done on our side also. I believe on the contrary that if international life is to be conducted with any decency, the conventions which have gone over the last 400 years should be properly implemented and given effect to. The world is not what we wish it to be and on occasions we have to show that this country has a point of view and this country is not going to be taken for granted, that this country's representatives are not to be treated shabbily.

In 1956 for example, in Pakistan, the Indian High Commission was treated utterly shabbily. The premises of the High Commission were searched in conditions which were extremely derogatory. They were utterly against every single convention and norm of international conduct.

During last year, when the Bangla Desh struggle was going on, one of the diplomats who had fled the Pakistan High Commission to join the High Commission of Bangla Desh, Shri Humayun Rashid Choudhary, divulged certain correspondence which had passed in Pakistan which showed that in Pakistan the officers concerned—I need not mention their names, because we are now entering again a period of friendship between our two countries and that is what we welcome—wanted to search the Indian High Commission in an even more egregious condition than actually was the case. I do not say therefore that we should have

done something very terrible in regard to Pakistan, because we have always wanted between India and Pakistan a state of friendship to subsist in spite of provocation. But I have found our Government behaving in a rather meek and mild fashion at a point of time when meekness and mildness was not called for. I have not yet known of one single instance when the Government of our country in relation to the Government of another country which has behaved in a dastardly fashion, has chosen to declare any person belonging to the Embassy of the High Commission of that hostile country as *persona non grata*. It never happened. Last year, a military attache of the Pakistan High Commission whose name was mentioned in this House, was accused of having tortured Shekh Mujibur Rehman in the Agartala conspiracy case, and nothing was done in regard to that man, even though a demand was made that that person should be declared *persona non grata*. We did not do it. There are other ways and means open to very country in order to give effect to its international rights, in so far as diplomatic immunities are concerned.

For instance, there is the provision in international life that when egregious violation of international norms takes place, then the doyen of the diplomatic corps in the country where these violations are taking place should be moved and something should be done. I have never yet heard from any quarter that in 1965 or in 1971, in Pakistan, for example, the doyen of the diplomatic corps in Islamabad or wherever the capital might be took any step in order to assert that India's right as a sovereign country was being violated in a manner which went against the grains of international decency. It never happened.

I have personally heard from our High Commissioner in Pakistan at that point of time, the story of humiliations to which he had been subjected in 1971 when the flag

of this country was dishonoured and all kinds of humiliations were inflicted upon the diplomatic personnel of this country. But I have never heard one syllable about what the Government of India or the Ministry of External Affairs did in so far as international conventions about diplomatic immunities and privileges and the honour due to one country from another country were concerned.

I am, therefore, deeply disturbed about this aspect of our foreign policy. Do we always propose to play the role of the good boy in politics, who behaves very well while the whole world disregards all those adjurations on our part and treats us shabbily? I do not say that let us behave badly. On the contrary, let us abide by all these international conventions in order to bring about a decent international life. But at the same time, let us pull our weight properly and let us assert the self-respect of this country.

MR. DEPUTY-SPEAKER : Does the hon. Member want to continue with his speech ?

SHRI H. N. MUKERJEE : I would like to take a few more minutes.

MR. DEPUTY-SPEAKER : He may continue on the next day.

15.30 hrs.

MOTION RE. FIFTEENTH REPORT OF THE COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

PROF. NARAIN CHAND PARASHAR (Hamirpur) : I beg to move:

"That this House do agree with the Fifteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 2nd August, 1972".

MR. DEPUTY-SPEAKER : The question is :

"That this House do agree with the Fifteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 2nd August, 1972".

The motion was adapted.

15.31 hrs.

BIHAR ATOMIC AUTHORITY BILL

SHRI S. M. BANERJEE (Kanpur) : On behalf of Shri Ramavatar Shastri, I beg to move for leave to introduce a Bill to provide for the formation of an Authority for the purpose of setting up an atomic power plant in Bihar and for matters connected therewith.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill to provide for the formation of an Authority for the purpose of setting up an atomic power plant in Bihar and for matters connected therewith".

The motion was adopted.

SHRI S. M. BANERJEE : I introduce *the Bill.

CASTE SYSTEM (ABOLITION) BILL

श्री यशुना प्रसाव मन्डल (समस्तीपुर) : मैं प्रस्ताव करता हूँ कि जाति पद्धति का उन्नासन करने का तथा नाम के पश्चात जाति प्रभिव्यक्त करने पर रोक लगाने का उपबन्ध करने वाले विधेयक को पुरस्थापित करने की प्रवृत्ति दी जाये।

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill to provide for the abolition of caste

* Publish in gazette of India Extraordinary Part II, section 2, dated 4-8-72