

Some Hon. Members rose—

12.40 hrs.

[MR. SPEAKER in the Chair]

Mr. Speaker: Let us take up the next business.

Shri Nath Pai (Rajapur): What is the Prime Minister's advice to Mr. Gopalan who has threatened to go on a fast from today?

Mr. Speaker: Order, order.

The changes that have been proposed in the present Bill refer to two or three sections of the Act and the penalties that were in the existing Act have been enhanced. In some cases the discretion of the magistrate has been proposed to be taken away and certain punishments have been made compulsory if a case of adulteration is proved.

12.39 hrs.

PREVENTION OF FOOD ADULTERATION (AMENDMENT) BILL—
Contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri P. S. Naskar on the 25th November, 1964, namely:—

There are certain other improvements made in the Act in the shape of clauses 7 and 10 whereby provision has been made that manufacturers and distributors will give warranty in writing to the vendors who will go and take food articles for sale. That is a salient provision which will protect the small dealers who take their supplies from the wholesalers. That is very necessary because they are not the persons who have anything to do with adulteration, if there is adulteration in the food sold by them.

"That the Bill further to amend the Prevention of Food Adulteration Act, 1954, as reported by the Joint Committee, be taken into consideration."

Shri Himatsingka may continue his speech.

I feel that the existing law on prevention of adulteration of food was quite sufficient. The present improvements or changes that have been suggested have made the penalties severe. Mere change of law will not be sufficient to bring about any improvement unless the law is properly enforced. The difficulty arises when the law is not properly applied. What is the present position? Whenever there is any complaint, it is the inspector who takes the samples and starts prosecutions. What is necessary is that the law should be made absolutely clear and it should be well-defined. There should not be any loophole, either for the prosecution or the defence and the persons concerned should know what is adulteration and what is expected or required of them to be given to the customers.

Shri M. R. Masani (Rajkot): Mr. Speaker, Sir, I wonder if you will be good enough to fix the time for the consideration stage and tell us how much time will remain for the clause-by-clause consideration.

Mr. Speaker: We have 3 hours 30 minutes. We will have 1 hour 30 minutes for the clause-by-clause consideration and two hours for the general consideration.

Shri Himatsingka (Godda): Mr. Speaker, Sir yesterday I was saying that the existing law provides for all the contingencies regarding prevention of food adulteration.

I feel that in the existing law the rules that have been framed for some of the articles are rather defective and need consideration at the hands

[Shri Himatsingka]

of the Health Ministry. I have no doubt that the hon. Health Minister, who is very anxious to see that pure food is made available to the people, will see to it that the defects that are pointed out in the rules are removed. I will presently draw her attention to some of the rules that have been framed under the existing law so that the defects may be removed and innocent people are not put to any unnecessary hardship or difficulty.

There is a good deal of difference between adulteration and sub-standard goods. Adulteration arises when something injurious or which is not required is mixed up with an article of food intended to be taken by a customer. In the case of a sub-standard article there is no adulteration and yet under the present definition of "adulteration" it comes within the mischief of the Act. I will cite one or two small examples so that the House can realise the difficulties involved in enforcing this law.

Let us take the definition of ghee in rule 11(14) of the rules framed under the Act which you will find at page 43. Therefore different requirements have been laid down for ghee in different States. For instance, in Andhra Pradesh the refractometer reading required is 40-43 and the minimum Reichert value is 24. In another State it is 28. What happens if Andhra Pradesh ghee is taken to Delhi where the requirement is 28? It comes within the mischief of the Act and it becomes "adulterated". Certainly, it could not have been intended that what is pure in a particular State should become adulterated simply because it is taken to another State.

Then, take table butter, in the case of which also the requirements are different. It must not contain less than 80 per cent milk fat whereas in the case of *desi* butter it may be much less. Suppose the fat content is only 79 instead of 80 and the water content is 21. It is certainly sub-standard but it cannot be called adulterated.

Therefore, a distinction must be made between adulterated and sub-standard articles so that unnecessary complications may not arise. It is absolutely necessary because people will not be able to follow this distinction when they are prosecuted for such sub-standard ghee or butter.

Then, the provisions that have been made in the rules should be made public. The vendors who purchase things from manufacturers should be told to take certificates from the manufacturers so that they may be protected or may not be harassed for selling things which they have got from other sources. I feel that the check should be exercised at the source where a thing is manufactured, from where things are being supplied to different dealers or vendors. If proper check is exercised at source, there may be no occasion for innocent persons being prosecuted or harassed. For instance, take ghee. It comes from a certain place and it is sold in another place by a vendor. A vendor or a person who has purchased that ghee from a source does not know what the contents are. If steps are taken to exercise check at the source of manufacture and some kind of certificate or mark is put, I think that will give protection to the dealers and will also give a sort of guarantee of purity of the goods.

Then, instead of trying to rope in all kinds of things, I would suggest that the Health Ministry should apply its mind to a number of articles which are commonly adulterated like edible oil, medicines, milk, ghee and so on. If attention is concentrated on a few items like these which are commonly adulterated and which are not available in pure form, I think the task of the inspectors will be very much easy and the law can be effectively enforced.

Then, as some hon. Member was saying, now the law is such that if a quintal of wheat contains a kilogram

of gram it can be regarded as adulterated wheat. Certainly, it could never have been the intention that if a quintal of wheat contains a kilogram of gram it should be regarded or treated as adulterated.

Therefore, while the rules are framed, or instructions are given, or steps are taken to stop adulteration, I hope these things will be taken note of. Steps should be taken to see that the energies of inspectors are not dissipated in small articles like spices and so on.

When spices and other things are sold in whole form, in the form in which they come, there cannot be any question of adulteration. But if we apply our energy in those small matters, I feel, important things escape. Therefore it is when the Act is enforced that we should be very careful. Instructions should be given that in the case of important things which affect the health of the community proper steps are taken and it is seen that proper things are available.

I feel that one task of the inspector should also be to advise people about shops where guaranteed things can be had. Unfortunately, in our country you may be getting pure things but you are not sure whether that is so or not. Therefore if a number of shops are opened in different places and if arrangements are made to certify those things as correct at the district level or even at a lower level, I think, that will help in making suitable arrangements for making these things available.

Mr. Deputy-Speaker: We should close this debate at 2.40. What time does the hon. Minister want for a reply?

The Minister of Health (Dr. Sushila Nayar): About half an hour.

Mr. Deputy-Speaker: Then, she will be called at 2.10. I request hon. Mem-

bers not to take more than 10 minutes each so that as many hon. Members as possible can be accommodated.

Shri Mohan Swarup (Pilibhit): I am sorry, I will not be able to cover it in ten minutes.

Dr. Sushila Nayar: I shall take 20 minutes.

Mr. Deputy-Speaker: Then, she will be called at 2.20.

श्री मोहन स्वरूप : उपाध्यक्ष महोदय, जहां तक खाने-पीने की चीजों में मिलावट का प्रश्न है, एडल्ट्रेशन का प्रश्न है, वह बहुत भयानक स्थिति में है। एडल्ट्रेशन का कारण क्या है, यह जानने का प्रयत्न नहीं किया गया है। इस के अलावा एडल्ट्रेशन को दूर करने के लिए जो सक्रिय कदम उठाये जाने चाहिए थे, वे नहीं उठाये जा सके हैं। इस एमेंडिंग बिल से यह आशा थी कि इस दिशा में कुछ सुधार हो सकेगा और कुछ सक्रिय कदम उठाये जायेंगे, लेकिन मुझे यह कहते हुए खेद है कि वे सब आशायें धूमिल हो गई हैं।

एडल्ट्रेशन का एक कारण यह है कि लोगों की खरीदने की शक्ति कम हो गई है, उन की पर-कैपिटा इनकम कम हो गई है, इसलिए वे सब-स्टैंडर्ड और खराब चीजें खरीद कर ही संतोष कर लेते हैं।

फूड एडल्ट्रेशन को रोकने और इस बिल के इम्प्लीमेंटेशन के लिए जो मशीनरी बनाई गई है, वह ठीक तरह से काम नहीं कर रही है। इस बिल की क्लॉज 9 के तहत मिनिमम और मैक्सिमम सजा का जो तरीका रखा गया है, वह मुनासिब नहीं है। किसी भी पीनल कोड में सिर्फ मैक्सिमम सजा रखी जाती है। इस तरह से मिनिमम सजा रख कर कोर्ट के हाथ बांध देना बुद्धिमत्त की बात नहीं है।

[श्री मोहन स्वरूप]

जहां तक फूड इंस्पेक्शन की एग्जायंटमेंट का ताल्लुक है, इस बिल में प्रोवाइड किया गया है कि सेंट्रल गवर्नमेंट या स्टेट गवर्नमेंट्स कोई भी उन की एग्जायंटमेंट कर सकते हैं। मैं चाहता हूं कि सिर्फ सेंट्रल गवर्नमेंट के हाथ में यह सारा काम होना चाहिए और स्टेट गवर्नमेंट्स के हाथ में यह काम नहीं दिया जाना चाहिए।

ट्राइफ़ालिग मेटर्ज, छोटे-मोटे ज़ुमों, के बारे में सज़ा का कोई तरीका नहीं रखा गया है। इस बिल में एक अच्छाई यह है कि वेडंज को यह अधिकार दिया गया है कि वे अपने सेम्पल को टैस्ट कराने के लिए दे सकते हैं। इस बिल में यही एक अच्छी बात है। इस बिल से और जो आशाएँ थीं, वे पूरी नहीं हो सकी हैं।

एडल्ट्रेशन का प्रश्न सब से ज्यादा दूध और मक्खन के विषय में आता है। सेंट्रल कमेटी फ़ार फूड स्टैंडर्ड्स के द्वारा जो स्टैंडर्ड्स कायम किये किये हैं, वे आरबिटरेरी और गलत हैं। आरबिटरेरी सेक्रेटरी, देशी मक्खन व्यापारी संघ, बम्बई, ने श्री वाई० के० सुब्रह्मण्यम्, सेक्रेटरी, कंट्रोल कमेटी फ़ार फूड स्टैंडर्ड्स, को इस बारे में एक लेटर लिखा, जिस के जवाब में श्री सुब्रह्मण्यम् ने यह लिखा :—

"I am to refer to your registered letter No. Nil dated the 28th July, 1961, addressed to Lt.-Col. V. Srinivasan, Director General, on the subject referred to above and to say that the Directorate of Marketing and Inspection, Nagpur, is conducting an all-India Ghee survey and it is expected that this survey will be completed sometime by the end of next year. In the circumstances explained, it may not be possible for the Central Committee for Food Standards which is likely to meet in the near future to scrutinize the

data so far collected by the Directorate of Marketing."

इस का मतलब यह है कि 11 अगस्त, 1961 तक, जब कि यह लेटर लिखा गया था, ये रूलज़ नहीं बने हुए थे।

इस के अलावा श्री चंद्रमौली, एग््रीकल्चरल मार्केटिंग एडवाइजर, गवर्नमेंट आफ इंडिया, ने भी एक ऐसा ही लेटर लिखा, जिस में उन्होंने बताया कि हम डेटा इकट्ठा कर रहे हैं पूरे देश से और उन के आधार पर हम स्टैंडर्ड्स बना सकेंगे। लेकिन खेद है कि आज तक स्टैंडर्ड्स नहीं बन सके हैं।

मैं ने यहां बोलने से पहले इस सम्बन्ध में पेपर्स मांगे थे कि स्टैंडर्ड्स को किस तरह से निर्धारित किया गया है, वे डेटा कौन से हैं, जिन के आधार पर स्टैंडर्ड्स निर्धारित किये गये हैं, आदि, लेकिन मिनिस्ट्री से मुझे को वे पेपर्स नहीं दिये गये।

श्री गरेन्द्र सिंह बहीड़ (मानन्द)
कहा गया है कि वे पेपर्स कान्फिडेंशल हैं।

श्री मोहन स्वरूप : मैंने लाइब्रेरी से कुछ सूचना मांगी थी, जिस में से थोड़ी सी मुझे मिल सकी है। मैं समझता हूं कि इस सिलसिले में कोई पेपर कान्फिडेंशल नहीं है। पार्लियामेंट के मेम्बर्स के लिए कोई भी चीज़ कान्फिडेंशल नहीं समझी जानी चाहिए। लेकिन वे पेपर्स मुझे नहीं दिये गये और मुझे उत्तर दिया गया :—

"I am directed to inform you that the minutes of the fifth to the ninth meetings of the Central Committee for Food Standards have been sent to the Library, Parliament House."

मैं ने सेक्रेटरी, ज्वायंट सेक्रेटरी वगैरह सब को कहा और बहुत कोशिश की, लेकिन मुझे पेपर्स नहीं दिए गए।

इसी तरह ट्रेड्ज को भी कोई डेटा सप्लाइ नहीं किये गये हैं। मैं साफ़ तौर कह सकता हूँ कि कोई डेटा इकट्ठे नहीं किये गये हैं। मैंने एविडेंस के रिकार्ड में पढ़ा है कि गवर्नमेंट की तरफ़ से कहा गया कि हम ने हंड्रेडज़ आफ़ फ़ाउण्डेडज़ डेटा इकट्ठा करने के बाद ये स्टैंडर्ड्स निर्धारित किये हैं। लेकिन मिनिस्टर साहब के पास कोई डेटा नहीं है, जो कि वे दिखा सकें। ख़्वाहम-ख़्वाह झूठलाया जाता है और ग़लत बयानी की जाती है। मैं निश्चित रूप से कह सकता हूँ कि कोई डेटा नहीं है और इसलिए जो स्टैंडर्ड्स बने हैं, वे ठीक नहीं हैं।

इसलिए मैं चाहता हूँ कि इन स्टैंडर्ड्स में सुधार किया जाये और इस के लिए एक कमेटी बनाई जाये, जिस में वास्तविक एक्सपर्ट्स रखे जायें। मंत्रालय की ओर से जो लोग रखे गये हैं, वे सो-काल्ड एक्सपर्ट्स हैं। जहाँ तक घी और मक्खन का सवाल है, इस देश में एक्सपर्ट्स की कमी नहीं है। ज़रूरत इस बात की है कि एक हाई-लैवल कमेटी बनाई जाये, जिस के द्वारा साइंटिफ़िक डेटा इकट्ठे किये जायें और उन के आधार पर नये स्टैंडर्ड्स बनाए जायें।

वर्तमान स्टैंडर्ड्स के आधार पर लोगों का विक्रिमाइज़ेशन हो रहा है। एडल्ट्रेशन को दूर करने के लिए अधिक से अधिक सक्रिय कदम उठाए जायें, अधिक से अधिक सज़ा दी जाये, लेकिन उस के साथ ही साथ मैं चाहता हूँ कि ख़्वाहम-ख़्वाह लोगों को दिक़ न किया जाये। आज जो मशीनरी है, उस में लोगों से रिश्वत ली जाती है और वास्तविक एडल्ट्रेटज़ को छोड़ दिया जाता है। और सज़ा कौन भुगतते हैं? जो रिश्वत नहीं दे सकते हैं, जो ग़रीब हैं,

जो रिश्वत देना नहीं चाहते हैं, वे सज़ावार होते हैं और उन को विक्रिमाइज़ किया जाता है और जेलों में ठूसा जाता है।

मैं चाहता हूँ कि सही स्टैंडर्ड्स बनें और विक्रिमाइज़ेशन को रोका जाये। तभी हम इस दिशा में कुछ कर सकते हैं, अन्यथा हमारे तारे प्रयत्न असफल होंगे।

घी और दूध के टैस्टिंग के लिए बहुत से तरीके अपनाये जाते हैं जैसे :

- (1) Acid value (F.F.A.).
- (2) Butyro Refracture index.
- (3) Baudouin Test
- (4) Reichert value (R.M. Value).
- (5) Moisture test
- (6) Phytostyryl Acelite test.

13 hrs.

इस में रीचर्ट वैल्यू (आर० एम० वैल्यू) को आधार माना गया है। मैं इस सम्बन्ध में यह निवेदन करना चाहता हूँ कि रीचर्ट वैल्यू का आधार जो है यह सिम्पली प्रिज़म्पटिव है, उस को कतई भी सही नहीं माना जा सकता है। इस का कारण यह है कि रीचर्ट वैल्यू घटती बढ़ती रहती है। जैसे जैसे जानवर का दूध घटता जाता है वैसे वैसे रीचर्ट वैल्यू में फर्क आता जाता है। है। इस के साथ साथ घी जब रख दिया जाता है तो भी रीचर्ट वैल्यू में फर्क आ जाता है। स्टोरेज जब घी को किया जाता है तो भी इस में फर्क आ जाता है हालांकि घी प्योर होता है और उस की वैल्यू कम हो जाती है। तब यह कहा जाता है कि यह एडल्ट्रेटिड है। इस के साथ साथ घी में लेयर्स होते हैं। ऊपर का लेयर, बीच का लेयर और नीचे का लेयर। ऊपर के लेयर में दाने होते हैं, वह बेहतर होता है। नीचे

[श्री मोहन स्वरूप]

का भी उतना अच्छा नहीं होता है, वह खराब होता है। अगर नीचे के घी का सैम्पल लिया जायगा तो इस का मतलब यह है कि वह एडल्ट्रेटिड है क्योंकि वह बैसा नहीं हो सकता है जिस तरह का ऊपर का घी हो सकता है। रीचर्ट वैल्यू का जो टेबल दिया हुआ है, मेरे पास समय नहीं है कि मैं उस को पढ़ कर आप के सामने रख सकूँ। वह भी मूख्तलिफ़ स्टेट्स के लिए मूख्तलिफ़ है, गुजरात में कुछ है, उत्तर प्रदेश में कुछ और है और बिहार में कुछ और। मैं चाहता हूँ कि या तो क्लाइमेटिक कंडिशन को ध्यान में रखते हुए यह यूनिफार्म हो या फिर जैसा अभी मैंने अर्ज किया है सही स्टैंडर्ड्स निर्धारित किये जायें। अन्यथा जो चीज घटती बढ़ती रहती है उस के कोई माने नहीं रह जाते हैं। रीचर्ट वैल्यू के अलावा और कोई टैस्ट हो जैसा अभी मैंने निवेदन किया है कि फाइब-टैस्ट्रल एकोलाइट टैस्ट ज्यादा माना जाता है और कहा जाता है कि यह कनकल्यूसिव टैस्ट है।

टैस्टिंग भी कई जगहों पर होना चाहिये। अब दूसरी जगह पर भी टैस्टिंग का इंतजाम है। एक जगह पर जब कोई चीज टैस्ट हो जाती है तो उसके बाद जब उसको सेंट्रल फूड लैबोरेटरी कलकत्ता में भेजा जाता है तो अकसर ऐसा होता है कि वह डिटो कर देती है। जब कोई केस कचहरी में जाता है और कचहरी उसको सेंट्रल लैबोरेटरी कलकत्ता में भेज देती है तो सेंट्रल लैबोरेटरी का दिमाग पहले ही विशियेटिड हो चुका होता है और जैसे पहले टैस्ट किया गया होता है, उसको वह वैसे ही डिटो कर देती है। मैं चाहता हूँ कि यह जो सेंट्रल लैबोरेटरी है यह स्वतंत्र हो। इसी तरह से यहां कई और भी इंस्टीट्यूशंस हैं जहां पर लोगों को

टैस्टिंग की सुविधायें प्रदान की जा सकती हैं। मिसाल के तौर पर अलीपुर टैस्ट हाउस कलकत्ता है, हाफकिन इंस्टीट्यूट्स बम्बई की है, श्रीराम इंस्टीट्यूट है। इस तरह से आप और भी कई इंस्टीट्यूट्स बना सकते हैं जहां पर फाइनल टैस्ट हो सकता है। आज जो टैस्टिंग का तरीका है, यह मुनासिब नहीं है। इसकी आज जो सुविधायें हैं, वे बहुत कम हैं।

फूड इंस्पेक्टर्स द्वारा जो घाघली की जाती है, उसका भी अन्त होना चाहिये। आजकल बहुत घाघलेबाजी चलती है। आजकल फूड इंस्पेक्टर्स जाते हैं चीजों को पकड़ते हैं लेकिन बाकायदा कोई गवाहों का इंतजाम नहीं करते हैं। उन के साथ जो चपड़ासी होते हैं, उन को ही गवाह कर लिया जाता है। जब सैम्पल कलेक्ट किये जायें तो ऐसे विटनेसिस रखे जाने चाहियें जोकि रिलायबल हों। विटनेसिस शुड भी रिलायबल। बाकायदा कोई पंचनामा होना चाहिये। अगर पियंज को ही गवाह के तौर पर पेश किया जायेगा तो वे इंडिपेंडेंट एवीडेंस नहीं दे सकेंगे। इसलिए गवाहान जो हों वे अच्छे हों, मुनासिब हों, रिलायबल हों।

अन्त में मैं यही कहना चाहता हूँ कि सारी चीज को देखने के लिए एक हार्ड पावर्ड कमेटी बिठाई जाय जोकि ठीक तौर पर इस सारे कार्य को कर सके, सही तौर से निरीक्षण कर के कुछ आधार बना कर आप को दे सके। आजकल तो होता यह है :

पकड़े जाते हैं फरिश्तों के लिखे पर नाहक आदमी कोई हमारा दमे तहरीर भी था।

आदमी तो कोई वहां होता नहीं है। उन्हीं के सब आदमी होते हैं और आद-

मियों को पकड़ कर भेज दिया जाता है । इस तरह से जो विक्रिमाइजेशन होता है, यह बन्द होना चाहिये । इस तरह के विक्रिमाइजेशन को बन्द करने के लिए सक्रिय कदम उठाये जाने चाहिये और जो दिक्कतें पैदा आती हैं, उन का कोई हल सोचा जाना चाहिये । स्टैंडर्ड्स सही रूप से बनाये जाने चाहिये ।

मुझे खेद है कि समय अधिक न होने की वजह से मैं और इस सिलसिले में कहने में असमर्थ हूँ ।

Shri Harish Chandra Mathur (Jalore): Mr. Deputy-Speaker, Sir, this evil of adulteration is so widespread and it touches us all so much that this indignation against adulterators is only natural. And my feeling is that in making this enactment it is more of indignation which has been reflected rather than a mature thinking.

The first salient feature which I notice in this enactment is that the Central Government wants to take an active part in checking adulteration. We are quite aware that we have the Concurrent List where the States as well as the Centre could also legislate. It is not the question of a uniform legislation. Now under this enactment, the power and the jurisdiction has been taken to run a sort of parallel administration both at the Centre as well as in the States. It appears to me that this is due to our lack of confidence in the State administration. It is true but at the same time I should say as much that the States as well as the Centre have not given any commendable account of their performance. In this context, I should like to know from the hon. Minister what actually her scheme of things is and what is the sort of administrative set-up which she visualises or whether she is only satisfied and happy with having this enabling enactment, and, if they are going to have a parallel administration set-up, what is going to be their coordination

and all that. All that may better be clarified.

Sir, as I pointed out earlier, it is more of indignation than reason that is reflected in the provisions of this enactment. It is just a wishful thinking. If wishes were horses, beggars would ride them. If it was only the passing of an enactment, making stringent provisions and that that would help the matters, I think, this country would have been one of the best-ruled countries in the entire world. There would be no other country where legislations of the nature that have been passed here have been passed in all fields and spheres of life.

I remember there was a lot of noise about the yellow press and so many things were said about it. We authorised the Government to prosecute those people who publish defamatory items against those in authority, whether officials or non-officials including the Ministers. I asked only the other day to find out that there has not been one single prosecution to this day. It is not that this yellow press is not thriving; it is more than what it was when the enactment was passed by this House. Therefore, it exposes this Parliament almost to a ridicule and we almost have a nauseating feeling that these enactments are brought before us and after certain time we find that nothing whatsoever has happened.

Nobody has any compassion for adulterators. But my real apprehension is that these provisions which we are enacting are likely to drive out all honest people out of the trade and business. That is my apprehension. I venture to submit that my apprehension is based not on wishful thinking. We all wish that something really is done. The real limitation is not the lack of provisions and the enactment; the real difficulty, unfortunately, is incompetence at the top and highly inefficient administrative machinery right to the field level.

If we had an efficient administrative machinery, I am sure that things would not have been half so bad as

[Shri Harish Chandra Mathur:]

they are today. Still, I would not grudge any powers to the hon. Minister provided she can give us an assurance that this evil of adulteration will disappear in a short time. We are placing in her hands an instrument which to my knowledge is almost dangerous. After all, it is not the hon. Minister here who is going to see the implementation of it at the field level which is what matters. After all, why are the people indignant? They are indignant at the way the Act is being implemented. In return for giving these powers, is this House not entitled to ask the hon. Minister 'Here is the enactment as you want it. Here are the provisions for deterrent punishments; here are the sweeping powers given to you and to your administrative staff. Will you give us an undertaking that within one year if you do not eradicate this evil or even make a significant improvement in the position, then you will be prepared to take the consequences? The consequences would be those for failure at the top, and they are something very serious. If the hon. Minister could give us that assurance, it will give us some comfort and satisfaction that something will be achieved in spite of the fact that certain people will be victimised as a result of an enactment of this nature which we consider to be dangerous. But I do not know whether the hon. Minister will be prepared to give up this assurance in consideration for the powers which we are placing in her hands.

I wish her god-speed, and I wish her all success, and I assure her of all co-operation, but I think that it would have been much better if we had devoted our attention to something really fruitful by making provision in respect of those items which are the necessities of life. Let there be an adequate supply of these necessities of life. If there is an adequate supply of the necessities of life, where we do not want adulteration made to us in good condition, then that would be some achievement. But that is not so easy.

I am glad to find that the hon. Prime Minister is reorienting his policies towards making consumer goods available more and more, and that is a wise and a sane thing. It is scarcity which finds a hundred and one ways to pollute the general atmosphere and to pollute the materials. But meanwhile I feel that the hon. Minister will be well advised to tackle this problem at the source, that is, at the manufacturers' level. Let these things be checked at the manufacturers' level or at the processing level, and let these items be put into sealed packets or tinned and Agmarked. In that way, I hope that something constructive and positive will be done. I wish that periodical reports may be given on this matter.

In conclusion, I would just like to refer to the difficulties which have been pointed out regarding the present rules, regarding the standards and so on. I know of certain cases, and I can give you any number of cases where even poisonous substances are used for adulterating the food items. Take, for instance, *haldi*. *Haldi* is adulterated with one of the most poisonous items. But I know that the standard of that particular item varies so much from place to place that honest people have been prosecuted because they sold sub-standard stuff over which they had absolutely no control.

Therefore, I hope that the hon. Minister will show a responsive mood to the various suggestions which have been made regarding the standards, the rules and the other provisions and see that these are harmonised and judicially administered.

श्री काशी राम गुप्त (अलवर) :
उपाध्यक्ष महोदय, कल जब मैं डा० सिंह के भाषण को सुन रहा था जबकि वह ऐटमिक एनर्जी से होने वाले नुक्सान के बारे में बोल रहे थे, तो मुझे लगा कि जब सरकारें ही गलत काम करें तो उस

की जिम्मेदारी किस पर पड़े । और भारतवर्ष में यही हो रहा है । उदाहरण के तौर पर जब से वेजिटेबल घी बनने लगा है तब से गांवों में घी की मिलावट बहुत बड़ी मात्रा में प्रारम्भ हो गई है । वर्षों से यह कोशिश हम कर रहे हैं, कितने ही कांग्रेस के अधिवेशनों में भी यह चर्चा आई, कि इस वनस्पति घी को किस तरह से बन्द किया जाये या उस की मिलावट को किस प्रकार से रोका जाये । सुझाव आया कि इस में ऐसा रंग दे दिया जाये जिस से लोगों को नुकसान न हो । लेकिन वह आज तक कामयाब नहीं हो सका । इस का क्या कारण हो सकता है, यह सरकार जाने । दूसरी बात यह हो सकती थी कि ऐसे लोगों का गांवों में जाना रोका जाये जिनका काम गांवों के लोगों के चरित्र को ही गिराता है । सब से बड़ी मुश्किल यह होती है कि इस घी के मामले में, और अद्वय तो मक्खन के मामले में भी होने लगा है, यह पकड़ा ही नहीं जा सकता कि किस ने मिलावट की ।

13.16 hrs.

[DR. SAROJINI MAHISHI in the Chair]

गांवों में किसी ने तो इस को ले कर पशुओं को ही खिला दिया और उस से घी निकाल लिया, या उस से आगे चल कर यह होता है कि गांव के छोटे व्यापारी जो मिलावट करते हैं उन्होंने मिला दिया और वही शहर में आ कर मिलेगा, लेकिन पकड़ा वह जायेगा जिस के हाथों वह बेचा जा रहा है । आप कितने ही इन्स्पेक्टर लगाइये, कुछ भी कीजिये, लेकिन गांवों में चीजें पहुंच चुकी हैं उन को रोक पाना आप के लिए नामुमकिन हो गया है । अभी अभी श्री माथुर जो कह रहे थे वह भी एक पते की बात

थी । आप कितना ही काम कर लीजिये लेकिन अगर उस का असर यह हो जाये कि हम उस को लेने में कामयाब हो जायें तब तो ठीक है, नहीं, तो कोई लाभ नहीं है । मेरा यह निवेदन है कि हमारा यह अभ्यास हो गया है कि जिस प्रकार से अंग्रेजों के जमाने में कानून बनते थे उसी प्रकार से कानून बना कर हम अपने कर्तव्य की इतिश्री मान लेते हैं, लेकिन खाली कानून बना देने से काम नहीं चल सकता है । जितने भी प्रजातंत्र देश हैं, अथवा उन से सम्बन्धित जो देश हैं वहां पर ऐसे कार्यों के लिये पहले वे जनमत बनाने हैं, कानून बनाने के पहले वे उसका प्रचार करते हैं और कानून बनने के बाद भी उस का तेजी से प्रचार करते हैं, लेकिन हमारे यहां क्या दशा है । यह कानून बन कर जायेंगे तो पुलिस के थानेदारों से आगे पहुंचेंगे नहीं । पहुंचेंगे तो अंग्रेजी में पहुंचेंगे, प्रादेशिक भाषाओं में या हिन्दी में नहीं पहुंचेंगे । आम जनता तो प्रादेशिक भाषाओं को जानती है या हिन्दी को जानती है । अगर उन के पास कानून नहीं पहुंच सका तो किस को पता लगेगा कि कहां खराबी हो रही है । हम यहां कानून बना रहे हैं और गांवों के लोगों को पता भी नहीं कि यहां क्या हो रहा है । इस का नतीजा यह होता है कि हजारों की तादाद में वह अनजान लोग पकड़े जाते हैं जो इस को जानते भी नहीं हैं । इन्स्पेक्टर लोग जो हैं उन का रवैया सब को मालूम है । मुझे ताज्जुब होता है कि सरकार के पास इतनी बड़ी सी० आई० डी० है लेकिन उस को यह जानकारी भी नहीं मिलती है कि इन्स्पेक्टरों का बाकायदा पैसा बंधा रहता है बाजार में । इस लिये नहीं कि वह मिलावट करने वाले लोग हैं, बल्कि बहुत से ऐसे लोग हैं जो आज इज्जत बचाने के लिये पैसा देते हैं ।

वह जो पेचीदा कानून बनाया जा रहा है इस सम्बन्ध में चाहिये तो यह था कि पहले

[श्री काशीराम गुप्त]

नियम और उपनियम तैयार होते। लेकिन यहाँ तो जल्दी गाड़ी चलाई जा रही है। गाड़ी को आगे और छोड़े को पीछे कर दिया गया है। पहले नियमों, उपनियमों के बारे में चर्चा की जानी चाहिये थी। हिन्दुस्तान के लोगों के सामने इस की चर्चा नहीं हुई। बहुत से लोगों ने बयान दिये हैं। पहले उन चीजों पर अच्छी तरह से हाजस में चर्चा करते उस के बाद कानून बनाते तब आयद ज्यादा ठीक होता। अभी कुछ और संशोधन यहाँ रखे गये हैं। मेरे ख्याल में उन को लागू न किया जाये जब तक कि नियमों और उपनियमों के बारे में संशोधन न कर लिया जाये, अन्यथा इस से देस का बड़ा भारी अनहित होने की सम्भावना है। मैं निवेदन करूँ कि जितने लोगों ने बयान दिये हैं उन में हर एक ने यह कहा कि यह पता नहीं कि गलती कहां से होती है। जब हम यह पता नहीं लगा सकते कि गलती कहां से होती है थोड़े से आदमियों के बीच में तो जहाँ पर हज़ारों की तादाद में आदमी ब्यापार में लगे हुए हैं वहाँ कहां तक हम इस कानून पर अमल कर सकेंगे यह बहुत गहरा प्रश्न है। इस लिये इस बिल के अन्दर जो सजायें रखी गई हैं उन से कोई असहमत नहीं हो सकता कोई नहीं कह सकता कि ऐसा न हो। वह बहुत जरूरी है लेकिन स्टैन्डर्ड चीज में जहाँ तक मिलावट का सवाल है, उसके बारे में छान बिन करना भी बहुत जरूरी है। और दूसरा यह है कि इस मिलावट को रोकने के कारगर उपाय तभी हो सकेंगे जब आप इस कानून का जनता में फिल्लम आदि के द्वारा प्रचार करेंगे। और प्राखिरी तौर से हम इस बीमारी को तब हटा सकेंगे जब कि उपभोक्ताओं के जन्तवार संस्ठन बनावें। उपभोक्ता अससजस में पड़ जाता है कि कहां से चीज ले। जैसा कि अभी श्री मोहन स्वरूप जी ने कहा, जो लोग चीज खरीदना चाहते हैं और उनको वह नहीं मिलती तो जहाँ जचको मिलती है वहाँ से लेने के लिए यजबूर हो जाते हैं। ऐसी स्थिति

में अगर सरकार यह समझ ले कि हम ने कानून बना दिया और आगे कुछ नहीं करना है, तो मैं समझता हूँ कि यह कानून बनाना जनता के लिए नुकसानदेह होगा और इससे जनता का हित नहीं होगा।

मेरा निवेदन है कि इस कानून को सफल बनाने के लिए हमको अनेक परिवर्तन करने होंगे। मंत्री महोदय को अपने मंत्रालय में एक अन्वेषण विभाग खोलना होगा जो इस को मिटाने के कारगर उपाय खोजे और हर वर्ष वह अपनी रिपोर्ट दे, और यह रिपोर्ट इस सदन के सामने भी रखी जाए ताकि सदन को भी पता चले कि इस कानून के बनने के बाद यह किस प्रकार चल रहा है। अगर सरकार समझ लेती है कि हमने कानून बना दिया है और इस में 6 महीने से ले कर 6 साल तक की सजा रख दी है यह काफी है, तो इस का परिणाम यह होगा कि जो चालाक लोग हैं वे इस सजा के डर से मिलावट बन्द नहीं करेंगे लेकिन सजा से बचने की कोशिश करेंगे, उनकी सारी शक्ति सजा से बचने के उपाय में लग जाएगी। और जैसा कि मोरे साहब ने कहा कि इस कानून का परिणाम यह होगा कि पहले पुलिस का घर भरेगा और फिर बकीलों का घर भरेगा जो कि सुप्रीम कोर्ट तक मुकदमे ले जाएंगे। मेरा निवेदन है कि यह बहुत गहरी बात है।

हम सब चाहते हैं कि इस बीमारी को समाप्त किया जाए और उसकी समाप्ति के लिए मैं दो तीन सुझाव आपके सामने रखना चाहता हूँ। एक तो यह सुझाव है कि उपभोक्ताओं को चीजें मिलने के लिए जो मीजूदा तौर तरीके हैं उसमें बड़ा भारी हेरफेर किया जाए और इस काम को अकेला यह मंत्रालय नहीं कर सकेगा, अन्य मंत्रालयों को भी सहयोग देना होगा।

मंत्री महोदय ने लोगों से कहा है कि वे अपने संगठन बना लें, जैसे कि हलवाई लोगों से कहा कि तुम अपना कंज्यूमर्स की हैसियत से संगठन बना लो। पर उन लोगों ने अपनी दिक्कतें बतलायीं। तो इस प्रकार कह देने से तुम अपना संगठन बना लो काम नहीं चल सकता। यह सरकार की जिम्मेदारी है कि उपभोक्ताओं को उचित चीज मिले। इस बिल को पास करने के बाद सरकार की यह नैतिक जिम्मेदारी हो जाती है कि वह देखे कि इस कानून के अन्तर्गत ठीक से काम हो। सरकार को यह निर्णय करना होगा कि इस काम में सरकार की कितनी जिम्मेवारी है, जनता की कितनी जिम्मेवारी है, पार्लियामेंट की कितनी जिम्मेवारी है और मेम्बरों की व्यक्तिगत रूप से कितनी जिम्मेवारी है।

एक साहब बतला रहे थे कि दिल्ली में प्योर घी नहीं मिलता तो हम ने प्रश्न किया कि जो दिल्ली मिल्क स्कीम का घी हम को मिलता है वह तो ठीक है या नहीं। हमको बताया गया कि सरकारी संस्थाओं में भी मिलावट हो जाती है। तो यह बहुत गहरी बात है, हमें इसे रोकने के लिए पूरा प्रयत्न करना पड़ेगा। अगर कोई इंस्पेक्टर उस सरकारी संस्था को जा कर पकड़ता है तो उसमें भी कोई रहस्य होता है। कभी इंस्पेक्टर इस लिए पकड़ता है कि वह उस संस्था से नाराज होता है और अगर ऐसा नहीं होता तो संस्था के लोग उसको चकमा देते रहते हैं और उसे परेशान करने की कोशिश करते हैं। मेरा खयाल है कि जनता को और मंत्रालयों को मिल कर प्रयत्न करना होगा तब यह बीमारी दूर हो सकती है। नैतिक स्तर ऊंचा करने से यह बीमारी दूर हो सकती है। इसके लिए अनेक उपाय करने पड़ेंगे। केवल उपदेश देने से या अपीलें करने से काम नहीं होगा।

अन्त में मैं खेती की पैदावार के मामले में कहना चाहता हूँ कि इसमें इस बात का पता

लगाना बहुत मुश्किल है कि मिलावट किस ने की है। एक चीज राजस्थान से बंगाल में जाती है और बंगाल में पकड़ी जाती है। उसकी जिम्मेदारी किस पर आनी चाहिए? इसका नतीजा यह होता है कि कभी करोड़ों रुपये का माल जलाया जाता है। तीन चार बरस की बात है कि राजस्थान और उत्तर प्रदेश से बंगाल में सरसों गयी और वहां उसको सब स्टैंडर्ड बताया गया और उस लाखों रुपये की सरसों को इस कारण जला दिया गया। इसमें व्यक्तियों का तो नुकसान जो हुआ सो हुआ, लेकिन देश के इतने खाद्य पदार्थ का भी नुकसान हो गया। मैं समझता हूँ कि इस बारे में कुछ नहीं सोचा गया है कि किस प्रकार इस बीमारी को रोका जाए।

अगर उत्पादक को ऐसा करने से रोकना है तो मंडी में जहां वह चीज आती है उसकी चौकिस होनी चाहिए और उस मंडी से सरटिफिकेट मिलने पर ही उसको आगे भेजा जाना चाहिए। लेकिन इस बात को अव्यावहारिक माना गया है। मेरा खयाल है कि जहां से जो चीज चलती है वहीं उसमें मिलावट रोकने की कोशिश होनी चाहिए। अगर खेती की पैदावार है तो मंडी से बाहर जाने के पहले उसकी जांच होनी चाहिए और अगर कारखाने का माल है तो कारखाने से बाहर जाने के पहले उसकी जांच कर ली जानी चाहिए। अन्यथा इस चीज को नहीं रोका जा सकेगा।

जहां तक रेस्टोरेंट्स का सवाल है कहा जाता है मालिकों की तरफ से कि साहब हम तो ठीक चीज बनाते हैं लेकिन अगर नीकर मड़बड़ कर दे तो क्या हो। ये सब बातें बताती हैं कि इस बीमारी की जड़ बहुत गहरी है। मेरा खयाल है कि जब तक आप इस बीमारी को रोकने के लिए अपने यहां बराबर अन्वेषण नहीं कराते रहेंगे तब तक केवल कानून से यह बीमारी नहीं हटेगी।

[श्री काशीराम गुप्त]

सिलेक्ट कमेटी ने बहुत परिश्रम करके इस बिल को अच्छा बनाया है और इसमें उचित सजा का समावेश किया है, यह ठीक है, लेकिन इसमें सफ़ाई तभी मिल सकेगी जब सरकार की ओर से कारगर उपाय किए जाएं।

Shri N. C. Chatterjee (Burdwan): Madam Chairman, there is a general unanimity in the House that food adulteration is going on on such a widespread and extensive scale that it is a national menace to our nation's health and it is not only corrupting the traders and the business people but it is creating a debilitated race which is a danger to India.

I am sorry that observations have come from two senior Members, whom I respect, particularly the observations which fell from Shri S. S. More and Shri Mathur, casting aspersions on the Members of the Joint Committee. This is very unfair. I must strongly protest against the suggestion that the members of the Joint Committee submitted to the dictation of the Minister and she ruled the Committee proceedings and dominated it and we very faint-heartedly submitted to her dictates. That is not true.

Madam Chairman, you were the Chairman of the Joint Committee. You know there was no interference. There is no one on this side of the House who is more critical of the Government and Ministers. It is thoroughly unfair to suggest that the Minister either interfered or we submitted to her dictation. You know perfectly well I am not used to submit to anybody's dictation, not even of the Prime Minister, far less of any other Minister. On the other hand, you know perfectly well that we put forward different points of view, and I must admit that the hon. Minister had the wisdom and the grace to accept some of our suggestions and they have been incorporated in this Bill. Therefore, it is not fair to suggest that she was

actuated by a dominating or domineering spirit. There was no question of domination.

Shri Kashi Ram Gupta: Perhaps Shri More was referring to the Congress Members.

Shri N. C. Chatterjee: I do not know. I won't have any commentaries on his speech.

As you know, when we got details with a list of common adulterants in various articles of food, we got a shock. The House will be surprised to know that in non-alcoholic beverages, non-permitted coal tar dyes are being used on an extensive scale throughout India. Not only are dirt and filth very commonly used, but mineral acids are being used. What do you think, of this? As regards *hing* which is called *asfoetida*, and also some other kind of *hing*, we find excessive sand and grit are being used as adulterants; foreign resins are used; coaltar dyes are also being used.

Then look at spices. I have made inquiries, not only from people who saw me, representing the spice dealers in the Calcutta market, but also from other markets and they have confirmed that this chart which has been prepared by the authorities is true.

In spices, the general adulterants are: excessive sand and grit, coaltar dyes, foreign starches, foreign seeds; excessive lead or lead chromate and coaltar dyes in *haldi*; artificial cumin seeds made of earth and mud as well as foreign seeds in cumin seeds; excessive starchy and woody matter; starchy matter in coriander, and many other things.

This is true that they have come to know that these are the things which are going on unchecked, and that a section of the traders has behaved miserably, and they are actuated by greed to make money at any cost. The fact is that this is the most organised industry in India, namely the adulteration business, and it is going on on an extensive scale. As a matter of

(Amendment) Bill

fact, some of the factories for preparing adulterants are doing better than factories manufacturing some other commodities, and they are making better profits.

The hon. Minister knows, and you are also aware, that there are three factors, and we are not oblivious of them. The first factor which comes in our way is that the real culprits are in the big *mandis*, and at the manufacturing centres, who send these consignments to distant places, and there is no provision for periodical inspection and complete detection at the manufacturing level. Certainly that is very important.

Many small traders came to me, they must have gone to the Minister and must have come to you and other Members of Parliament, and they were saying that we are only manufacturing an engine of torture and oppression which will simply mean that the rate of corruption will go up. The food inspectors who are now making Rs. 500 will be making Rs. 1,000 or more, and they will be more prosperous. It will not mean *sadachar*, but really an accession or increase in the rate of graft.

An Hon. Member: *Sadachar*.

Shri N. C. Chatterjee: Something has got to be done. Shri Mathur said that the Minister has done nothing, and therefore this Bill is disappointing in that way. What can we do? What can the Minister do under this wonderful Constitution of yours? You are a lawyer, and you know that we have got the Concurrent List, and it is one of the items in the Concurrent list. Unless this Parliament in its wisdom makes it a Central subject, how can any Minister or Select Committee completely centralise or nationalise this thing, namely prevention of adulteration of foodstuffs and other articles. It is very easy to criticise. We thought about it, we knew it, and certainly it is the Minister's duty, and I will be the first man to stand up in this Parliament and condemn her if

she does not do anything to detect and prevent adulteration at the manufacturing level. But that you cannot do by legislation. It is a question of administration, and I am quite sure that the Minister is alive to the primary need of checking it at the originating source.

The second thing is that the food inspectors are notorious for graft and corruption, and there is evidence of organised graft; blackmarketeers and other people are in league with them, and make periodic contributions to them. I believe that Swamiji, with whom I do not generally agree, knows that it is not a spiritual fact, but a mundane fact that we all know that there is regular collusion between food inspectors in big cities and traders. Therefore, the small trader will be caught, but the real culprit will not be caught.

This is a matter of our national character. This is a very serious problem, and it is only enlightened public conscience which can eradicate it. No Minister can check it completely. Of course, she can do quite a lot in that direction. The first thing is to change the mechanism, to improve the mechanism of inspection and detection, and that is very important.

The third thing is this. I know that my hon. friend Shri Kashi Ram Gupta has promised me some briefs later on, after this Act comes into operation, but I know as a member of the Supreme Court Bar—I have been here from 1950 after I retired from the High Court Bench—that in some cases the Supreme Court Judges have been very unwilling to impose deterrent punishments because the analysis and the testing was done two or three months later. That is unpardonable because by that time the goods deteriorate, and naturally the analyst's test is under a shadow. That should be completely altered.

I do not know what is to be done. I think the Central Government must

[Shri N. C. Chatterjee]

be given the power and the resources to have first class, well-equipped laboratories throughout India at all important cities, and they should be run under the direct control and supervision of the Health Ministry. If you leave the food inspectors to the tender mercies of the corrupt and inefficient machinery of the Delhi and other corporations, nothing will happen, and it will mean only that we are supplying a handle for greater oppression and torture.

With regard to deterrent punishment, as you know I am responsible for this particular clause which has been put in, and I take full responsibility for it. As a man who entered the profession in the year 1919 and has been in law throughout his life, and has been responsible for the administration of justice in one part of India, I tell you that if you put in the highest deterrent punishment, you make the judiciary allergic to record a conviction and inflict punishment.

During the Bengal famine when millions of people were dying, Pandit Jawaharlal Nehru was in detention. After 1,000 days in prison he came out, and the first thing that he said was: "My heart bleeds not because millions have died of hunger and starvation, but because not one blackmarketeer or profiteer was hung on the nearest lamp-post or flogged." Therefore, we thought of flogging. I remember Shri Morarji Desai saying that he was averse to flogging because that is a barbarous thing; he would rather prefer hanging, but would it do any good? Do you not realise that Judges and Magistrates are human beings? If you put in that kind of clause, they would become immediately averse to it. I am perfectly prepared to accept, and the Minister will certainly consider it, the suggestion that there should be confiscation of stocks or of property, that will be something better. But what we have put down is giving the magistrate or the Judge some discretion; he can tone down or

muld the punishment, having regard to the degree of delinquency involved in the crime. Therefore, it is much better to leave it to the judiciary, have faith in them, and I am quite sure that that will be good to both the traders and the accused. I am in favour of taking sterner action like confiscation, but I certainly admit that nothing can be done by mere legislation. Improvement must be made in the mechanism of inspection, in the mechanism of detection, there should be a complete overhaul of the machinery for the purpose of bringing the guilty to justice in courts of law.

Shri A. S. Alva (Mangalore): Sir, I support the Bill, and in so doing I wish to point out two clauses which were added for the sake of the better working of the Act.

The anxiety of the Members of the Select Committee who have appended Notes of Dissent will go to show that they are keenly alive to the very serious proportions to which food is adulterated in this country. As a matter of fact, Shri Kamath even demanded death sentence for the adulterants. His argument is that people are prepared even to poison food, but that will be met by the ordinary penal code. If a man deliberately poisons food and sells it, not necessarily to any particular individual, he will come under the ordinary penal code for murder. In respect of certain offences, certain minimum sentences had been prescribed. It is absolutely necessary that people should be careful at least in respect of food preparations. That is why I generally welcome the provisions in this Bill prescribing minimum punishment in respect of certain offences.

In this connection, I beg to draw the attention of the Minister to some provisions so that they might be fully implemented. Many cases failed in High Courts because some sanitary inspectors who were by name designated

as food inspectors has been transferred to some other town or municipality and his successor was not designated like that by name. When the inspectors are appointed, it may be either by name or it may be by virtue of the office. It should be definite so that it is not left in doubt to the courts as to whether a person is actually authorised to take samples of food at all. If there is no definiteness but only vagueness, then naturally the cases fail.

Secondly, food inspectors should be generally taken from people who are above reproach. There have been lots of complaints against some of them and even courts disbelieve their evidence. So, these people must have some standing; they must inspire confidence in the public; they must be assured that nothing wrong or underhand will be done by them. Two witnesses were prescribed in the old Act at the time of taking food sample. The food inspectors take what are called stock witnesses wherever they go. Very often the same witnesses figure in many cases and the courts are reluctant to convict the offenders on the testimony of such witnesses. Often too, they turn hostile and towards the end they say: "we do not know what has happened. We came towards the end when the sample had been taken." Cases fail also on that account. Now, it has been stated that one witness is necessary and that he must sign the records. It is necessary that one person of the locality is taken as a witness.

The public analyst should be a person with experience and qualifications. We know instances where these articles were got analysed by a public analyst of a particular locality: he gave one report; that report was challenged; the matter was sent to Calcutta and a different report was obtained, which contradicted the first report. Therefore, it is very necessary that the analyst should be chosen very carefully and posted in different places so that samples could be sent for analysis immediately, without any

delay. After two or three months delay, as Mr. Chatterjee pointed out, there will be deterioration in the condition of the samples.

The provision of a warranty clause is a very good provision. If a person refuses to give the name of the dealer or manufacturer it is also made an offence.

I have a few words to say about the original clause 8, i.e. section 19(2). The Select Committee seemed to think that the question of exercising reasonable diligence to ascertain that the article of food is not adulterated or misbranded by the vendor is not necessary because of the warranty. It may lead to some difficulty. There may be manufacturers who can have their nominees as vendors and they will be selling these things through their nominees. The vendor will be fully aware that the manufacturer is not giving the stuff which he purports to sell. In such cases it is necessary that the vendor also should not go scotfree. The Select Committee have recast that particular clause as they wanted that an innocent vendor should not be punished. If the prosecution is able to prove that he is in league with, the manufacturer or if he was fully aware of that,—the burden may be cast on the prosecution to prove that the vendor knew at that time that he was doing these things—he should also be made liable. Innocent persons should not be troubled. At the same time there should be some check to see that persons do not pass off articles of food which are really not so but adulterated.

Mr. Chairman: The hon. Member should try to conclude now.

Shri A. S. Alva: I generally welcome the amendments that had been made to the parent Act. If a further clause is added as I suggested to clause 10, which is section 19(2), it will put the position right as the original clause 8 which contained these provisions had been recast deleting what I have just mentioned. The clause only says: "with a written warranty in the

[Shri A. S. Alva]

prescribed form". If that is done, it is presumed that he has committed no offence. But I submit that if a provision is added to the effect that if the prosecution is able to prove that he is in league with or is aware of the adulterated nature of the foodstuff, he should also come within the purview of the law.

I give my full support to the Bill. It is very timely, and I am sure it will be fully implemented both in the States and at the Centre. There is nothing wrong in respect of the co-ordination which was referred to. These are the people who commit crime; the Centre may detect offences in its own way and the States may do it in their own way, especially when there is a procedure as to how it should be done.

Shrimati Savitri Nigam (Banda): Mr. Chairman, I welcome this measure wholeheartedly not only on my own behalf but on behalf of the thousands of millions of housewives in India who spend three-fourths of their lives in doing hard labour for the good health and longevity of their sons and daughters. But in return they get nothing but shock, misery, death and disease. Certainly, this measure has given a ray of hope to those housewives.

My views regarding capital punishment are very well known. The conditions are so deplorable that if anybody is to be awarded capital punishment, it should be to nobody else but these people, these anti-social, inhuman traders, who commit the crime against society. They must be hanged. In my opinion, nothing can be a more calculated murder than the adulteration of foodstuffs with poisonous seeds and other poisonous stuff. So, no punishment is too severe for these criminal people who commit crime repeatedly and in broad daylight. A poor murderer commits murder on the spur of the moment but these people do it in a calculated way.

I would like to put a question to the hon. Minister very humbly, because she is making very sincere efforts to put an end to this menace. Has she got hopes that this amended legislation is going to solve the problem? I would like to submit that the stricter the measure is, the more effective and more cunning are the methods that are being adopted by the anti-social people who evade the law. Even when these people are awarded the punishment, after undergoing and completing the punishment and paying the fine, they again start indulging in the same crime, and they thus make a sort of normal living through these methods.

I would suggest that punishment alone is not enough. Besides providing a severe punishment, these people should be deprived of civic rights, and the property which they earn so sinfully must be confiscated and they should be deprived of the civic rights including the franchise, and be disqualified from holding any office.

Here, I would like to narrate my own experience. One day I invited a few of my daughter's friends. When a magistrate entered my house—because one of my relations is a magistrate here and he was also invited—one of the invitees asked, "Is he a magistrate?" Then she was told, "Yes." Then she said that "he has awarded three months' imprisonment to my father for food adulteration." And then I asked her, "You were telling me that your father is a member of the Corporation." She said, "Yes, but after completing the punishment he got elected." That is why I say that unless these offenders are deprived of their rights to franchise and be disqualified from holding public office, they will not improve.

Then, in my opinion, duplication of the authority causes difficulty on the part of the executive authority. The food inspectors who are going to be appointed should be appointed by the

Centre, instead of by both the Centre and the States. Many hon. Members had mentioned about different standards which are laid down by different State Government. Again, the same kind of foodstuff is given in a different standard by different States. This also causes great difficulty. There are three agencies now—the Indian Standards Institution, the Agmark organisation and this Bill, would like to suggest that there should be only one institution to take decisions about standards. It is good that a representative of the Indian Standards Institution is going to be taken, but that is not enough.

I would also like to emphasize that this Bill alone cannot solve the problem. It is most important to create a sort of incorruptible machinery to execute the law. On page 2 of this Bill it has been mentioned:

“Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a food inspector.”

But I would like to know what would happen when these food inspectors collaborate with the traders which collaboration they are now having? No illicit trade or adulteration of foodstuffs can go on so shamelessly as it is going on now unless with the connivance of the food inspector or the collaboration of the food inspector. So, I would like to emphasize on the creation of a different machinery. I would like to suggest such a machinery, which will not only be incorruptible but will be the a round-the-clock self-generating machinery and which will not also involve any expenditure at all. This machinery which I am suggesting has already been tried at Simla. It has worked so well that I do not think I can doubt that it will not work anywhere else. The scheme is this: a couple of housewives got together and reported to the authorities that the prices are soaring and something should be done. They also

suggested that there should be voluntary negotiation with the trader and the administrator. That happened. The prices were fixed. But the question arose as to how to implement the prices, because we know that in spite of the decision taken by the administrators to fix and declare the prices, again corruption would prevail. So, we made a request to the authorities that either they should grant long leave to those inspectors or they should ask them only to work in the offices. We generated our own machinery to check up whether the prices were enforced properly or not. In every market, a committee of the housewives was appointed, and one control office was established in the office of the Director of Food Supplies. Two housewives used to sit there all the time. The housewives were given the number of the control room. Whenever they happened to see that anybody was selling foodstuffs at a price greater than the declared price, they immediately telephoned to the control room, and immediately, within 20 minutes, the Flying Squad would come along with the housewives and would arrest the trader then and there. The result was that the traders could not ‘purchase’ the house-wives who were informing the control room or who were bringing their doom. The traders who of course used to ‘purchase’ those inspectors who were expected to keep a watch on them. The result was that 20 people were arrested in one month but after that, the prices of foodstuffs remained the same as were decided and declared by the administration. Thus, every trader became so much afraid not only of the inspectors but of every housewife or every man or women who came to purchase foodstuff from him. Thus, a self-generating machinery was created, with the result that on the one hand, no innocent person was punished and all those people who were doing honest business were safeguarded and on the other hand, all those people who were going to be tempted to sell their foodstuffs at increased prices

[Shrimati Savitri Nigam]

were also discouraged to a very great extent. Instead of appointing these food inspectors, if the hon. Health Minister can take the help and co-operation of the National Housewives' Association and its members, I am sure the aims and objects of this amending Bill will be fulfilled.

14.00 hrs.

I want to say a word about these public laboratories and analysts. I have got a very sad experience in this regard. When I was a member of the Housing Committee, I was asked to visit the departments and canteens which are catering to the needs of Parliament Members. I took some samples. Half the portion of each sample was sent to the Government laboratory and the other half I sent to one of my friends who has got his own laboratory. To my surprise the results which came from the two laboratories were quite different. Out of 10 samples, 6 samples were defective, according to the private laboratory tests. But according to the Government laboratory, all these samples were all right.

Let us follow the example of Japan. They have given sufficient grants to voluntary associations like the housewives' association to run their own laboratories. With half an hour of a sample being sent to the laboratory, the results are announced. The test is done by incorruptible people. The social workers and housewives who do the tests have nothing to do with the trade and they do not know whose sample they test. That is why they always give the correct results. If this sort of arrangement is made by the Health Ministry here also, I am sure all the aims, and objectives of this amending Bill will be fulfilled and the hon. Health Minister as well as the Deputy Minister will be doing a most valuable service to the people.

With these words, I welcome this Bill and I wish them all success in implementing it.

Shri Muthiah (Tirunelveli): Mr. Chairman, I rise to support the Bill. The object of this Bill to amend the Prevention of Food Adulteration Act of 1954 is to check the growing evil of adulteration of food articles and to provide for more deterrent punishment. The Bill contains a number of useful and essential amendments to the present Act. It provides for severe deterrent punishment for the offenders and gives protection to the innocent vendors. Adulteration of food is most prevalent today in all parts of the country. It is a heinous crime against society. The people who adulterate food are the greatest sinners against God and man. They care only for their own profit and self-interest. They never care for the health of the people. Adulteration of food is most criminal today in view of the severe food shortage through which the country is passing and Government has a special responsibility now to give to the people clean and unadulterated food.

Adulteration takes place in different articles of food like milk, ghee, gingelly oil, black-gram, rice, etc. In spite of the provision of deterrent punishment, we find sellers of milk adding much water. We also find ghee adulterated with the addition of some edible fat. It is difficult nowadays to get pure ghee. Gingelly oil is mixed with groundnut oil. Black gram is adulterated with the addition of small particles of black clay marked with white dots. This was done by some merchants in our part of the country. A case was instituted but unfortunately it had to be withdrawn because of pressure. All these criminal acts deserve the severest punishment.

I want to say something about the sale of aerated waters like soda. In these cases, adulteration takes place, if any, at the source, i.e. at the place of manufacture. Licensed manufacturers manufacture them and sell them to the petty retail merchants. These petty retail merchants sell them along with betel, betel nuts,

jeedies and cigarettes. I submit that these petty retail merchants should not be harassed under this Act. But we find that they are brought within the purview of this Act, and they are harassed by the food inspectors or sanitary inspectors of the municipal bodies. They are also compelled now to pay licence fees for carrying on such trade, i.e. selling soda and other aerated waters. Recently, in September, 1964, the Tamilnad Betel, Betelnut, Beedi, Cigarette Retail Merchants' Association has sent a memorandum to the Central Health Minister, a copy of which has been sent to me. The office-bearers of the Association met me and we had long talks. Their grievance is that they are brought under the purview of this Act and harassed by the sanitary inspectors of municipal bodies. They are appealing that they should be exempted from the payment of licence fees. I appeal to the Central Health Minister to issue instructions to the State Governments and municipalities, so that these petty traders may be exempted from payment of licence fees, because even if there is any adulteration, it is not their fault. It is the fault of the manufacturers.

In the district of Tirunelveli, there are a large number of producers of gingelly oil who are poor and who do it as a cottage industry. It is a thriving cottage industry. They produce gingelly oil in their own homes with the help of indigenous oil presses. They sent a memorandum to the Central Health Minister as early as 1962. I met the Health Minister in 1962 and she said that she would consider the matter. I do not know what action has been taken. These poor people, produce gingelly oil and because of competition from the mills, they are not able to sell it immediately and so they store it for some time. The tests at the Guindy Institute have revealed that if gingelly oil is stored for some time the fat content increases above the 3 per cent, which is the prescribed limit. So, these poor producers are harassed by the sanitary inspectors for no fault of theirs. Their case

should be sympathetically considered by our Health Minister.

The Select Committee has made a number of useful recommendations such as the appointment of public analysts along with food inspectors and the right of the vendor, besides the food inspector, to place his seal on the food samples when they are taken for analysis. I plead that along with public analysts, at every district level there should be a food analysis laboratory. This would protect the interests of innocent vendors.

With regard to the provisions of the Bill, there are very useful amendments to the parent Act, particularly amendment of section 14. That is a commendable amendment. It says:

"No manufacturer or distributor or dealer of any article of food shall sell such article to any vendor unless he also gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor."

Shri Narendra Singh Mahida: On a point of order, Madam. In the first session of the third Lok Sabha, it was ruled by the Speaker that normally Members should not approach the Chair. I have repeatedly brought this to the notice of the Chair. I submit that it should be observed.

Mr. Chairman: I think it will be observed by all hon. Members.

Shri Muthiah: Then I come to amendment of section 9 of the Act. This amendment is necessary. It reads like this:

"(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves—

(a) that he purchased the article of food, . . . from a duly licensed manufacturer, distributor or dealer;

* * * with a written warranty in the prescribed form; and

[Shri Muthiah]

(b) that the article of food while in his possession was properly stored and that he sold it in the same state as he purchased it."

This amendment is desirable because it protects the interests of innocent vendors.

Finally, I come to the provision of Parliament's power to review the rules which says:

"Every rule made by the Central Government under this Act shall be laid before each House of Parliament * * * * and if both Houses agree to modify it or annul it, it shall be so modified or annulled."

This is also a necessary provision.

श्री शिव नारायण (बांसी) : माननीय चेयरमैन महोदया, मिलावट हमारे देश के लिए एक बड़ा अभिशाप है। मेरी रूढ़िवादी फारिन कंट्री की है। वहाँ यह हाल है कि जो चीज आप चाहे हैं वही आप को दी जाएगी चाहे उसका दाम जो भी लें। लेकिन हमारे देश का मारल इतना नीचा उतर आया है कि जो चीज आप चाहते हैं उसका नाम ले कर दूसरी चीज दी जाती है, और मैं कहता हूँ कि इस के लिए जिम्मेवार सफेद पोश लोग हैं। आप अमरीका में चले जाइए, इंग्लैंड में चले जाइए, रूस में चले जाइए, जो चीज आप डिमांड करेंगे वही आपको दी जाएगी चाहे दाम जो भी चार्ज कर लिया जाए। लेकिन हमारे मुल्क में आलम यह है कि अगर किसी दुकान पर आप मलाई मांगते हैं तो उसमें-ब्लॉटिंग पेपर मिला कर आप को दे दिया जाता है। इस तरह का एक केस लखनऊ में चौधरी की दुकान का चल चुका है। मलाई में ब्लॉटिंग मिला हुआ खाने का नतीजा यह होता है कि जो आदमी पचास साल जिन्दा रहने वाला है वह तीस बरस में ही मर जाएगा। यह तो मरडर से भी बड़ा अपराध है। जो आदमी मरडर करता है वह तो एक आदमी

को मारने के कारण ही दफा 302 का मुजरिम हो जाता है, लेकिन जो इस तरह की मिलावट करता है वह तो हजारों आदमियों को मार रहा है।

मैं आपके सामने मामूली मामूली चीजों की मिसाल देना चाहता हूँ कि उनमें किस प्रकार मिलावट की जा रही है। काली मिरच में जो कि बाजार में बिकती है चूहे की लेंडी और पपीते के बीज मिलाए जाते हैं। यह कितना बड़ा अपराध है। धनियाँ में नाना प्रकार की चीजें मिलायी जाती हैं। सरसों के तेल में यह करते हैं कि सरसों के साथ भड़भाड़ के बीज मिलाकर पेर देते हैं, और ये बीज जहरीले होते हैं। इतना बड़ा जुर्म कौन करता है? इसको ये सफेद पोश लोग करते हैं, जो बीस परसेंट इस मुल्क के एजूकेटेड लोग हैं वे इस जुर्म को कराते हैं। वे इसके लिये जिम्मेदार हैं। लोग शिकायत करते हैं कि शुद्ध घी नहीं मिलता, शुद्ध तेल आदि नहीं मिलता। मैं पूछता हूँ कि इसके लिए कौन जिम्मेदार हैं? सारी सोसाइटी, गवर्नमेंट और हम सब इस के लिए जिम्मेवार हैं। यह इस देश के लिए बड़ी बदनामी की बात है।

सरकार ने यह कानून तो बड़ा दुन्दर बनाया है, लेकिन मैं चाहूँगा कि इस पर अमल भी पूरे तरीके से हो। हम अक्सर देखते हैं कि कानूनों पर अमल ठीक तरह से नहीं होता, जो अफसर हैं वे भी मिलावटी चीजें खा रहे हैं। हमारी एक बहिन ने अभी बतलाया कि हम जो चीज बाजार से लाती हैं उसमें मिलावट होती है और वही बच्चों को खिला दी जाती है। जिन माताओं को ज्ञान नहीं होता उनको ये चीजें दे दी जाती हैं। मैं कहता हूँ कि मंत्री महोदया जो कि इस विभाग की इनचार्ज हैं वे स्वयं डाक्टर हैं और स्त्री भी हैं, वह अपनी जिम्मेवारी अच्छी तरह समझती हैं। यह खुशी की बात है कि यह काम उनके हाथों से हो रहा है। मैं चाहूँगा कि जितनी दिलचस्पी वे इस कानून को पास

कराने में ले रही है, उतनी ही दिलचस्पी इस पर अमल कराने में भी लें।

कुछ जुर्म टैकनीकल तरीके के भी होते हैं उनमें सजा उसी अनुसार दी जानी चाहिए। मैं यह नहीं कहता कि फांसी दे दी जाए लेकिन ऐसा प्रयत्न किया जाए कि इस कानून क असर हो। यह देखा जाए कि अफसर कानून पर ठीक से अमल करें। मैं आपको एक उदाहरण देना चाहता हूं। मैं खलीलाबाद से बस में आ रहा था। रास्ते में एक स्टेशन पर एक पेंसिजर उतरा और दो सूडीज़ नीचे खड़ी थीं, डॉक्टर ने ड्राइवर से कहा कि उनको बिठा लेने दो लेकिन उसने नहीं बिठाया। इस पर मैंने कम्प्लेंट बुक मांगी तो उसने कहा कि नहीं है। तब मैं ने दो पेंसिजर्स की दस्तखत कराकर शिकायत की। आज यह चैकिंग नहीं होता कि अफसर ठीक काम करते हैं या नहीं। अगर पुलिस स्टेशन पर जा कर रिपोर्ट लिखायी जाए तो शिकायत करने वाले को परेशान किया जाता है। तो मैं सरकार से कहना चाहूंगा कि आप अपना एड-मिनिस्ट्रेशन दुर्लक्ष करें तो काम हों सकेगा। आज हो यह रहा है कि बड़े लोग घपला करते हैं और छोटे लोग पकड़े जाते हैं। जो बड़ा माल मारता है उसको कोई नहीं पकड़ता, वह बच जाता है।

मैं कहूंगा कि जो आपने इसमें फलांगिंग रखा है.....

डा० सुशीला नायर : नहीं रखा है।

श्री शिव नारायण : मैं नहीं कहता कि फलांगिंग रखा जाए। लेकिन आज हालत यह है कि किसी को कानून का भय नहीं है। इसका कारण है कि धर्म का लोप हो रहा है। आज हमको समाज में धर्म के प्रचार की आवश्यकता है। आज लोगों को ईश्वर का डर नहीं रहा है। माननीय मंत्री महोदय डॉक्टर हैं, डॉक्टर भी दूसरा भगवान होता है। आज देश में लोगों में ईश्वर के प्रति

श्रद्धा और भय की भावना पैदा करने की जरूरत है।

14.17 hrs.

[SHRI SONAVANE in the Chair]

फुड में मिलावट क्यों होती है ? इसका कारण यह है कि गल्ला बहुत महंगा हो गया है। अगर इनकी प्राइसेज डाउन कर दी जाएं तो मिलावट का खतरा कम हो सकता है यह मेरा सुझाव है। दवाओं तक में मिलावट हो रही है। अस्पतालों में पानी का इंजेक्शन दे दिया जाता है, ऐसा हमको बताया गया है। शुद्ध शहद नहीं मिलता। सोडा, कोका कोला, लेमन आदि जो चीजें बनायी जाती हैं इनमें बहुत गड़बड़ रहती है इससे बीमारियां फैल रही हैं। आप अच्छे लोगों को अफसर रखें। जो लड़के यूनीवरसिटियों में पास होते हैं उन में से अच्छे लड़कों को अफसर बनावें और पुरानी मैशिनरी को दूर करें तो काम अच्छा होगा : यहां आज सवरे सबाल के सिलसिले में कहा गया था कि पुराने इंजीनियरों को हटा कर नए इंजीनियर रखे जायें तो काम अच्छा होगा।

तो मैं कहता हूं कि इस बिल पर सही तरीके से अमल किया जाए। आशा है कि डा० सुशीला नायर के हाथों देश की यह शिकायत दूर होगी। और धी में जो मिलावट होती है उसको रोकने के लिए मेरा सुझाव है कि वेंजीटेबिल धी को पक्के रंग से रंग दिया जाए। ऐसा करके सरकार जनता की भलाई कर सकती है। आज जनता की सरकार है, जनता ने उसको बनाया है। कानून बनने के बाद उस पर ठीक से अमल होना चाहिए ताकि देश में सुख हो और लोगों का स्वास्थ्य अच्छा हो। आज हमें बल की जरूरत है। इस प्रकार हम देश के लोगों को स्वस्थ बना सकते हैं। लेकिन इस मिलावट के लिए जिम्मेवार कौन है। इसके लिए ये ही लोग, ये सफेद पोश लोग, जो कि यहां हस रहे हैं, जिम्मेवार है। कोई बरी नहीं है।

[श्री शिव नारायण]

मैं गवर्नमेंट से कहूंगा कि केवल इंस्पेक्टर की रिपोर्ट पर ही नहीं चलना चाहिए। अगर कोई कंज्यूमर शिकायत करे तो उसकी रिपोर्ट पर भी ध्यान दिया जाना चाहिए। लेकिन आज सुनवायी नहीं होती। पुलिस में जाकर रिपोर्ट लिखायी जाए तो रिपोर्ट कराने वाले को ही तंग किया जाता है। मैं चाहता हूँ कि गवर्नमेंट इस मामले में स्ट्रिक्ट हो। आज हालत बहुत गम्भीर है। एक रुपए का सेर गल्ला बिक रहा है, चाहे चावल हो तो एक रुपए सेर, चाहे गेहूँ हो तो एक रुपया सेर, या मक्का हो तो एक रुपया सेर। सब चीज 22 पैसे की हो रही है। सब का एक दाम है। इस प्रकार का घपला हो रहा है। मैं चाहता हूँ कि गवर्नमेंट सही माने में स्ट्रिक्ट होकर इस कानून पर अमल कराए। केवल कानून बना लने से फायदा नहीं हो सकता। उस पर पूरी तरह अमल होना चाहिए।

इन शब्दों के साथ मैं इसका समर्थन करता हूँ।

Dr. M. S. Aney (Nagpur): I think the hon. Minister of Health has done a great service by bringing in this measure for the consideration of the House. In my opinion, adulteration is one of the worst antisocial activities that can be imagined. They secretly mix some injurious stuff with a pure article and thousands and millions of people are affected by their mischievous and nefarious activity. There has been a law before, no doubt, but it has been found that the law as it stands requires to be made stronger and more effective. From that point of view an amending Bill has been brought here and I am glad for it. Though it may not contain everything that everybody wants, it has certainly made certain very salutary changes which have to be noted.

For example, in my opinion, the provision for the appointment of a public analyst is a very important

one, because unless there is quite effective scientific arrangement to analyse suspected articles, no law for the prevention of adulteration could be effectively administered at all. So, that is a very important provision that is made there.

So also, imposing a liability on the manufacturer to give a warranty to the vendor about the quality of the goods is another improvement in the right direction. It will enable the inspectors to detect the offenders.

Thirdly, a vendor is required to disclose the name and the address of the person from whom he has purchased it. All these new liabilities which have been created are in my opinion of great use in effectively administering this law and helping the cause of diminishing the vice of adulteration, as far as possible.

But I find there is one great difficulty about this law. Unless there is an effective system of licensing factories, manufacturing industry as well as shops, it would be difficult for the Government really to administer it properly. Nobody should be permitted to open a shop anywhere without a licence. If anybody is permitted to open a shop anywhere without licence it is very difficult to find out from where he has obtained his goods. So, there should be licensing and there should be a system for knowing from every shopkeeper the source from which he has got an article. Then alone will we be able to find out the real culprit. The retail shopkeepers are generally purchasers from big wholesalers. They have no source of knowing whether the article that has been supplied to them by the wholesaler is a pure one or adulterated one. So, if an article sold by a shopkeeper is found to be an adulterated one, it should be possible to know who are the wholesalers that have supplied it. The wholesalers should have the responsibility to disclose the name of

the person or firm from whom they have got these things.

If this law is properly administered, it can be of great use. I believe that no anti-social law could be successfully administered unless there is real co-operation from the people in that direction. That is one of the pre-requisites for successful implementation of the measure.

Then, one of the reasons for adulteration is, as somebody put it, excessively high prices for food articles. There is a tendency on the part of shopkeepers to get the largest number of consumers. One of the temptations he can offer is to sell at a cheaper price what is sold elsewhere at a higher price. Since he cannot do it in the case of pure genuine stuff, he adulterates his articles with some other articles which are cheaper. As this unhealthy and unsocial tendency is slowly spreading, simultaneously, an attempt should be made to bring the prices to a reasonable level. If all these things go on simultaneously and in a spirit of co-operation, the new Bill which the hon. Health Minister has brought forward for bringing down or eliminating this evil of adulteration may have a fair chance of success. I wish her success in that direction. I congratulate her for having brought forward this Bill.

Mr. Chairman: Shri P. C. Borooah will have five minutes.

Shri P. C. Borooah (Sibsagar): I congratulate the Health Minister for bringing forward this Bill at a time when the country is facing extreme scarcity of food. That is why it is all the more necessary that this Bill should be passed into law soon so that whatever food is available in the country is received by the consumers in a pure form.

As the time at my disposal is very limited, I do not want to dilate on the present position or the defects in the existing Act. Leaving aside all that, if the implementation of the law is not given its due importance, the passing of any legislation or providing of any type of severe or harsh punishment will be of no avail. They will remain dead letter enactments in the archives of the Law Ministry. What is wanted is strengthening the machinery for the implementation of this law. There should be enough of inspectors so that the whole country could be brought within the purview of this law simultaneously. For this purpose, I would suggest that the Block Development Officers should be delegated with the powers of the inspector under the Act. There should be special officers in all towns with a population of 10,000 or more. Then, there should be one chemical laboratory at the headquarters of each district. I need not repeat the arguments in favour of this, because they are well known. So, no further justification is needed for strengthening the machinery.

While eradicating this evil of adulteration, we should see that the smooth and regular trading in the country is not disturbed. In this regard I have to mention one thing. In section 2 the word "adulteration" is defined. In the general connotation of the term adulteration, it is said as admixture of foreign materials. Another definition is given according to which articles falling below the prescribed standard in purity, also are taken as adulterated. The standard of purity can be determined only by chemical analysis. There is one apprehension in the minds of a certain section of the people in this regard. During the second world war and afterwards when there was a spurt in the demand for articles and black-marketing and adulteration were going on in every trade, the tea industry was free from all these practices and it was enjoying a fair name.

[Chri P. C. Boroohah]

So far as tea is concerned, there is an apprehension in the mind of the tea traders, there is an apprehension in this industry. 800 million lbs. of tea is being manufactured in this country today, out of which 600 million lbs. of tea is exported. In regard to the tea that is exported you should consider that it is competing with the standard of purity in other countries like U. K. and U.S.A. This has been there for the last eighty or hundred years.

So far as the 200 million lbs. of tea which is sold in India is concerned, that is also being sold in two auction markets, one in Calcutta and the other in Cochin.

There are some registered brokers who are charged with the responsibility of sampling and also pricing, all by visual examination. They do not go for any chemical examination, and that is working very satisfactorily. And this body of brokers is constituted by the Government. It is going on for the last so many years.

Now the apprehension is that a tea which may be passed by the brokers may be found to be sub-standard according to the provisions of this Bill. It is not injurious to health. Suppose this is the case. Then it will go for chemical examination. It won't be possible to send the entire tea for chemical examination, because about 9 million lbs. are sold every week in the open market. If you subject it to chemical analysis, then there will be dislocation in the overseas trade. Not only will the work of the industry be dislocated but our export earning, our foreign exchange earning will also be disturbed.

For this reason I want that this Bill should provide that the report of the brokers, which system is working so satisfactorily, should be considered sufficient, or it should be classed at par with the report of the registered analyst. If that is not done there will be dislocation in the tea trade. That is why I have to mention this

point to the House and I request the hon. Minister in her reply to throw some light over this matter and see that this industry is not thrown out of gear.

Dr. Sushila Nayar: Sir, I am grateful to the House for the welcome that it has given to the proposed amendments which we have brought forward as a result of the repeated concern expressed by hon. Members about the prevalence of adulteration of food-stuffs.

There are no two opinions that this evil is something horrible. I find myself in agreement with those hon. Members who have expressed the view that the murderer murders one person whereas the adulterator murders several persons. I am therefore somewhat surprised to find that some hon. Members have not liked the moderate increase of punishments which has been proposed in this Bill. On the one hand we have the extremists who are asking for public flogging and capital punishment for the offence of adulteration, and on the other we find those who have expressed the view—very few, one or two only, but all the same there are those who have expressed the view—that the provisions of the Act as they are are quite enough and there is no need to make the punishments more deterrent.

This shows that the hon. the Joint Committee has been wise in taking the middle course and the punishments that have been proposed are suitable and should be given a trial.

Then, it has been stated that the rules need revision and the rules should have been first amended before the law is amended. That is a very strange proposition, because, after all, the rules must follow the law and they cannot precede the law.

14.34 hrs.

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

So, whatever revision will be necessary will certainly be done, and the

revised rules, according to the provisions of the law will be placed on the Table of the House, so that any hon. Member who wishes to study them and make suggestions will be at liberty to do so. In fact, we would welcome any suggestions that hon. Members may like to make at that stage.

Then, Sir, it was stated with regard to the rules and standards that the standards are arbitrary. I wish to submit that the standards are not arbitrary. The standards are laid down after making analyses of hundreds of samples, or a large number of samples, in a particular area, and it is the common denominator which is taken note of. Further, Sir, may I submit for the information of hon. Members that the standards lay down the lowest denominator. Suppose the amount of fat in milk varies from 12 per cent to 7 per cent in a particular area. The standards will say, the minimum of 7 per cent fat is necessary. The law does not say that it should be the average of 7 and 12. But if it goes below 7 per cent, then only the man will come into trouble. The honest man has nothing to fear from these standards; it is the dishonest man who wants to adulterate and dilute . . .

Shri Mohan Swarup: I want a clarification.

Mr. Deputy-Speaker: He must hear the hon. Minister. He has had his say.

Dr. Sushila Nayar: For him dilution from 12 per cent to 7 per cent would be all right. It may be said that the law allows the dishonest man to dilute the milk, or whatever it is, so that the value comes down to 7 per cent although the natural value may be higher. Now, it is very difficult to do anything else except to lay down the minimum standard, the minimum requirements, and that is what the law has done.

1591(Ai)LSD—6.

A good deal was stated regarding different values of R M and certain other values of ghee in different parts of India and the harassment that may be caused to the traders as a result of that. The truth of the matter is that as a result of the surveys conducted by the Directorate of Marketing and Inspection the standards for the ghee were revised in September 1961, and the standards were again revised in October 1964 for Gujarat and Madras. Now, what happens is that the food of the animals being different in different parts of India, certain values vary. And in order to prevent harassment these values have been fixed for those particular areas. The question was asked: What happens when the ghee is taken and sold in another State, will this honest trailer be harassed? No, that does not happen. Under Rule 44B of the Prevention of Food Adulteration Rules, ghee having a lower value can be sold in areas where normally ghee has higher values under the Agmark seal.

Shri Mohan Swarup: But it should be treated as sub-standard and not adulterated.

Mr. Deputy-Speaker: Order, order. He cannot go on when the Minister is speaking.

Dr. Sushila Nayar: This is being done for ghee . . .

Shri Mohan Swarup: I want a clarification. Why do you want to deny me that right?

Mr. Deputy-Speaker: Order, order.

Dr. Sushila Nayar: For instance, ghee produced in Guntur (Andhra Pradesh) is sold in Calcutta under this Agmark seal. Those people who wish to sell ghee outside their own State must have a certain status, a certain capacity. Then only are they able to have inter-State trade and they can resort to this device. So that, there should be no trouble or difficulty of any kind.

[Dr. Sushila Nayar]

Then, it was stated: why should there be a different standard between table butter and *desi* butter? It is obvious that the mechanism of production of table butter is such that a good deal of moisture etc. can be removed, whereas *desi* butter has more of moisture and a little bit of the butter milk, or milk depending on whether it is made from curds or from milk; a greater proportion of this basic material remains in the butter when it is made in the home and it is *desi* butter. Therefore it has been considered necessary to have two standards for these two types of butter. It is entirely to prevent harassment to the honest man who is in the trade and, at the same time, to safeguard the interests of the consumer.

It was stated by some hon. Members that we should have a high-power committee for laying down the food standards. May I submit that there is a very high power committee for laying down food standards; it consists of experts from the States as well as the Centre. There is no reason for anyone to consider that we can find better experts from outside or from elsewhere than these experts who have no axe to grind of any kind and who lay down these standards, as I have said, after following a specific procedure.

Further in this amending Bill, the hon. Members will find that we have included a member from the Indian Standards Institute. Two Agriculture Ministry people, so that the marketing organisation etc. are also included, and the Commerce and Industry Ministry people are also included, so that all those who can have an interest in proper standards are included. As such there is no reason for anyone to have any fears regarding the standards not being correct.

Shri Mohan Swarup: But where are the data for the standards?

Dr. Sushila Nayar: May I request the hon. Member to have patience? I heard him patiently, but he does not

want to hear the opposite points of view. What can I do, if his speech was entirely based on wrong information and his facts cannot stand scrutiny? I am giving him a reply and if he does not like it, I cannot help it.

Shri Mohan Swarup: You are master of each and everything.

Dr. Sushila Nayar: Then, this committee has not laid down the standards once for all. We are taking the standards on the prevailing conditions provided those conditions are observed honestly. We are trying to improve conditions so that the standards can progressively increase and become better and better. For instance, so much of grit and sand is allowed in certain spices; so much of rotten grain is allowed in foodgrains and so on and so forth. What is allowed is more than enough to protect the normal processes under the present conditions that prevail in the country. But if somebody wants to pass off all the rotten stuff, certainly that man will have to be afraid of the provisions of this law. If somebody wants to put a lot of stone and grit in foodstuffs, that man will have to be afraid of the provisions of this Act, not otherwise.

Then, it was stated that we should not go by the Central Food Laboratory but by the results of the Shri Ram Laboratory or the Haffkine Laboratory. May I inform the hon. Member that the Haffkine Institute is under State Government and the Central Food Laboratory is under the Central Government? That is the only difference. How and why the results of Shri Ram Laboratory are to be relied upon more than the results of the Central Food Laboratory passes my understanding.

Shri Mohan Swarup: I was saying that there should be an independent institute.

Dr. Sushila Nayar: The Shri Ram Laboratory is a private laboratory

whereas the Central Food Laboratory is not and as such, I am afraid, its verdict has got to be taken as independent, impartial and the final verdict where analysis reports are concerned.

Shri N. C. Chatterjee mentioned that sometimes the Supreme Court does not take a serious view of adulteration because the analysis may have been made two to three months later and deterioration takes place in this interval. May I submit that the experts have found out certain preservatives so that deterioration is not allowed to take place when analysis takes place some time later. I am not saying that we should not have more expeditious analysis. As a matter of fact, in the Central Food Laboratory during the last year we saw to it that food samples sent to them were analysed as expeditiously as possible and to the best of my knowledge they were all finished within two to three weeks; certainly, they did not go beyond a month. Some of these samples cannot undergo any deterioration. Only certain kinds of articles need more rapid analysis and attempts are made to take care of these and the fears that have been expressed.

I agree that perhaps the information machinery of the Government has not been as adequate so that people do not seem to know how standards are fixed, how the law is implemented, what the various steps are and how analysis is carried out. I take this suggestion that we should take more care to inform the public as to the implications, the procedures and the methods by which the law is being implemented.

It was stated that we should concentrate on things like butter and milk and not bother about spices. The truth of the matter is that it is not butter and milk alone that are adulterated; there are many other things too that are also adulterated and spices, which one hon. Member wanted us not to bother about, are one of those things which are adul-

terated in the worst manner possible. For instance, turmeric, which is in every day use in every household in India, is painted with lead chromate which is a poison. How can we say that unless the spices are ground, they are not adulterated? It is the bulbs of turmeric that are painted in this manner to make them look more attractive and, therefore, perhaps to sell at a little better price.

Similarly, one hon. Member mentioned as to what horrible things are put in *masalas*, pepper and so on. So, it is very necessary that we keep a check on all articles as far as is possible. I am in entire agreement that we should try to check as much as possible at the source. The Central machinery that is proposed is meant to concentrate more on those articles which go into the inter-State markets and also in certain other ways to help and supplement the State machinery.

I was really surprised at the suggestions of Shri Harish Chandra Mathur because he wanted the Minister to give an assurance that adulteration will disappear within a year if these laws are passed. We have had capital punishment for murder from times immemorial and yet murder has not disappeared. All that we can do is to do our level best to keep these evils in check and, I hope, in that process the hon. Member, Shri Harish Chandra Mathur, and others like him will come forward and give the maximum cooperation instead of being satisfied with making a speech and not even being present to hear a reply.

It was stated by Shri Mohan Swarup that the Centre should take the entire responsibility for the implementation of the law and Shri N. C. Chatterjee gave the reply as to how it was not practical or possible that the Government of India should take the entire responsibility of implementing this law all over India.

Shri Mohan Swarup: We can amend the Constitution.

Dr. Sushila Nayar: What we propose to do is to appoint an adequate number of food inspectors where there is special need for strengthening the machinery and also to have control inspectors to take samples of articles of food entering the inter-State trade. These food inspectors will also inspect and take samples from manufacturing units. In addition, we propose to have five zonal organisations so that they can help and supplement State Governments' efforts to the best extent necessary and possible. The Central coordination and guidance will also be there. I am in entire agreement that the laboratories need to be improved and the laboratories need to be above board so that their analysis can be relied upon. It has been said that it is better that they should not be under the municipalities particularly when the analysis reports are to be made the basis of these prosecutions. I wish to say that there are some corporations who have excellent laboratories and the results of their laboratories are very reliable. If there is any doubt, it is always possible to go to an appellate laboratory. What we are thinking of doing is to have more than one appellate laboratory so that the regional distribution of appellate samples can be ensured for more expeditious and speedy disposal of these samples.

It was then stated that the tests should be done in two places and not in one place. That is very difficult and unrealistic because if these two tests do not agree or agree, what will happen then?

Shri Mohan Swarup: They should agree.

Dr. Sushila Nayar: What is necessary is that we should have good equipment and well-trained analysts. If anyone has any doubt regarding the result of an analysis in any place, they can go to an appellate laboratory. There has to be an end to this process. You cannot go on endlessly. That is why the law lays down that once you have gone to the central appellate authority, its find-

ings are the final thing and no more analysis is considered necessary after that.

The hon. Member, Mr. Mohan Swarup, wanted that there should be five reliable witnesses for every sample. Now, the problem we are facing is that we do not find even two reliable witnesses when the inspectors go to take samples. That is why an amendment has been proposed that one or more witnesses should be there so that at least one should be there. Nobody would be happier than the Government and the authorities concerned if we can have several respectable people of the locality to come and be the witnesses. But generally the people who indulge in this adulteration etc. are of such a nature that respectable people of the locality do not wish to get mixed up with them and they generally keep away. The implementation of the law is very necessary. May I, in all humility, submit that for effective implementation, the machinery of the Government and the people must co-operate. The hon. Members, the State legislators and the Municipal Commissioners have a certain responsibility. When I was the Health Minister of Delhi State, we made an experiment wherein we told the people that anybody could come at a particular place at any time and say that the inspector should go with him for a raid and he need not even tell the inspector where they would be going and the inspector would go with them and the samples will be taken in their presence. This had a very salutary effect. If there is co-operation of this type of a thing, I am sure the implementation of this measure can improve very considerably.

It was stated by Shri H. C. Mathur that the proposal for Central machinery smacks of lack of confidence in the State and he paid some choicest compliments of incompetence at the top and inefficiency at the States level. Now, that is a very strange kind of statement for a responsible Member to make. The Centre has had no hand in the implementation

of the law. The Centre has come for the first time to take powers to appoint some inspectors. How can he blame the Centre for any incompetence in respect of any deficiencies that there might have been with regard to the implementation of the Prevention of Food Adulteration Act? Similarly, he cannot accuse the States of inefficiency because so far the implementation of this law has been primarily with the municipalities and the corporations. As such, I wish that the hon. Members of the status and standing of Shri H. C. Mathur would study the law before they make statements. He should see that his statements are not without foundation and I hope he will do that in future.

It was said by the same hon. Member and repeated by certain others that something more fruitful on which we should concentrate upon is that the Government should supply unadulterated pure food. I wish to say in all humility that we are not living in a totalitarian regime where the production and the supply of every kind of foodstuff is in the hands of the Government. In any case, the Health Ministry's job is to see that what is supplied is checked up at regular intervals and to see that it is of the right purity and quality. I entirely endorse the suggestion that maximum checking should be at the stage of manufacture when foodstuffs are processed and at the stage of source or mandies, etc. and I am quite sure that the machinery, when it is made a little more capable of breaking through the municipal boundaries will be able to attend to these things better.

Then, an hon. Member was very vehement that vanspati was used for adulteration and that it should be stopped and that public opinion should precede legislation. Now, so far as the manufacture of vanspati is concerned, I do not think that can rather be taken up under the Prevention of Food Adulteration Act. The hon. Member will have to move a resolution or whatever he likes and

ask the Food Minister to answer him on that score. But so far as the public opinion is concerned, I am quite sure that we have brought this legislation in answer to public opinion, in answer to the views expressed by the hon. Members on the floor of this House and I hope that they will not stop their interest after passing this legislation but will continue their interest in the same manner and see that there is better implementation of the law.

It was a strange kind of argument, on the one hand, to say that the consumers must be strengthened and, on the other hand, that the villagers who do not know the law will be harassed by this legislation. If the villagers do not know the law and they are not adulterating the foodstuffs, they have nothing to fear from. But if some of the city fellows have gone and corrupted the villagers and taught them the art of adulteration, then both will have to take the consequences. So far as the consumers' organisations are concerned, it is not the Government who can strengthen the consumers' organisation but it is the consumers themselves. I am glad to say that the consumers' organisations are growing up and they are taking more and more active interest in this whole business.

It was then stated that to check adulteration we should raise the moral values and that we should bring down the prices. The moral values again cannot be built up through legislation. The moral values have to be inculcated in the home and after the home, perhaps, in the schools and colleges and further by the personal example of everybody who is in public life. I do not wish to say anything more than this with regard to the question of moral values. Similarly with regard to the higher prices etc., we have had enough discussions and there will be other occasions also to discuss that question. So, shall not go into the question of prices etc. in connection with this legislation.

[Dr. Sushila Nayar]

15 hrs.

Then, it was stated that some food-stuffs or 'some oilseeds were burnt in Calcutta some two years ago. If the stuff was considered by the law courts to be so adulterated that it was harmful, they had no other alternative but to destroy that foodstuff. I am sorry that any article of our national wealth should have to be destroyed. But human life is more valuable than property. I wish we could reply upon the trade to this extent that the trade would say 'All right; the oil from these seeds will be used for making soap or some lubricants etc.', but I am sorry to say that that is not so. So, we cannot rely that they will use it for soap or lubricants etc. That is why the courts have to resort to this extreme measure of destroying the food stuff which they consider to be harmful. When traders go to the extent of mixing coal tar dyes with foodstuffs and lead chromate and that kind of thing, what can we expect from them. We can expect nothing from such dishonest men, and, therefore, the court has to order destruction of the stuff in that case.

It was stated by Shri A. S. Alva that the vendor might be in collusion with the manufacturer of adulterated food and therefore, the warranty clause should not free the vendor. The point is that if the manufacturer has manufactured adulterated stuff, he is the first culprit and he should be punished. If anybody can rope in the vendor, the court is free to take such action against the vendor also as it considers fit but I think that it is necessary to protect the honest vendor who has purchased an article in good faith from the market, and if he has not tampered with it in any way and if he can prove that it is in the same state in which he had purchased it there is no reason why this vendor should have to suffer for the fault of somebody else.

It was stated by more than one hon. Member that we should have capital punishment, and we should

have confiscation of property in order to punish these adulterators and to frighten them, Shri N. C. Chatterjee had answered it when he said that if we made the punishment extreme, the judiciary might be very reluctant to inflict such punishment, and therefore, capital punishment was not necessary. So far as confiscation is concerned, a sweeping confiscation of all property may not be possible. But if the hon. Member had brought forward an amendment to the effect that the means of manufacture of adulterated stuff or its distributor or its storage etc. should be confiscated, proposed something which could fall within the purview of the law, I would have been inclined to accept that amendment. I do not know whether it is possible for us to do so at this stage.

Then, Shri P. C. Borooah wanted us to take the brokers' testimony as equivalent to the Government analysts' testimony. I am sorry that we cannot do that. It is very necessary that we export good tea for preserving our trade and preserving the good name of our country. So far as the distribution within the country is concerned, the less said the better will it be. We all know what type of adulterated and inferior tea is being sold in the market. So, a little more checking rather than less checking of tea as proposed by Shri Borooah is necessary for this purpose.

With these words, I would request the House to please take into consideration the Bill as it has emerged from the Joint Committee.

श्री मोहन स्वरूप : मैं यह पूछना चाहता था मंत्राली महोदया से कि जब डेटा उनके पास मौजूद है तो मुझे और ट्रेडर्स को देने से क्यों एतराज किया गया, क्यों नहीं सप्लाइ किया गया ?

डा० सुशीला नायर : मुझे मालूम नहीं कि आप कौन सा डेटा मांग रहे हैं। मुझे पता नहीं कि कौन सा डेटा इन्होंने मांगा और वह नहीं दिया गया। अगर आप बाद में

पूछेंगे तो मैं बता सकूंगी। लेकिन जो फुड स्टैंडर्ड्स कमेटी बैठ कर तै करती है उसको कांट्रोवर्सी का मामला बनाना ठीक नहीं है।

श्री मोहन स्वरूप : मंत्री महोदय ने जब ज्वाइंट सिलेक्ट कमेटी की कार्रवाई चल रही थी तो यह आश्वासन दिया था कि एक एक्सपर्ट कमेटी बनायी जाएगी जो सारे काम का निरीक्षण करेगी और अपना फाईंडिंग देगी। उस कमेटी को बनाने के सिलसिले में माननीया मंत्रालयी जी ने कोई जिक्र नहीं किया अपने जवाब में। मैं जानना चाहता हूँ कि उस बारे में क्या किया गया है ?

डा० सुशीला नायर : एक्सपर्ट कमेटी बैठी है, वह स्टेट्यूटरी है, उस पर किसी तरह का प्रेशर नहीं डाला जा सकता। वह फुड स्टैंडर्ड्स कमेटी है, और वह अपना काम कर रही है।

Shri Narendra Singh Mahida : I would like to seek two clarifications. While speaking on the motion for reference of this Bill to the Joint Committee, Shri N. C. Chatterjee had asked what would happen in regard to technical offences; and he had objected to imprisonment for offences even of a technical nature involving some technical violation. Dr. Sushila Nayar had then said that for the other offences there was no minimum punishment, and the punishment might be only a fine of Rs. 5 or Rs. 10, but only for serious offences, minimum punishment had been prescribed. My only desire is that for trivial offences, the traders may not have to be sent to prison. But I am afraid that there is no provision in this Bill whereby we can let go these traders in the case of lesser offences.

Mr. Deputy-Speaker: The hon. Member has made another speech. He has not put any question.

Shri M. R. Masani: Let the hon. Minister answer it.

Mr. Deputy Speaker: The hon. Let the hon. Member has made some suggestion.

Dr. Sushila Nayar: I would like to reply to this point. Perhaps, the hon. Member has not studied the Report of the Joint Committee carefully enough. I would draw his attention to clause 9 of the Bill, to which a proviso is there. In that proviso, there is reference to two sub-clauses, namely sub-clause (1) of section 2 (i) and sub-clause (k) of section 2 (ix). Sub-clause (1) relates to this kind of thing, a little natural decrease of the contents, a little more or less sugar in jams etc., and sub-clause (k) is with regard to the labelling offences. For both these, no minimum punishments have been prescribed. I do not mean to say that the courts will only impose a fine of Rs. 5 or 10. The court may decide to give whatever punishment it likes. Some of these offences may be of more serious nature, and the court may like to give them higher punishment, but in the Bill as it is before the House, we have not laid down that they must be sent to prison for a minimum period nor have we laid down any minimum fine.

श्री काशीराम गुप्त : मेरा प्रश्न यह है कि क्या इस कानून का अनुवाद हिन्दी और अन्य प्रान्तीय भाषाओं में कराया गया है या नहीं और क्या इसका प्रचार फिल्म आदि के द्वारा किया जाएगा ? इसका प्रचार निहायत जरूरी है।

डा० सुशीला नायर : माननीय सदस्य कहते हैं वह सही है। इस कानून का अनुवाद हिन्दी में तो होगा ही, लेकिन अन्य प्रान्तीय भाषाओं के बारे में मैं नहीं कह सकती। मन्त्रे उसका इस वक्त ज्ञान नहीं है। इसके

[डा० सुशोला नायर]

प्रचार के बारे में और क्या साहित्य तैयार होना चाहिए यह हम अपने हैलथ एजुकेशन ब्यूरो वालों से पूछेंगे और जो जरूरी होगा करवायेंगे।

Shri S. S. More (Poona): I had suggested that there should be a Government laboratory in every district, so that the distributors can go to the laboratory and get the articles properly examined, so that eventually they will be saved from the rigours of clause 9.

Dr. Sushila Nayar: It may not be possible for Government to have a laboratory in every district. Big trade can organise their own testing arrangements, as for instance, the big trade in the drug trade are doing. Then, there are certain local laboratories available like the Agmarking laboratories, the municipal laboratories and so on.

Shri S. S. More: But their credential value is nil.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Prevention of Food Adulteration Act, 1954, be taken into consideration".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clauses 2 to 5 stand part of the Bill".

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 6—(Amendment of Sec. 10)

Shri Bade (Khargone): I beg to move:

Page 3, lines 20 to 22,—

for "Call one or more persons to be present at the time when

such action is taken and take his or their signatures", substitute—"call two independent persons of the locality to be present at the time when such action is taken and obtain their signatures on the Panchanama or the memo or the sealed bottles or tins in which the samples are kept" (20).

Shri D. D. Mantri: (Bhir): I beg to move:

Page 3, line 21,—after "persons" insert—"other than the subordinates of food inspector". (21).

Shri Hem Raj (Kangra): I beg to move:

Page 3,—after line 22, insert—

'(iv) in sub-section (7), the following proviso shall be inserted, namely:—

"Provided that while taking the sample under clause (a) of sub-section (1) or seizing any article under sub-section (4) of this section or taking any action under sub-sections (1) to (4) of section 11, the food inspector shall put his seal on the samples and get the seal of the vendor also affixed on it.". (2).

Mr. Deputy-Speaker: These amendments together with the clause are before the House.

श्री बड़े : उपाध्यक्ष महोदय, मैं ने क्लॉज नम्बर 6 पर 20 नम्बर का अमेंडमेंट दिया है। यह अमेंडमेंट मैंने इस वास्ते दिया है कि क्रिमिनल प्रोसीज्योर कोड में और एक्साइज एक्ट दोनों में दो विटनैसेज का प्राविजन है तो यह आवश्यक और वांछनीय है कि इसमें भी बजाय एक के दो विटनैसेज का प्राविजन किया जाये।

मंत्रिणी महोदया ने कहा है कि इन मामलों में हमें गवाह मिलते नहीं हैं तो मैं

कहता हूँ कि जहाँ चोरियां होती हैं, डकैतियां होती हैं और कत्ल के मामले होते हैं तो वहाँ सरकार को कैसे दो गवाह मिल जाया करते हैं ? इसलिए अफसरान की इस मामले में शॉर्ट सरकिटिंग की पालिसी कुछ मुनासिब नहीं जंचती है और इस तरह से तो वे एक ही व्यक्ति को बला लिया करेंगे । . . आम तौर पर जिस एक आदमी को ये अफसरान ले जाया करते हैं वह कौन होते हैं ? वे उन अफसरान के असर में रहते हैं और दूसरे इसका भी हमेशा डर लगा रहता है कि कहीं वह अपना एक गवाह दुकानदार के असर में न आ जाय और उसे होस्टाइल न डिक्लेयर करना पड़ जाय । और उस हालत में सरकार का मुकदमा कोर्ट में हार जाता है । इन सब चीजों को मद्दे नजर रखते हुए ही मैंने अपने संशोधन में यह सुझाया है कि फुड इंस्पेक्टर उस लीकेलिटी के दो इंडिपेंडेंट पर्सन्स को उस समय बुला कर मौजूद रखे जब कि वह सैम्पुल भर रहा हो और उनके दस्तखत पंचनामे या मेमो आदि पर ले ले । इसमें शासन का यह फायदा है कि अगर एक विटनेस होस्टाइल भी हो जाय तो दूसरा गवाह उस के पास रहता है ।

मैं चाहता हूँ कि यह खाद्यान्न में मिलावट की भयंकर बीमारी जल्द से जल्द बिल्कुल खत्म हो और खतावार साबित होने पर उन्हें सख्त सजायें भी दी जायें लेकिन यह नहीं चाहता कि मूल तत्व जो हो उसे ही खत्म कर दिया जाय । मिसाल के लिए मैं आपको बतलाऊँ कि अगर एक हिन्दू और मुसलमान में लड़ाई हो गई और हिन्दू ने मुसलमान की दाढ़ी पकड़ी और मुसलमान ने हिन्दू की चोटी पकड़ ली और दोनों ने लड़ने के बाद विचार किया कि आखिर इसके लिए क्या करना चाहिए तो वह यह फैसला कर लें कि मूल तत्व जो दाढ़ी और चोटी है उसे ही हम लोग खत्म कर दें । यह कोई वाजिब हल मेरी समझ में नहीं होगा । इस तरह से फुड एडल्ट्रेशन

में जो मूल तत्व है उसे ही खत्म कर डाला जाय और इस लिए मैंने चाहा है कि दो इंडिपेंडेंट विटनेसेज की इसमें व्यवस्था होनी चाहिए । In India witness go to tell lie in the court ऐसी हालत के रहते अगर कहीं एक विटनेस होस्टाइल हो गयी तो सरकार का सारा केस ही खत्म हो जायेगा । एक्साइज एक्ट तक में भी इमीलिए दो गवाह प्रोवाइड किये गये हैं कि अगर एक विटनेस बिगड़ भी जाय, व्यापारी के असर में चला जाय तो दूसरा विटनेस सरकार के केस को सपोर्ट करने के लिए मौजूद रहता है । कौन नहीं जानता कि हमारे देश में वे व्यापारी जो कि मिलावट के अपराधी हैं वे पकड़े जाने पर हमारे उस विटनेस को पैसे के जोर से अपने असर में करने की कोशिश नहीं करेंगे इसलिए यह और भी जरूरी हो जाता है कि एक नहीं बल्कि दो गवाहों की व्यवस्था इस बिल में रखी जाय ।

यही नई दिल्ली का 11 अगस्त 1964 का केस था । उसमें विटनेसेज होस्टाइल हो गई और कोर्ट को लाचार होकर एक्ज्यूड को बैनीफिट ऑफ़ डाउट देना पड़ा और छोड़ देना पड़ा । कोर्ट ने यह जजमेंट दिया :-

“As there is no sufficient evidence before me, to hold that the accused sold adulterated matter, I give him the benefit of doubt and acquit him”.

इस नई दिल्ली केस में दोनों विटनेसेज के होस्टाइल हो जाने से शासन का केस फेल हो गया । इसमें दोनों का हित है । एक तो दो गवाहों के रहने से इन्फोसंट को बराबर न्याय मिलेगा और दूसरे शासन के लिये भी यह ठीक रहेगा क्योंकि अगर एक विटनेस होस्टाइल भी हो जायेगा तो दूसरा विटनेस उसे सपोर्ट करेगा और विटनेस के अभाव में उसका केस फेल नहीं होगा । इस हेतु मैंने यह दो गवाह रखने के लिए अपना एम्डमेंट

[श्री बड़े]

दिया है और मैं चाहता हूँ कि मंत्री महोदया उसे स्वीकार करें।

श्री द्वारका दास मंत्री : उपाध्यक्ष महोदय, मंत्री महोदया ने अभी कहा था कि हमें शहादत देने के लिये गवाह नहीं मिलते हैं इसलिये यह हो सकता है कि अपने डिपार्टमेंट में से ही एक आदमी को शहादत के लिए गवाह बना लिया जाय करे। इसलिए मैं अपने अमेंडमेंट के द्वारा जहाँ सम्बन्धित क्लॉज में पर्सनस लिखा हुआ है उस के बाद यह जुड़वाना चाहता हूँ कि वे फुड इंस्पेक्टर के मातहत किसी तरह में न हों। वे इंडिपेंडेंट विटनेसेज हों। डिपार्टमेंट के लोगों को इस में शहादत के तौर पर न लिया जाय बस मैं यही चीज अपने अमेंडमेंट के जरिये चाहता हूँ।

श्री हेमराज : उपाध्यक्ष महोदय, 1954 का जो एक्ट है उसके सैक्शन 10 में पावर्स आफ फुड इंस्पेक्टर्स दी गई है

Mr. Deputy-Speaker: We are on clause 6.

Shri Hem Raj: It refers to section 10 of the principal Act. Section 11 refers to the procedure to be followed by the food inspector.

मैंने जो अपना अमेंडमेंट मूव किया है उसकी मंशा यह है। भ्रष्टाचार जो इसमें चलता है वह खत्म हो और मंत्री महोदया भी इस बात को तसलीम करती हैं कि हमारे देश के फुड इंस्पेक्टर्स कोई दूध के धोये नहीं हैं और उनमें भी करप्ट लोग पाये जा सकते हैं। यह हर कोई जानता है कि उनको तनख्वाह तो मिलती है केवल 300 रुपये लेकिन उनका जो रहन सहन है वह एक आई० ए० एस० आफसर जैसा है जाहिर है कि वे भ्रष्ट तरीकों का अवलम्बन लेते हैं और रिश्वत खाते हैं। दरअसल हमारे फुड इंस्पेक्टर्स का जो मोरेल प्लेन है वह किसी से छिपा हुआ नहीं है।

यह आम नौलज की बात है कि उनका बड़े बड़े व्यापारियों के यहाँ से माहाना बंधा हुआ रहता है और परिणामस्वरूप वे व्यापारी धड़ल्ले से मिलावट का कारोबार जारी रखते हैं। इसके विपरीत जो पैटी शौपकीपर्स हैं, छोटे रिटेलर्स हैं वे चूँकि उनका मुंह पैसे के जोर से बन्द नहीं कर पाते हैं इसलिए जब उन पर केसेज पकड़ने के लिए जोर पड़ता है तो इन्हीं दो चार को वे पकड़ लिया करते हैं। दरअसल जो भ्रष्टाचार और मिलावट के मुख्य रूप से अपराधी होते हैं, बड़े बड़े व्यापारी और मैन्युफेक्चरर्स वह चूँकि उन इंस्पेक्टर्स की जेबें गरम रखते हैं इसलिए वे बचे रहते हैं। इसी चीज को मद्दे नज़र रखते हुए मैंने चाहा है कि जब फुड इंस्पेक्टर्स दुकानदार के वहाँ सैम्पुल भरने जाते हैं तो जहाँ इंस्पेक्टर अपनी सील उन सैम्पुल पर लगाये वहाँ उस सम्बन्धित दुकानदार की भी सील उन नमूनों पर लगवा ले। ऐसा होने से वह दुकानदार आगे चल कर इस बात की शिकायत नहीं कर सकेगा कि इंस्पेक्टर ने उसकी जगह किसी और का सैम्पुल भर कर भेज दिया है और यह कि उसे बेकसूर इंस्पेक्टर ने फंसाया है। इस किस्म की बहुत सारी चीजें आती हैं, और इसी कारण मैंने अपना यह अमेंडमेंट रखा है।

जो ओरिजनल क्लॉज 5 था उसमें कमेटी ने कुछ ड्राफ्टिंग चेंजेस किये हैं लेकिन उन्होंने यह सिफारिश की है :—

“Clause 6 (Original Clause 5).
—The Committee have made certain drafting changes in the clause. They, however, recommend that, besides the Food Inspector, the vendor should also have a right to place his seal on the food samples, if he so desires, when they have taken for analysis, by suitably amending the rules.”

मैं अपने इस अमेंडमेंट से सिर्फ इतना ही चाह रहा हूँ कि बिल को इस तरह मनासिब

तौर से अग्नेय किया जाय ताकि फूड इन्स्पेक्टर के अलावा, बँडर को भी फूड सैम्पुल पर अपनी सील लगाने का हक हासिल हो जाय। मेरे दिल में यह बात चल रही थी कि कल को किसी किस्म की कोई हेराफेरी न हो और कल को कोई भी यह न कह सके कि सैम्पल्स को बदल दिया गया है। मेरा अग्नेय एक इसके लिये फूलप्रूफ डिवाइस है और मैं समझता हूँ कि मन्त्रिणी महोदया को मेरे इस संशोधन को मंजूर करने में कोई हिचकिचाहट नहीं होनी चाहिए।

Dr. Sushila Nayar: With regard to the first amendment requiring two independent persons of the locality to be present at the time, I have already explained that many cases in the past have failed because the two independent people of the locality were not willing to come and be present when the samples were taken. Therefore, it is not possible to accept the amendment.

Further, what does it matter who the witness is. After all, the sample is taken in such a manner that it is really fool-proof. There are three parts of that sample. One is left with the shopkeeper himself, one is kept with the local authorities, and one is sent for analysis. Therefore, the truth of the matter is that if that sample is properly sealed, whether it is taken in the presence of "A", "B" or "C", it would not really matter.

A suggestion was made in the Joint Committee that the signature of the man might be taken to say that this is his sample, and we might do away with witnesses altogether, but it was considered that at least one should remain. So, I request the House to accept the clause as it has emerged from the Joint Committee.

So far as Shri Hem Raj's suggestion is concerned, there is already a provision for making rules, and one of these is specifying the manner in which containers for samples of food taken by inspectors shall be

sealed up or fastened up. Under those rules, if two seals are necessary, there should be no difficulty in providing for that. There is no need to make any changes in the law itself.

Shri Bade: Only one witness is very risky. Suppose he becomes hostile.

Mr. Deputy-Speaker: You have spoken, and she has replied. You cannot go on with another speech now.

I put Amendments Nos. 2 and 20 to the House.

Amendments No. 2 and 20 were put and negatived.

Mr. Deputy-Speaker: What about Amendment No. 21?

Shri D. D. Mantri: The Minister has not replied to my amendment.

Mr. Deputy-Speaker: She has replied to all of them together. Do you press your amendment?

Shri D. D. Mantri: I withdraw.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw his amendment?

Hon. Members: Yes.

The Amendment No. 21 was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Substitution of new sections for section 14.)

Shri Kashi Ram Gupta: I beg to move:

Page 3,—

after line 31, insert—

'Explanation II.—In this section, in sub-section (1) of section 16,

[Shri Kashi Ram Gupta]

in clause (a) (i) of sub-section (2) of section 19 and in section 20A, the expression "manufacturer" shall include a producer of any article of food.' (16).

My amendment is very simple, and it is on technical and legal grounds that I have put in this amendment, because, in my opinion, the word "manufacturer" has only a specific meaning, while some things like atta are produced by mills. A legal difficulty may arise and at any time it may be challenged in a court of law. So, I request the hon. Minister to accept my amendment that "manufacturer" shall include a producer of any article of food.

Dr. Sushila Nayar: I cannot accept this amendment, because that has been kept after very careful thinking, and therefore, the word as it is may please stay.

Mr. Deputy-Speaker: I put amendment No. 16 to the House.

Amendment No. 16 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That Clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9— (Amendment of section 16)

Shri Hem Raj: I beg to move:

Page 5, line 4,—

for "and" substitute "or" (3).

Shri Yashpal Singh (Kairana): I beg to move:

(i) Page 4, line 31,—

for "six years" substitute—

"imprisonment for life". (7).

(ii) Page 5, lines 18 and 19,—

for "a term of six years" substitute— "life" (11).

Shrimati Renuka Ray (Malda): I beg to move:

(i) Page 4, line 32,—

add at the end—

"or with confiscation of part of his property". (17).

(ii) Page 5, lines 18 to 20,—

for "imprisonment for a term of six years and with fine which shall not be less than one thousand rupees", substitute—

"confiscation of property or life imprisonment or if necessary with the death penalty". (18).

Shri Yashpal Singh: I beg to move: Page 5,—

for lines 25 to 31, substitute—

"(1D) If any person convicted of an offence under this Act commits a like offence afterwards, then, without prejudice to the provisions of sub-section (2), the court before which the second or subsequent conviction takes place, may order—

(i) the cancellation of the licence, if any, granted to him under this Act and thereupon such licence shall, notwithstanding anything contained in this Act, or in the rules made thereunder, stand cancelled; and

(ii) the publication of the name, together with his photograph,

in the local newspapers or periodicals of the State where the offence is committed.” (12).

Shri Bade: I beg to move:

Page 5, lines 3 and 4,—

for “imprisonment for a term of less than six months and of”,

substitute—“imprisonment for six months or”. (25).

Shri D. D. Mantri: I beg to move:

(i) Page 4, lines 30 and 31,—

omit “shall not be less than six months but which”. (22).

(ii) Page 4, line 31,—

for “and” substitute “or”. (23).

(iii) Page 5, lines 3 to 5,—

for “sentence of imprisonment for a term of less than six months and of fine of less than one thousand rupees”,

substitute—

“fine which may extend to one thousand rupees”. (24).

(iv) Page 5, lines 9 and 10,—

omit “shall not be less than six months but which” (26).

(v) Page 5, line 15,—

after “to be” insert—

“deliberately” (27).

Shri M. B. Masani: Amendment No. 10 is the same as Amendment No. 3, and seeks to substitute the word “or” for the word “and” at page 5, line 4, clause 9.

I wish the Minister would listen to this carefully because, in her reply to Shri Mahida a few minutes ago, I am afraid she showed that she has not appreciated the position under the Bill as reported by the Joint Committee. I do not think she meant to mislead the House, but I think she is not clear about the facts, and I would like to try to put her wise.

Clause 9 draws a distinction between two categories of offences in regard to adulteration. There is sub-clause (a)(i) of Clause 9(1), which refers to adulteration or misbranding or sale which is prohibited by the Food (Health) authority in the interest of public health. That is a major offence, a substantive offence. Sub-clause (ii) says:

“other than an article of food referred to in sub-clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder;”

This is a technical offence, for which the clause itself provides a lower punishment.

The hon. Minister seems to be under a misapprehension that this lower punishment permits the court to award either a sentence of imprisonment or a fine because, when she answered Shri Mahida a few minutes ago, she said that for certain offences it would be possible for the court to award a fine. It was not the intention to send anyone to jail for the technical offences. She referred to sub-section 2(1) of clause 1, that is on page 2 of the old Act, the Prevention of Food Adulteration Act, which says:

“if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability.”

Then she referred to section 2(ix)(g) which says:

“if it is not labelled in accordance with the requirements of this Act or rules made thereunder”.

The House see that what we are discussing is not adulteration; we are discussing technical breaches of rules regarding packaging and the content and composition of various articles or the mixture that goes into it. We are not discussing adulteration; we are not discussing the serious crime with which we are concerned in the origi-

[Shri M. R. Masani]

nal Act. What we are concerned with here is the ancillary offences, breaches of the rules made to ensure that there is no adulteration. The hon. Minister quite rightly thinks that there should be no compulsion to send a person to jail for it. I entirely agree with her. Unfortunately she is not right in believing that this is what the Bill prescribes. The Bill unfortunately does not do anything of the kind. I shall read the proviso in the Bill;

"Provided that if the offence is under sub-clause (i) of clause (a) and is with respect to an article of food which is adulterated under sub-clause (1) of clause (i) of section 2 or misbranded under sub-clause (k) of clause (ix) of that section; or (ii) if the offence is under sub-clause (ii) of clause (a), the court may for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months and of fine of less than one thousand rupees."

In other words, the court is bound to give some imprisonment and some fine. The Minister then was not right in saying that for these technical offences she has herself mentioned in (k) and (b) it would be possible for a bare fine to suffice. Therefore, this clause needs to be amended if her own intention has to be carried out.

Let me give the genesis of the history of this discussion. When witnesses were being heard in the Joint Committee, a certain witness, Mr. M. H. Vyas—I am quoting from pages 16-17 of the evidence—he pointed out what I am putting out now. Dr. Sushila Nayar corrected him and said:

"I find it very difficult to believe that a court will give this six months punishment if the inspector just says that he found a receptacle opened."

At this, Mr. Trivedi pointed out to the witness:

"You are taking exception to the provision there which says: 'in contravention of any provision of this Act or of any rule made thereunder' Is that your objection?"

The witness said: "Yes".

Shri Chatterjee pointed out to the Minister that they were objecting to imprisonment for all offences, even though it may be a technical violation and Mr. Vyas said: "That is our point."

Dr. Sushila Nayar said:

"For the other offences, there is no minimum punishment. The punishment may be only a fine of Rs. 5 or Rs. 10. Only for serious offences, minimum punishment is prescribed."

That is not true. The minimum punishment is there for all offences, however trivial. In reply to this, Mr. Vyas quite rightly pointed out: "In the proposed amendment, there is nothing like that; the Court may say that its hands are tied." Then, Dr. Sushila Nayar said: "We will bear this in mind."

Unfortunately, it seems that in the later proceedings of the Joint Committee, this very valid point made was not borne in mind. The report of the Joint Committee says on this point the following:

"However, in the case of technical offences... the Committee feel that a discretion should be given to the court to award a lesser sentence of imprisonment and fine than the minimum sentence of imprisonment of six months and of fine of one thousand rupees."

We see that the discretion given to the court is one to lessen the sentence of imprisonment and lessen the fine

but not to do either the one or the other. Therefore, Mr. Mahida was quite right in pointing out that the intention that the Minister expressed in the course of hearing evidence has not been carried out; she seems to be labouring under the impression that it has. Therefore, let us be clear about what we are passing today. Let us not pass a law under the impression.—all of us including the Minister that we are doing something else. When the Report was signed, two Members I am glad to say, took exception to this attitude. Mr. P. K. Deo, in his minute of dissent says:

“As we are anxious that deterrent punishment be provided to the culprit, we are equally anxious that let not legislation be an instrument of oppression and open flood gates of corruption.”

Shri U. M. Trivedi, another Member of the House who was in the Select Committee says as follows:

“The amendment regarding the first offender provided in clause 9 of imprisonment of not less than six months has been overdone according to me. It is well known that the reports of the so-called public analysts are not by public analysts themselves but by laboratory assistants of questionable experience and qualifications and as their report, subject to the report of the Central Food Laboratory is conclusive, there are thus chances of some members of the judiciary, who might be inexperienced, convicting some innocent and poor people petty traders villages—who may not be able to enjoy the luxury of robust and sound legal advice. When first offenders under the Criminal law of the land are given protection under the Probation of Offenders Act and under section 562 of the Criminal Procedure Code, therefore, imposing the sentence of compulsory imprisonment on the first offender under this Act, will set

at naught the present-day conception of administration of penal law. This amendment, in my opinion, is uncalled for.”

The position is very clear—that the intention the hon. Minister, I am glad to say, expressed in the Joint Committee to make sure that in purely technical offences some fine will suffice has not been carried out, and hence the amendment which my hon. friend opposite and I have moved today.

Now, Sir let us compare similar provisions in other laws. Take our own Drugs Act. Surely adulteration of drugs is by no means less reprehensible or less dangerous than the adulteration of food. It is just the other way about. Adulterated food won't kill anyone; are adulterated drug can be a deadly poison. Section 13 of the Drug Act says:

“Whoever contravenes any of the provisions of this Act or fails to comply with any direction made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.”

If for adulterating a drug, even today, the law of the land gives the option to the court to fine or convict a person, surely we need not go beyond the Drugs Act when dealing with the same crime in regard to food. In the United States there is a common Act for Food and drugs, unlike our country they have one Act which is called, the Food, Drugs and Cosmetics Act of 1938, as amended upto 1962. That Act has a very humane and sensible clause which I shall now read:

“Nothing in this Act shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice or warning.”

[Shri M. R. Masani]

I am not going thus far. The US Act even objects to prosecution for a small first offence. It says a warning or notice would be enough. I am not going thus far. What I am saying is that we might bring our present Bill in line with the Drugs Act which says that for these small offences, technical offences, the court may either convict a person or fine or both and that is not what the latter does today . . . (Interruptions).

An hon. Member: The courts are given the discretion.

Shri M. R. Masani: That is what I said. Under the Drugs Act, the court is given the discretion to do both, one or the other. This Bill will not do that. All I am suggesting is that we hand this discretion back to the court as the Minister herself believe till half an hour ago was in fact the position.

If we do not do that, then we have very obvious objections. One is the harshness and the brutality of the law and the other is it puts in the hands of everyone concerned an instrument of blackmail. You go to a big store. The proprietor, an honest man, tries his best to comply with the law. You threaten him, for a little mistake in packaging or some small mistake which is not adulteration, and say, "I shall send you to jail." He is a man who is terrified of being sent to jail even for eight days. He shells out the money. You should not put normal, good citizens under such a pressure for technical offences.

And then the Minister herself conceded in reply to the an earlier discussion when Shri N. C. Chatterjee or somebody pointed out earlier that the courts of law will not convict if they find that the law that Parliament passes goes against their conscience. A decent magistrate a human magistrate, faced with the alternative of finding a person guilty of a technical offence and then sending him to prison or of acquitting him, even if he thinks

that a technical offence is committed,—I think he would be tempted, in spite of his oath of office, to say, "All right, let me then pretend that he is not guilty." This is what juries do in what are called *Crimes passionels*, a crimes of passion. When the death sentence has to be given for murder,—I have appeared before juries and I have got two or three people acquitted; I made an appeal to the sentiment of the jury. They would have sentenced a man to life imprisonment but when they were forced to give a death sentence, the jury said, "Not guilty; acquit him." That way, we shall defeat our very purpose.

Therefore, I appeal to the Minister, let her carry out her understanding of the Bill and let her accept this amendment, amendment No. 3, moved from her own Benches and by me, and have the word "or" in place of "and".

श्री यशपाल सिंह : मैं अपना अमेंडमेंट मूव करता हूँ, इसलिये कि माननीय मंत्री जी ने जो छः साल की अवधि रखी है वह कोई अवधि नहीं है। छः साल की सजा का क्या मतलब है। एक आदमी लाखों रुपया कमाता है तो छः साल के लिये वह जेल भी जा सकता है। छः साल के लिये उसे अच्छा खाना मिलता है, अच्छा मकान मिलता है, अच्छी चाय मिलती है। यह कोई सजा नहीं है। उसके हाथ कटवाये जाने चाहिये, और अगर आपके कांस्टिट्यूशन में हाथ कटवाने की इजाजत नहीं है तो कम से कम जिन्दगी भर की सजा होनी चाहिये। अरब मुल्क में आज भी हाथ कटवाये जाते हैं बदकार के। हमारे यहां सब से ज्यादा जरूरी यह है कि इस तरह के जो लोग हैं उनको जिन्दगी भर के लिये जेल भेजा जाये। मुझे और मंत्री जी दोनों को जेल में रहने का इत्फाक हासिल हुआ है। जेल में चार वक्त खाना मिलता है, मेरे घर में दो वक्त खाना मिलता है, जेल में मच्छर नहीं हैं मेरे घर में मच्छर ही मच्छर भरे हैं,

मेरे घर पर अगर बारिश होती है तो ऐसा होता है कि घर भर टपकता है, लेकिन जेल में बारिश होती है तो पता भी नहीं चलता कि बारिश हुई भी है। इस-लिये छः साल की सजा बदकार के लिये क्या हुई। उसके हाथ कटवाये जाने चाहियें या जिन्दगी भर की सजा होनी चाहिये। इससे कम उसके लिये कोई सजा नहीं हो सकती। जो लोग चालाकी करते हैं उन के लिये कोई इन्तजाम नहीं किया गया है। यहां पर मेरे एक मिलने वाले हैं जिनकी दूध की दूकान है। वह कहते हैं कि जो पानी मिलाता है उसका बाप मरे, उसका बेटा मरे। मैंने पूछा कि तुम क्यों पानी मिलाते हो, तो उन्होंने कहा कि मैं पानी नहीं डालता, नौकर से डलवा देता हूं। जो इस तरह के काम करता है उसको सजा मिलनी चाहिये और जिन्दगी भर के लिये उसको कारावास में डाला जाये तभी जाकर इस चीज का इजाज हो सकता है। अगर इतनी कम सजा देते हैं तो उससे क्या होगा। करोड़ों रुपया कमाने के वाद वह छः साल जेल में भी रह लेंगे।

Shrimati Renuka Ray: I have moved an amendment:

Page 4, line 32, add at the end

"or with confiscation of part of his property".

and on page 5, line 18-20, for "imprisonment for a term of six years and with fine which shall not be less than one thousand rupees,"

I have suggested that "confiscation of property or life imprisonment or if necessary with death penalty." be substituted.

I would like to say, first of all, that by no means do I want that any technical offences by those who are honest but do not quite understand should come within the purview of

any deterrent punishment and for that reason, this provision regarding which hon. friend Shri M. R. Masani spoke is included there. He has pointed out that judges cannot but help bring in a sentence of imprisonment because both imprisonment and fine are mentioned. Of course, imprisonment could be even for a day and it is possible that the fine may be just Rs. 2. But that is another matter. If the offence is purely technical, I do not know if it can be dealt with by the rules and left out of the purview or kept within the purview of the Bill. If it is not possible and if the Minister wants to accept the word "or", in place of "and" I have no objection. But I do feel that it is most essential that where poisons are concerned, the punishment should be very severe. This is the one on which I am particularly keen: "Where adulteration with any poisoning or other ingredient under sub-section (h) of clause (i) of section 2" he shall be punishable with imprisonment for a term of six years and with fine of a thousand rupees. I do not think this is at all adequate. I think that those who indulge in such practices are murderers, and I see no reason why the law of the land should not be the same for a man who murders a person and the man, in order to make perhaps crores of rupees, murders a large number of people this way. I think Shri Masani who is so concerned with technical offences and says that they should be left out, will be equally concerned to see that those who are guilty of putting poisonous stuff into foodstuffs are punished if necessary, with confiscation of their property or, if necessary, with the death penalty or life imprisonment. I think that is essential.

The Minister has said that if you make the punishment too drastic, the courts may not like to administer it. I do not think that any humane judge, or a humane magistrate who sees that food is adulterated and poisoned and the children of the nation injured

[Shrimati Renuka Ray]

and get their lives endangered because adulterated food is administered to them and which is poisoned and in some cases where the poison brings about paralysis and so many other diseases, will fail to administer the law if proper deterrent has been provided for. I would, therefore, request the Minister even at this late hour, to provide for an effective deterrent in the Bill, where the offence is definitely one of poisoning the food-stuff in particular.

As regards the other amendment, "or with confiscation of part of his property", I should like to say a few words. As I said yesterday, when I was speaking on the Bill, we find that even in the case of profiteering in prices, those who put up the prices and are sent to the jails do not mind going to prison for a few months or even for a year or two sometimes if it means that they make crores of rupees. There are such people in our country. It may not be the people of whom Shri M. R. Masani is thinking, but there are such people in our country. I have suggested that if necessary it might be put into the other clause—that those who do not believe that food should be adulterated with poisons—and I do not think there can be any body who wants that except those particular offenders who ought to be put behind the bars in any case and prevented from such practices or be given death penalty so long as capital punishment remains. I think this should be accepted. I hope the hon. Minister will reconsider this even at this late hour. I do feel that this Bill, however important it is, will not be as effective as it should be, if the punishment is not meted out in the manner I have suggested.

श्री बड़े : उपाध्यक्ष महोदय, मेरा अमेन्डमेंट यह है :

"... imprisonment for a term of less than six months and of", substitute—

"imprisonment for six months or"

इस का कारण यह है कि बहुत से टेकनिकल अफेसेज होते हैं जैसे कि सैनिटरी कंडिशनस ठीक नहीं हैं, सील ठीक नहीं है, इस तरह के टेकनिकल अफेसेज दिये गये हैं। इस में एक परसेन्ट या डेसिमल प्वाइंट की कमी अफेसेज में हो सकती है। इसलिए टेकनिकल अफेसेज के वास्ते मैजिस्ट्रेट के डिस्क्रिशन पर चेक लगाना ठीक नहीं है। आज ऐसा वातावरण बनता चला जा रहा है बाहर के देशों में कि कैपिटल पनिशमेंट को खत्म करें। प्रिजन हाउसेज शुड बी टर्न्ड इनटु मेन्टल हॉस्पिटल्स, ऐसा वातावरण चल रहा है। इसके लिए हमारे यहाँ काफी पनिशमेंट देना चाहिए। मैं समझता हूँ कि जहाँ करप्शन बहुत ज्यादा रेम्पेन्ट है, ऊपर मिनिस्टर से लगा कर नीचे तक गया है, जहाँ अफसर को घूस न देने से भी कोई आदमी फंस सकता है वहाँ कानून में दंड की व्यवस्था परिस्थितियों को देख कर ही करनी चाहिए। आज देश की परिस्थिति यह है कि नन्दा जी कहते हैं कि हम दो साल में करप्शन को दूर करना चाहते हैं। आज जो आप यह कानून लागू कर रहे हैं उस में साधारण जुर्म के लिए और टेकनिकल अफेस के लिए समान सजा है। मंत्री महादय ने अपने भाषण में कहा है कि मॉडर के लिए फांसी की सजा है फिर भी वह बन्द नहीं होता है। तो ऐसी सूरत में क्या आप ज्यादा डर दिखा कर मिलावट रोकना चाहते हैं। मैं कहता हूँ कि ऐसा कर के आप साधारण जुरिसप्रूडेंस और क्रिमिनलाजी के विरुद्ध जा रहे हैं। टेकनिकल अफेस में भेद करना चाहिए...

उपाध्यक्ष महोदय : अब आप खत्म करें।

श्री बड़े : आप आर्डर आडर कह देते हैं तो जो मैं बोलना चाहता हूँ वह भूल जाता हूँ। मेरा इतना ही कहना है कि टेकनिकल अफेस के बारे में आप को मैजिस्ट्रेट को यह डिस्क्रिशन देना चाहिए कि वह चाहे

तो सजा दे, चाहे जुरमाना करे या दोनों करे। उस के डिस्क्रिशन को बांधना नहीं चाहिए।

श्री द्वारका दास मंत्री : इसमें जो डंड रखा गया है वह सब प्रकार के आफ्फेमेज के लिए समान है, चाहे वह साधारण जुर्म हो या टैकनिकल हो या हैबिचूअल किस्म का हो। आप ने अदालतों के हाथ बांध दिए हैं। उस को कानून का इंटरप्रिटेशन करने का अधिकार नहीं रहा।

इसमें कुछ इम्पोर्ट परसन्स भी आ सकते हैं और उन को भी उतनी ही सजा हो जायगी। आप पूछ सकते हैं कि इम्पोर्ट परसन्स किस तरह इस में आ सकते हैं। मंत्री महोदया मुझ से सहमत नहीं हैं, लेकिन वस्तुस्थिति यह है कि उस को छिगाया नहीं जा सकता। आज भी हम देखते हैं महाराष्ट्र में गाय के दूध का एक स्टैंडर्ड है, गुजरात में दूसरा है। अगर आप हर देहात में देखें तो यह स्टैंडर्ड अलग अलग पाया जायगा। अगर एक ही आदमी के पास दो गाएँ हों और एक को वह बिनीला देना है और दूसरी को न देना है तो उन के दूध में अन्तर होगा। इसी तरह से मक्खन की बात है। उस में भी देहात के मक्खन में ज्यादा माइस्चर हो सकता है। जहाँ पर अच्छी मशीनरी लगी है...

Dr. Sushila Nayar: He is making a speech as if it is a general discussion. We are on a specific clause.

Mr. Deputy-Speaker: He has moved an amendment. He may please speak on his amendment.

श्री द्वारका दास मंत्री : अमेंडमेंट पर ही बोल रहा हूँ। बगैर स्टैंडर्डाइजेशन के बारे में बोले मैं उस अमेंडमेंट के बारे में कैसे बोल सकता हूँ। जैसा आप का स्टैंडर्डाइजेशन होगा वैसा ही व्यू तो अदालतों लेंगी।...

Mr. Deputy-Speaker: Your amendments are Nos. 22, 23, 24, 26 and 27.

They are not on standardisation. You want some change in the wording.

श्री द्वारका दास मंत्री : मैं अमेंडमेंट पर ही बोल रहा हूँ। सब चीजों का एक ही नजर से देखा जा रहा है। इसलिए मैं उस के बारे में बता रहा था। आप इस में अदालतों पर बन्धन लगा रहे हैं कि वे सब अपराधों के लिए सजा दें। मेरे विचार में इस चीज को अदालतों पर छोड़ देना चाहिए। अदालतों को सजा के मामले में डिस्क्रिशन होना चाहिए। यह रूल आफ ला के लिहाज से भी उचित होगा। हम को अदालतों का डिस्क्रिशन छीन नहीं लेना चाहिए, यही मेरे अमेंडमेंट का मंशा है। इसीलिए मैंने अमेंडमेंट नम्बर 27 दिया है। अदालतों का डिस्क्रिशन होना चाहिए कि जितनी सजा ठीक समझें दें। जो टैकनिकल आफ्फेज है उन में अदालत को डिस्क्रिशन अवश्य होना चाहिए। जो डेली-बरेटली आफ्फेज करता है उस को आप जितना चाहें दण्ड दें। ऐसा कानून बनाने के लिहाज से उचित होगा।

श्री हेम राज : उपाध्यक्ष महोदय, जो अमेंडमेंट मैंने दिया है वह बहुत सादा है और जो मन्त्रिणी महोदया के दिल की बात है वही उसमें मैंने व्यक्त की है।

इस वक्त उन्होंने हर एक को एक ही लाठी से हाँका है। उन्होंने इस मिलसिले में जुर्मों को तीन श्रेणियाँ रखी हैं, उन सब के लिए एक सा कानून रखा है। क श्रेणी टो उस तरह के जुर्म की है जोकि बार बार आदतन किया जाता है, दूसरी श्रेणी में वह जुर्म आता है, जोकि चाहे पहली बार किया गया हो लेकिन हीन किस्म का है और तीसरी श्रेणी में टैकनिकल जुर्म आते हैं। ऐसा हो सकता है कि वह चीज प्योर है लेकिन बिलो स्टैंडर्ड है। उस के लिए भी उस को सजा हो सकती है। इस की मैं कुछ मिसालें देना चाहता हूँ। मेरा इलाका भी पहाड़ी इलाका है, हिमाचल का इलाका भी पहाड़ी इलाका है। लेकिन मेरे दूध का जो स्टैंडर्ड है वह

[श्री हेमराज]

पंजाब के मुताबिक बनेगा गोकि पहाड़ी इलाके का दूध एक सा होता है, चाहे वह कांगड़े का हो, या गिमले का हो या हिमाचल का हो। शिमला, कांगड़ा और हिमाचल में घास एक ही प्रकार की है। लेकिन अगर मेरे दूध का स्टैंडर्ड पंजाग जैसा रखा जाएगा तो वह डिफरेंट होगा। मेरा स्टैंडर्ड तो हिमाचल जैसा ही हो सकता है।

इसो तरह से चाय की बात है। हमारे इलाके में चाय होती है, देहरादून में भी चाय होती है और बंगाल और असम में भी चाय होती है। लेकिन अगर हमारी चाय का आप एनेलेसिस करवायेंगे तो वह असम की चाय की तरह नहीं होगी। इसके लिए हमारे इलाके के लोगों को सजा नहीं होनी चाहिए। इसके लिए आप को इस कानून में कुछ प्रावधान रखना चाहिए। जैसा अभी कानून है उसमें टैकनिकल ग्रांड पर लोग पकड़े जायेंगे और छूट नहीं सकेंगे। इसलिए मेरा सुझाव है कि आप को टैकनिकल ऑफिस के लिए दूसरा प्रावधान रखना चाहिए नहीं तो इस में नेकनीयत आदमी भी सजा पा जायेंगे जिसका परिणाम समाज के लिए बुरा होगा। मंत्राणी जी भी जेल में रही हैं और मैं भी रहा हूँ। उन को मालूम है कि जेल में जाने से वे लोग भी जो पक्के मुजरिम नहीं होते, औरों को संगत के कारण पक्के मुजरिम बन जाते हैं। तो भलेमानसों को जेल भेजने का नतीजा बुरा हो सकता है। इसलिए मेरा सुझाव है कि जो नेकनीयत आदमी हैं और जिन का सिर्फ टैकनिकल ऑफिस है उन के लिए सजा न रखी जाय। लेकिन जो जान बूझ कर जुर्म करते हैं उन के लिए आप चाहे जितनी सजा सखें। मेरा सुझाव है कि आप इस में रख दें कि सजा, या जुरमाना या दोनों। ऐसा करने से आप का मंशा भी पूरा हो जायगा और मेरा अमेंडमेंट भी आप मंजूर कर सकेंगे। इन शब्दों के साथ मैं समझता हूँ कि मेरा अमेंडमेंट मंजूर किया जायेगा।

श्री तुलशीदास जाधव (नांदेड़) :
उपाध्यक्ष महोदय, यह बिल का जो नौवां क्लॉज है उस को मैं सपोर्ट करता हूँ। नवें क्लॉज पर कई अमेंडमेंट्स आये हैं। एक अमेंडमेंट में बजाय 6 साल की सजा के इम्प्रीजन्मेंट आफ लाइफ का सुझाव दिया है तो किसी ने 6 साल की सजा के साथ एक हजार रुपये जुमनि के स्थान पर यह सुझाव दिया है कि उस की प्रापरटी कौनफिसिकेट कर ली जाय, लाइफ इम्प्रीजन्मेंट दिया जाय या जरूरी हो तो मौत की सजा भी दी जा सकती है। जहां तक खतावारों को सजा देने का सवाल है सब लोग इस बारे में एक मत हैं कि मिलावट करना एक भयंकर अपराध है और खतावार साबित होने पर इनके साथ सखती के साथ पेश आना चाहिए। ज्वाएंट सैलैक्ट कमेटी में जिस में मैं भी था इस तमाम बिल पर बहुत विस्तार के साथ विचार किया गया था और अनेकों गवाहियां उसके सामने गुजरी थी और उन की लाइट में ही यह बिल पेश किया गया है इसलिए इस में कोई खास तबदीली की जरूरत नहीं है। लेकिन जहां तक आर० एम० स्टैंडर्स फिक्स करने का सवाल है यह बिलाशक एक गम्भीर सवाल है और जैसा इस के बारे में कमेटी के सामने श्री एन० एन० गोडबोले जोकि एक असोसिएशन की तरफ से बतौर एक आर० एम० वॉल्यू के बारे में अपना मत रखने के लिए एक टैकनिकल ऐक्सपर्ट थे उन्होंने उस समय विस्तार से बतलाया था कि यह आर० एम० वॉल्यू अलग अलग स्थानों पर अलग अलग होगी और यही वैरी किया करेगी। वहां पर डा० मुशीला नायर ने उस अवसर पर यह कहा था :

"We are not following what you are saying. Therefore, I suggest that this technical subject may be discussed among a group of technical people. I am prepared to call a meeting of the technical people so that this may be properly discussed."

लेकिन अभी तक टैकनिकल पीपुल की वह मीटिंग इसके वास्ते मंत्री महोदया ने बुलाई नहीं है। अभी तक वह टेकनिकल एक्सपर्ट्स की कमेटी फॉररर नहीं की गई है ताकि डिपार्टमेंट के नाग और आउटसाइडर्स एक साथ बैठ कर इन मामले में विस्तारपूर्वक सोच विचार कर कितां माकूल फॉसले पर पहुंच सके। लेकिन मेरे इस कहने से यह अर्थ कहीं न लगा लिया जाये कि मैं खता-वारों के साथ कोई रियायत बर्तना चाहता हूं अलबत्ता मैं चाहता हूं कि किसी के साथ अन्याय न हो, सब के साथ न्याय का बर्ताव हो। बिलाशक वह लोग जोकि मिलावट करते हैं वे समाज और देश के सामने अपराधी हैं और उन्हें माकूल और सख्त सजा शासन को देनी ही चाहिए। लेकिन जसा कि भाई हेमराज ने कहा कभी कभी घी और दूध के बारे में आर० एम० बल्यु को लेकर एक शक पैदा हो सकता है क्योंकि हो सकता है कि कोर्ट अगर किसी व्यक्ति को दूध या घी की आर० एम० वैल्यु कम होने के कारण सजा देने लगे तो वह फरियाद कर बैठे कि साहब इस में मेरा कोई कसूर नहीं है और मुझे सजा देने के बजाय उस मूस या गाय को सजा दीजिए। हो सकता है कि कभी कभी मवेशी को ठीक से और अच्छा चारा और घास आदि न मिलने के कारण घी और दूध का आर० एम० स्टैंडर्ड थोड़ा नीचे रह जाय। इसलिए मेरी मंत्रिणी महोदया से प्रार्थना है कि इस आर० एम० वैल्यु के बारे में वह देश के टैकनिकल पीपुल की एक मीटिंग बुला कर उस में इस पर विचार करें और उस की लाइट में वे इसे फिक्स करें। जहां तक बिल का आम तौर से सम्बन्ध है मैं उसे पूरी तरह से सपोर्ट करता हूं और मेरी विनती है कि हाउस इसे पास करे।

श्री यशपाल सिंह : उपाध्यक्ष महोदय,
12 नम्बर का अमेंडमेंट मैं इसलिए पेश करना चाहता हूं कि जब तक ऐसे दुबारा अपराध करने वालों को सामाजिक के हर एक

क्षेत्र में डिसक्वालिफाई नहीं किया जायेगा तब तक ये लोग बाज्र आने वाले नहीं हैं। हमारे नीतिशास्त्र में जिसे महात्मा गांधी मानते थे उस में तो यहां तक लिखा हुआ है :

“अविक्रेयं० लवणं पक्वमन्नम्, दधि
क्षीरं मधु तैलं घृतम् च”

प्योर मिल्क बेचने वाला भी पापी है। प्योर मिल्क भी बेचना मना है तो जो दूध में पानी मिलाने का जघन्य अपराध करता है वह तो और भी ज्यादा सजा के क्वाबिल है। इसीलिए मैं ने अपने संशोधन के जरिए यह चाहा है कि ऐसे व्यक्तियों के लाइसेंस फौरन खनसूख किये जाय। उन को समाज में डिसक्वालिफाई किया जाये। वे कोई भी एलेक्शन न लड़ सकें। किसी जगह भी सदारत की कुर्सी पर न बैठ सके। अब उन का मुंह काला कर के घुमाया जाय, एसा हमारे संविधान में तो लिखा नहीं है लेकिन इस तरह के दुबारा अपराध करने वालों के नाम उन की फोटुओं के साथ लोकल न्यूजपेपर्स और दूसरे पीरियाडिकल्स में जहां कि वह ऑफिस कमिट किया गया हो, छापे जाय ताकि सब जगह चारों तरफ उन की बदनामी और थू, थू हो तभी व लोग बाज्र आयेंगे। क्वातिल को तो एक ही व्यक्ति को जान से मारता है लेकिन यह मिलावट करने वाले तो लाखों आदमियों का स्लो मर्डर करते हैं इसलिए उन को बिलकुल क्वातिलों की श्रेणी में रक्खा जाय और तदनुसार उन्हें सजा दी जाय। जिस तरह से कातिलों को ट्रीट किया जाता है उसी तरह से इन मिलावट करने वालों को ट्रीट किया जाय। दुबारा अपराध करना साबित हो जाने के बाद उन को लाइसेंस कैंसल कर दिया जाय, उन को समाज में डिसक्वालिफाई किया जाय, हर एक एलेक्शन के लिए उन्हें डिसक्वालिफाई कर दिया जाय और अखबारों में उन के नाम और फोटु दे कर उन्हें जनता में बदनाम किया जाय तभी व लोग बाज्र आ सकेंगे।

Dr. M. S. Aney: Sir, I oppose the amendment moved by my hon. sister, Shrimati Renuka Ray. In all progressive countries capital punishment is being done away with, whereas here she wants to add to the list of offences which call for capital punishment. On that ground I oppose her amendment. Secondly, I consider that the punishment that she has suggested is out of all proportion to the offence committed.

On the other hand, I support the amendment which was moved by my hon. friend, Shri Masani. I think the promise was already given by the hon. Minister, Dr. Sushila Nayar, in the Joint Committee, and probably because the amendment comes from this side she is not accepting it. It is a reasonable amendment, that for technical offences there should be discretion left to the magistrate to give punishment only with fine.

Dr. Sushila Nayar: Sir, I wish to remove one or two misapprehensions. First of all, it was said by Shri Hem Raj . . .

श्री यशपाल सिंह : जब तक अंग्रेजी में बोलियेगा तब तक यह इण्डल्टेशन नहीं रहेगा इसलिए हिन्दी में बोलिए ।

Dr. Sushila Nayar: It was stated by Shri Hem Raj that because his area is in Punjab, the standards prevalent in Punjab must necessarily apply to Kangra rather than the standards prevalent in Himachal Pradesh. I wish to inform him that within a State also standards can vary. For instance, in the State of Gujarat the standards for Kutch and Saurashtra are different from the standards in the rest of Gujarat.

श्री हेमराज : सजाएँ जो होती हैं व तो उसी की बेसिस पर होती हैं ।

Dr. Sushila Nayar: Therefore, it is perfectly possible for Shri Hem Raj to raise the question of standards in his district and say that the standards in his district should be those that

are observed in Himachal Pradesh. The matter will be referred to the Food Standards Committee. They will look into it, and whatever decision they give will be the decision which will be notified and put into practice.

Another hon. Member, Shri Tulidas, said that the Minister had said that an expert committee will go into the matter. Sir, whatever representation, whatever complaints, whatever grievances anybody may have regarding any food standard, he is most welcome to send them to us. The Food Standards Committee is a statutory committee appointed by under this very Act which we are amending today. That committee is bound to look into all the points that are referred to this committee and revise the standards if in the light of experience such revision is necessary. As I have stated already, a revision has already been made recently with regard to certain standards for Gujarat and Madras, and other States can also take up the question of any particular standard. I wish to remove this misapprehension from the minds of hon. Members that the Food Standards Committee is something that is not responsive.

The Food Standards Committee is the watchdog on behalf of this hon. House. This hon. House wants to prevent adulteration. It is necessary to find out what are the correct standard for various foodstuffs in the interests of the consumers. The Food Standards Committee is doing that to the best of its ability with the help of all the available machinery, methods of analysis and methods of study that are available today. Therefore, there is no rigidity, there is no lack of responsiveness, so far as this committee is concerned. I am sure the House will agree with me that the standards should be such that they will really preserves and safeguard the interests of the consumers and bring to book the adulterators

Then it was stated by more than one hon. Member that the names of habitual offenders should be publicised and that they should be made to pay for their offence. I wish to draw the attention of the House to sub-section (2) of section 16 of the principal Act, which says:

"If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name, the place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such manner as the court may direct. The expenses of such publication shall be deemed to be part of the cost attendant on conviction and shall be recoverable in the same manner as a fine."

So, this point has already been taken care of.

So far as the amendment moved by Shri Masani and Shri Hem Raj is concerned, it is not through any oversight on the part of the Minister that this clause has appeared in the report of the Joint Committee as it is. The Joint Committee felt that some imprisonment, even though it may be a token imprisonment, was necessary even for those offences which have been enumerated in the proviso. I would be willing to accept the proposed amendments if it is the wish of the House that it should be done.

Some hon. Members: Yes, yes:

Dr. Sushila Nayar: In that case, the amendment will read as:

"a term of less than six months or of fine of less than one thousand rupees or of both imprisonment for a term of less than six months and fine of less than one thousand rupees"

Instead of saying "or of both", the words will have to be repeated as in the earlier portion. This is the view of the legal pundits. So, I presume it is all right. I further wish to say that even in clauses (k) and (l) the offences may be of a serious nature. Suppose the constituents are present in quantities which are in excess of the prescribed limits in the case of some preservatives it may be injurious to health. Therefore, it is necessary to provide for imprisonment, if necessary. But I am agreeable to let the discretion vest in the court.

Amendment made:

Page 5,—

for lines 4 and 5, substitute—

"a term of less than six months or of fine of less than one thousand rupees or of both imprisonment for a term of less than six months and fine of less than one thousand rupees". (28)

(*Dr. Sushila Nayar*).

Shrimati Renuka Ray: The Minister has not replied to my point.

Dr. Sushila Nayar: In answer to my sister, Shrimati Renuka Ray, I would like to say that while I find myself entirely in sympathy with the point of view expressed by her that we should have power of confiscation of property of the offenders to make them really feel the pinch for inflicting injury on innocent consumers, I am told by the law advisers that this amendment cannot be entertained because it affects another clause which is not under amendment. So, I am sorry, I cannot accept the amendment.

Shrimati Renuka Ray: Will the hon. Minister give an assurance that she will have that clause amended?

Dr. Sushila Nayar: I am afraid, I cannot give the assurance asked for by Shrimati Renuka Ray. We shall have to watch how this Act functions for a while. If the punishments that have been proposed by this hon.

[Dr. Sushila Nayar]

House are still found to be inadequate, we shall certainly come up for such further deterrent punishment as may be considered necessary.

Mr. Deputy-Speaker: Is any amendment being withdrawn or am I required to put all of them to the vote of the House?

Shrimati Renuka Ray: As the hon. Minister is not going to accept them, I wish to withdraw my amendments Nos. 17 and 18.

Amendments Nos. 17 and 18 were, by leave, withdrawn.

Mr. Deputy-Speaker: Amendment No. 3 goes and amendment No. 10 is barred because it is the same as No. 3. The rest, Nos. 7, 11, 12, 22, 23, 24, 25, 26 and 27, I shall now put to the vote of the House.

Amendments Nos. 7, 11, 12, 22, 23, 24, 26 and 27 were put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to Bill.

Clause 10.— (*Amendment of section 19*).

Shri Hem Raj: Sir, I beg to move: Page 6, line 7,—

add at the end—

"and that the opened article of food was the same which he stored in packages under written warranty". (4).

Mr. Deputy-Speaker: Amendment No. 14 is the same as amendment No. 4.

श्री हुकन चन्द कछवाय (देवास) :
उपाध्यक्ष कह दय, मेरा एक प्वायंट ग्राफ
ग्रांडर है। क्या इस बिल के सब खंड बिना
क्वोरम के ही पास होंगे ? हकारा दुर्भाग्य

रहा है कि इस सेशन में सारे बिल बिना
क्वोरम के पास हुए हैं।

Mr. Deputy-Speaker: The bell is being run... Now, there is quorum.

Shri Hem Raj: Mr. Deputy-Speaker, Sir, my amendment is a simple one. What happens now is that most of the things like *haldi* or *sait*, etc., are packed in packets. Whenever a retailer wants to sell something, he opens one of those packets and sells the thing. But when the inspector comes, he takes the sample from the open one. When the shopkeeper insists that the packet should also be taken as a sample so that it may be proved that the thing he is selling is the same which is in the packet, the inspector does not accept that thing and that man is challaned. So, I want the hon. Minister to safeguard the interests of the retailers. There in a warranty clause. Along with the warranty clause, what I want is that whenever the retailer opens the packet and sells the thing in retail for 2 paise or 3 paise or 4 paise, and when he is going to be challaned for that very thing, then that inspector should be instructed to take the packet also with him so that the retailer may not be unnecessarily harassed in any manner.

Dr. Sushila Nayar: We have already provided in this amending Bill that if an offender can prove that the stuff he has purchased from the wholesaler has not been tampered with and that it is in the same state in which it was purchased, then there will be no problem for him and he will not be challaned. That, so far as I can see, should enable the inspector to take the sample from another packet....

Shri Hem Raj: But they do not take it.

Dr. Sushila Nayar: That is a problem, I presume, of implementation and that can be looked into. I do not

think we need to change the law for that purpose.

Mr. Deputy-Speaker: I shall now put amendment No. 4 to the vote of the House.

Amendment No. 4 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 10 stand part of the Bill".

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11.— (Amendment of section 20).

Dr. Sushila Nayar: I beg to move:

Page 6,—

for clause 11, substitute—

11. 'Amendment of section 20.—

In section 20 of the principal Act, in sub-section (1) for the words "the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority", the words "the Central Government or the State Government or a local authority or a person authorised in this behalf, by general or special order, by the Central Government or the State Government or a local authority" shall be substituted.' (1).

My reason for moving this amendment is that certain rulings have been given by the courts which might be interpreted to mean that for each prosecution a special order has to be passed. It is not practicable to authorise a person for each and every prosecution. Therefore, according to the legal pundits, this amendment is necessary to safeguard against any cases failing because of this technical objection.

Mr. Deputy-Speaker: The question is:

'Page 6,—

for clause 11, substitute—

11. 'Amendment of section 20.— In section 20 of the principal Act, in sub-section (1), for the words 'the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority', the words 'the Central Government or the State Government or a local authority or a person authorised in this behalf, by general or special order, by the Central Government or the State Government or a local authority', shall be substituted.' (1).

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 11, as amended, stand part of the Bill".

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clauses 12 to 14 stand part of the Bill".

The motion was adopted.

Clauses 12 to 14 were added to the Bill.

Clause 1—(Short title and commencement).

Shri Bade: I beg to move:

Page 1, line 6,—

add at the end—

"But it shall not come into force till the Prevention of Food Adulteration Rules, 1955 are amended by appointing a special expert committee." (19).

[Shri Bade]

I want that if this Bill is going to be enforced, then the Prevention of Food Adulteration Rules, 1955, should be revised and then only this new Bill should be brought into force.

दूसरा कारण यह है कि आप ने कहा है कि हमारे पास स्टैंडर्ड फिक्स्ड नहीं हैं और स्टेचुटरी बाडी इन को तैयार करती है। जलगांव के केस में जो कि मेरे एरिया के पास है, मैंने देखा है।

एक माननीय सदस्य : एक भाषा में बोलिए, हिन्दी में या अंग्रेजी में।

श्री बड़े : कठिनाई यह है कि कानून जो है वह अंग्रेजी में है और मुझे बोलना हिन्दी में होता है।

दिल्ली के एक केस में भी उन्होंने लिखा है।

"It thus took four months for the prosecution to file the case, which is surely a long period and it cannot be said that the sample of *khoya* taken on 27-7-1960 can remain in good condition till 5-11-1961 a date on which the accused were summoned. It is also known that no preservatives were added to the sample. The commission has been explained by the prosecution saying that under rule 20 of the Prevention of Food Adulteration Rules 1955, no preservation has been prescribed for *khoya* . . ."

माननीय मंत्री महोदया ने कहा कि प्रिजर्वेटिव रखते हैं। लेकिन खोये के लिए आप के पास कोई प्रिजर्वेटिव नहीं है। चार पांच महीने के बाद रिजल्ट आता है। केस कोर्ट में दाखिल हो जाता है। उस के बाद जब कोर्ट से सैम्पल भेजा तो वह सड़ गया शैिक प्रिजर्वेटिव नहीं था। इस कारण से वह आदमी छूट गया।

मखन के बारे में यह कहा गया है कि हमारी स्टेचुटरी बाडी बैठी हुई है और वह इस के स्टैंडर्ड तय करेगी। मेरे पास एक बुकलैट आया है जिस में यह लिखा हुआ है। मैं नहीं समझता हूँ कि यह जो मैं पढ़ने जा रहा हूँ यह गलत होगा : —

"The moisture content of Deshi butter, therefore, is always more than of creamery butter which is manufactured from cream with the aid of machinery, the temperature of the cream being controlled at 50 degrees Centigrade. In spite of the fact that our Association had represented to the Committee that the moisture content of Deshi butter should be fixed at 25 per cent, the moisture content of the Deshi butter in the amended rule A. 11.05(b) was fixed at 20 per cent.

The fact that ignoring the data about moisture available to them and the representation made by our Association, the moisture content of deshi butter was fixed at 20 per cent may well give rise to a suspicion in the minds of the dealers and public generally . . .

एवीडेंस देने के बाद भी उन्होंने यह बात कही है, इस ओर दुर्लक्ष्य किया। अभी आप ने भी कहा कि रिसर्च चल रहे हैं। इस का मतलब यह हुआ कि कनविकशन के पहले जो बेसिस होना चाहिये वह ही तैयार नहीं हुआ है। पूरा का पूरा जो कानून है और इसके तहत जो सजाय दी जानी हैं, उस के वास्ते जो बेसिस है वह यही है कि स्टैंडर्ड तैयार हों। वही नहीं हुए हैं। व स्टैंडर्ड ही अभी तक मॅल्टिंग पाट में हैं। एक्सपर्ट्स इनको तैयार करने के लिए बैठेंगे। उन के सामने एवीडेंस होगा, तब कही जा कर स्टैंडर्ड फिक्स्ड हो पायेंगे।

प्रिवेंशन आफ फूड एडल्टरेशन रूलज के पेज 43 पर आपने कहा है :

"Substituted vide Health Ministry's Notification No. F. 14-41/59-

PH, Pt.I, dated the 5-9-1961.
(GSR. 1134 of 16-9-1961)".

आप ने आर० एम० वैल्यू घी की फिक्स की है। आप ने कहा है :

"Ghee means the pure clarified fat derived solely from milk or from curd or from deshi (cooking) butter or from cream to which no colouring matter or preservative has been added."

उसी वक्त श्री सुब्रह्मण्यम् ने जोकि सेंट्रल कमेटी फार फूड स्टैंडर्ड्स के सैक्रेटरी हैं, एक पत्र लिखा था, जो इस प्रकार से है :

"I am to refer to your registered letter No. Nil dated the 28th July, 1961, addressed to Lt. Col. V. Srinivasan, Director-General, on the subject referred to above and to say that the Directorate of Marketing and Inspection, Nagpur is conducting an all-India Ghee survey and it is expected that this survey will be completed some time by the end of next year. In the circumstances explained it may not be possible for the Central Committee for Food Standards which is likely to meet in the near future to scrutinize the data so far collected by the Directorate of Marketing."

In this letter, he has talked of an all-India ghee survey by the Directorate of Marketing and Inspection, and this letter is dated the 11th August, 1961.

सर्वे अगले साल कम्प्लीट होना था और तब कमेटी बैठने वाली थी। उसके पहले ही 1961 में उन्होंने स्टैंडर्ड फिक्स किया कोर्ट को बताने के लिए कि स्टैंडर्ड यह है, आर० एम० वैल्यू यह है।

इस में लिखा गया है कि एक साल के बाद वह सर्वे कर के फिक्स करेंगे। एक साल के बाद सर्वे करने के लिये फिक्स किया गया है। इस के जो अपराधी कोर्ट में गये हैं वह छूट गये और वह सिर्फ हमारी मिनिस्ट्री की

वजह से क्योंकि स्टैंडर्ड फिक्स नहीं किये गये हैं।

इसी प्रकार दूसरी चीजों के बारे में जो एविडेंस हुई उस में क्या कहा गया था वह भी मैं आप के सामने रखना चाहता हूँ। हींग, जीरा और चाये के बारे में उन्होंने क्या कहा है, यह भी देखिये। इन के बारे में उन्होंने कहा है कि अभी तक इस के लिये कोई स्टैंडर्ड फिक्स नहीं किया गया है। मैं माननीय मंत्री जी से कहना चाहता हूँ कि इस के बारे में पेज 169 पर जो दिया हुआ है, उस एविडेंस में जोकि हमें स्पलाई की गई है, वह यह है :

"Dr. C. B. Singh:

"On whom lies the onus of proving that there is no wilful adulteration? I am quite specific in my question".

"Shri J. C. Brock: I have been informed that through various tests the chemists can tell whether there has been actual adulteration or not".

"Dr. Sushila Nayar: The chemist cannot tell".

चाय में एडल्टेशन कैसे होता है इस के बारे में एविडेंस क्या कहती है, उस को भी आप देखिये।

Mr. Deputy-Speaker: You want postponement of the application of the law. The point has been made out.

श्री बड़े : यह बड़े फंडामेंटल महत्व की बात है। इस के बाद हींग के बारे में पेज 142 पर लिखा हुआ है कि उस के बारे में कोई पक्का स्टैंडर्ड नहीं है। एसी स्थिति में कंविक्शन्स कैसे हो सकते हैं। जब इस तरह के मामले कोर्ट में जाते हैं तो उन के बारे में एविडेंस में आप का ही कहना है कि :

"Dr. Sushila Nayar: The hing standard was lowered temporarily.

[श्री बड़े]

We had given them six months in the first instance and then we have given them another six months. Upto March, 1965 we have extended the lower standard.

"Shri Nuruddin Ahmed: That is true. You have to give directions with regard to natural substances and manufactured substances. *Hing* and *zeera* are natural substances".

"Dr. Sushila Nayar: The trouble arises about collection. In the collection, the processes are not what they should be, with the result that there is more of extraneous matter".

आप का ही कहना है कि हींग के बारे में स्टैंडर्ड का फिक्स करना बड़ा डिफिकल्ट है, तब भी आप ने उस को फिक्स कर दिया है और छ: छ: महीने का टाइम उस के लिये दिया जाता है। इसी तरह श्रीरे के बारे भी दिया गया है।

डा० सुशीला नायर : माननीय सदस्य एक ही तरह की बात सब चीजों के लिये कह रहे हैं।

Mr. Deputy-Speaker: One case is as good as two.

श्री बड़े : मेरा यह कहना है कि आप ने कहा कि पार्लियामेंटरी बाडी, जो एक स्टैंड्यूटरी बाडी है, वह तय करेगी। जब तक उस का निर्णय नहीं होता है तब तक आप जो इस प्रकार का कानून ला रहे हैं उस को इन्फोर्स नहीं किया जाना चाहिये। जब एक दफा आप का स्टैंडर्ड फिक्स हो जाये उस के बाद आप इस बिल को लाइये। उस के लिये आप एक्सपर्ट्स को बलाइये। आप एक्सपर्ट्स को बुलाते नहीं हैं। वे लोग क्या एविडेंस देते हैं यह मालूम नहीं होता। आप यह कहते हैं कि स्टैंडरी बाडी है वह निर्णय देगी और

वह स्टैंडर्ड फिक्स करेगी। इसी के लिये मैंने यह अमेंडमेंट दिया है और कहा है कि जब तक आप का स्टैंडर्ड फिक्स नहीं होता, तब तक इस कानून को एन्फोर्स नहीं होना चाहिये।

Mr. Deputy-Speaker: The hon. Minister.

Shri N. Dandekar rose—

Shri Bade: Three hon. Members are supporting my amendment.

Shri N. Dandekar (Gonda): Sir this particular amendment to clause 1 is, in my submission, a very fundamental one. I hope I shall not unfortunately find myself short of time to expound the viewpoint I have on the subject.

I shall take the liberty of reading the amendment . . .

Mr. Deputy-Speaker: It has been read already and commented upon.

Shri N. Dandekar: I wish to emphasise the point. It says:

"But it shall not come into force till the Prevention of Food adulteration Rules, 1955, are amended by appointing a special expert committee".

Dr. Sushila Nayar: This is almost like filibustering—just prolonging the time.

Shri N. Dandekar: I take exception to that. I have no intention of prolonging the time.

Shri Bade: Such expressions are not called for.

Shri Narendra Singh Mahida: It is objectionable.

Shri N. Dandekar: The normal principle which the Minister expounded in the matter of framing rules is

quite right, namely, you first pass the law, and then you frame the Rules. I would be the last person, in a matter like this, to put what might seem to be the cart before the horse. But as it happens in this particular case, the Act is already there and so are the Rules; and this Act, when amended, seeks to make a minimum period of imprisonment a necessary part of the sentence. And the Act itself and the Amendment Bill do not contain the ingredients which constitute the various offences. The ingredients of the offences in this particular Act are to be found in the rules; and they are very defective.

This is all very odd. It is one of the most important principles of any penal legislation that all the ingredients which constitute a crime, particularly where you expose a person alleged to have committed the crime to the punishment of imprisonment, should really form a part of the Act itself.

I realise that as a matter of convenience Government cannot very well put into the body of the Act the whole lot of standards,—the whole lot of specifications and all that goes to constitute the standards,—any departure from which constitutes the offence. I realise that it has to be done either by way of schedules to the Act,—and I wish that had been done here—or, particularly as the Minister explained that from time to time these standards have to be re-examined, I can appreciate that the ingredients which constitute the offence have to be embodied in the Rules.

But when an offence is one for which punishment is by way of imprisonment, and when the ingredients constituting that offence are not now fully known, the Rules must necessarily be found first. Because the admission is that the existing Rules in the matter of standards and in the matter of what constitutes adulteration are to be,—this is said in the Joint Committee deliberations and evidence,—re-examined by a body

of experts, to whom one of the witnesses before that Committee was invited to submit his suggestions and, indeed, to work with the committee and help the committee with his views on the subject of fixation of standards. My first submission therefore, is that in this particular case, before the standards a departure from which constitutes the offence, before the particular adulterants or quantity of foreign matter that constitute the offence of adulteration, in other words, before the description of the ingredients which constitute the offence for which the minimum penalty of imprisonment is to be imposed, is available, before these things are done, it would be a case of passing a good Bill, but enacting a bad law.

Secondly, I would like to emphasise that there are involved in this, for reasons which the Minister explained, variable standards in various parts of the country. I am talking, for instance, about milk products. Here, there is also the problem that what is sub-standard in one State may not be sub-standard in another, what is “up to standard” in one State will possibly be “below standard” in another State, unless accompanied by Agmark certification and so on. Thirdly, of course, there is the offence of adulteration as such, quite apart from the problem of sub-standard products.

All this which goes to make up the substantive offence is going to be embodied in the Rules to be framed under the Act, or in the Rules that are already there but are to be amended taking into account the amended Act. However, in the course of the Joint Committee evidence, the Minister was good enough to give the assurance to the experts who appeared, that they would be free to come along, make their own suggestions, etc., in regard to all these matters.

Another reason for emphasizing this particular point is this. The Minister said, and I presume it is the practice, or it should be the practice

[Shri N. Dandekar]

that thousands of sample over a given region are examined for the purpose of setting up standards. I have, however, seen some correspondence between some of the associations concerned and the standards-setting authorities or the various other organisations that are concerned. When these associations asked for the data on the basis of which standards were set, the data was denied. How is any expert to give evidence or opinion before a supposed committee of experts—I do not wish to reflect upon the committee of experts—and contend that the particular standards or variance, and the ranges of variance between one State and another, is right or not, or the variance ought to be wider or shorter, without access to the data upon which allegedly, after examining thousands of cases, the standards have been set?

I am deliberately going into this in some details because, I repeat all these matters constitute the ingredient of the offence for which imprisonment is the minimum punishment.

I notice, in the course of reading through the evidence and on listening to the Minister's speech, that whenever points relating, for instance, to milk products were being discussed and the problems of standards in relation to them, there was a shift to products like foodgrains etc., about stones and one thing and another covering him. When one came along to things about stones and things of that kind, there was a shift to poisonous additions and adulterations of certain other products. I do urge the Minister to extend sympathy about the specific matter under consideration relating each particular variety of foodstuffs on its own, instead of mixing up her arguments. There is the problem of foodstuffs derived from milk; there is the problem of spices; there is the problem of foodgrains; and there is the problem of various other edible things. The considerations relevant to each of these are different.

Mr. Deputy-Speaker: All these points have been made before. You are repeating the arguments.

Shri N. Dandekar: I would like to conclude by saying, Sir, that until all the Rules and the standards are complete in this particular case, my submission is that this House would be well advised to accept the amendment that this Bill, when it is enacted, ought not to come into force until the Rules have been thoroughly revised and new standards had been prescribed.

Shri Narendra Singh Mahida: Sir, I would say a few words.

Mr. Deputy-Speaker: He belongs to your Party.

Shri Narendra Singh Mahida: Does not matter. I come from an area and constituency where so much milk and milk products are produced. My point is that we have not set up standards. How do we punish a person? Let us have proper standards.

Mr. Deputy-Speaker: You are repeating the same arguments.

Shri Narendra Singh Mahida: I am pointing out certain misgivings. I shall refer to a judgment of the Punjab High Court in Criminal Revision No. 280 of 1962:

"However, the report of the Director, Central Food Laboratory, Calcutta, rather makes the case somewhat extraordinary. He finds that in the sample taken from the petitioner milk fat was 4.2% and milk solids other than milk fat 6.4% making a total of 10.6% and leaving a difference of 1.9% as against the standard required. So the Director of Food Laboratory, Calcutta found adulteration to the extent of 25% of water. No doubt the sample sent to Calcutta was sent after a number of months, but surely as between the analysis and the opinion of the two analysts the

difference cannot be so much unless either the analysts have not done their job carefully as should be done in criminal cases . . .”

In this case, the conviction was set aside and the petitioner was acquitted.

In a report by the same Central Food Laboratory, the Director has given an opinion about a particular case of Poona Municipal Corporation in which the Poona analyst gave 3.6% fat and 4.6% solid non-fat. When it went to the Calcutta laboratory, the sample mentioned was given 13% in milk-solid, other than milk for 10.1%. I had stressed this point yesterday but the Minister did not explain the reasons for wide variation by the Central Food Laboratory of Calcutta in this matter. Unless we have proper rules, if we proceed like this, we are going to charge somebody of adulteration who has in fact not done any adulteration. The hon. Minister should explain the position.

Dr. Sushila Nayar: I am really unhappy and amazed at the amount of interest shown by some of the hon. Members opposite in the point of view of trade rather than of the consumers. I wish to submit again what I have said earlier that it is not that there are no standards or no rules. They are there. Hon. Members say Is that objectionable? in 1961 there was a survey and then there was a revision, should we be so rigid that we are not going to revise a standard that has been laid down once and let it remain always? We are trying to carry honest trade with us so that they improve their methods of collection or various other techniques. Standards will go higher and higher and become better and better. In the meantime, whatever is the minimum possible standard has been laid down.

It is not that the ingredients are not known, whether it is *hing* or whether it is anything else. They are known. The standards are there. The standards which the experts have proposed, are notified in the gazette.

The people can again send their objections and those objections are again examined by the experts, and then the final standards are notified. It is an amazing state of affairs when it is stated that the statutory committee set up by this hon. House should present its data of analysis to some private experts or experts outside. Are they super-experts that we should provide the data to them? Is it not enough that the committee that this hon. House has appointed goes into this matter. It is a statutory committee,—a reliable committee. If everything has to be subjected to this type of treatment, no work is possible.

The rules are there and the standards are there. If there is any further revision necessary, it shall be carried out and the law will come into operation. But I am sorry, it is not possible for me to accept the amendment proposed by the hon. Member. It is an absolutely novel thing, an amendment of clause 1 which has never been even moved for any other Act which has been passed by this House.

Shri Bade: Is it not novel that up to this time no standard has been fixed?

Mr. Deputy-Speaker: Order, order. I shall put the amendment now.

श्री श्रीकार लाल बरवा (कोटा): उपाध्यक्ष महोदय, हाउस में इस समय कोरम नहीं है।

Mr. Deputy-Speaker: Quorum was challenged after I put it. Division bell is being rung.

The question is:

Page 1, line 6, add at the end—

“But it shall not come into force till the Prevention of Food Adulteration Rules, 1955 are amended by appointing a special expert committee.” (19).

The Lok Sabha divided.

Division No. 6]

AYES

[16.49 hrs.]

Alvares, Shri
Aney, Dr. M. S.
Bade, Shri

Berwa, Shri Onkar Lal
Dandeker, Shri N.
Kachhava,ya, Shri

Kapur Shingh, Shri
Mahida, Shri
Ranga, Shri

NOES

Iva, Shri A.S.
abunath Singh, Shri
Balmiki, Shri
Basappa, Shri
Bhattacharyya, Shri C. K.
Brajeshwar, Prasad, Shri
Chandrabhan Singh, Shri
Chaturvedi, Shri S. N.
Chavan, Shri D. R.
Chuni Lal, Shri
Daljit Singh, Shri
Deshmukh, Shri Shivaji Rao S.
Dorai, Shri Kasinatha
Jadhav, Shri Tulshidas
Kamble, Shri
Kappen, Shri
Krishnamachari, Shri T. T.

Lalit Sen, Shri
Laskar. Shri N. R.
Laxmi Bai, Shrimati
Mahishi, Dr. Sarojini
Malaichami, Shri
Maniyangadan, Shri
Mantri, Shri
Mishra, Shri Bibudhendra
More, Shri K. L.
Murthy, Shri B. S.
Muthiah, Shri
Naskar, Shri P. S.
Nayar, Dr. Sushila
Pratap Singh, Shri
Ram Swarup, Shri
Rane, Shri
Rao, Shri Jaganatha

Sadhu Ram, Shri
Sahu, Shri Rameshwar
Satyabhama Devi, Shrimati
Shastri, Shri Lal Bahadur
Shastri, Shri Ramanand
Siddiah, Shri
Singh. Shri K. K.
Sinhasan Singh, Shri
Sonavane, Shri
Swamy, Shri M. P.
Swaran Singh, Shri
Tiwary, Shri R. S.
Uikey, Shri
Upadhyaya, Shri Shiva Dutt
Verma, Shri K. K.
Vyas, Shri Radhelal

Mr. Deputy-Speaker: The result of the Division is : Ayes 9; Noes 50.

The motion was negatived.

Mr. Deputy-Speaker: The question is

“That clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

The Deputy Minister in the Ministry of Health (Shri P. S. Naskar): I beg to move:

“That the Bill, as amended, be passed.”

Dr. Sushila Nayar: I beg to move:

“That the Bill, as amended, be passed.”

Some Hon. Members: Both together!

Dr. M. S. Aney: On a point of order, Sir. When the hon. Minister is present, how can he move that?

Dr. Sushila Nayar: I have moved it.

Shri P. S. Naskar: I withdraw.

Mr. Deputy-Speaker: Motion moved:

“That the Bill, as amended, be passed.”

Shri Narendra Singh Mahida: Sir, the hon. Minister said that the opposition represents the traders, as if she represents the consumers. That is a very objectionable charge. Why should there be such partisan attacks? When we make some remarks with good intentions, why should we be attacked like that?

Dr. Sushila Nayar: I have made no attack. From the way booklets were being read and case references were being made, they are obviously briefed by the trade and if I said that they were representing the trade point of view, what is wrong with that? (Interruptions).

Mr. Deputy-Speaker: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

10.53 hrs.

**REPRESENTATION OF THE PEOPLE
(SECOND AMENDMENT) BILL**

The Deputy Minister in the Ministry of Law (Shri Jaganatha Rao):
Sir, I beg to move:

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."

If a question arises as to whether a Member of Parliament or of a State Legislature, including the Legislature of a Union Territory, has become subject to any disqualifications mentioned in article 102 or article 191 or section 14(1) of Government of Union Territories Act, 1963, the President or the Governor, as the case may be, shall have to take a decision. But before he takes a decision, it is incumbent on him to obtain the opinion of the Election Commissioner on the basis of which he shall give a decision. Under the law as it stands today, the Election Commission has not got the power to record evidence, to examine witnesses or to call for documents. It is very difficult for the Election Commission to decide the question where some allegations are made that a Member of Parliament or of a State Legislature is disqualified. Questions of fact and law are involved in this.

In a recent case which was referred to the Election Commission—the case relating to the Chief Minister of Orissa—the Election Commission observed in the penultimate paragraph of its opinion as follows:

"More often than not, questions of disqualification referred to the Commission for opinion by the President or the Governor of a State under article 103 or article 192 of the Constitution are mixed questions of fact and law."

"Where, as in the present case, the relevant facts are in dispute and

can only be ascertained after proper enquiry, the Commission finds itself in the unsatisfactory position of having to give a decisive opinion on the basis of such affidavits and documents as may be produced before it by interested parties. It is desirable that the Election Commission should be vested with the powers of a commission under the Commissions of Inquiry Act, 1952, such as the power to summon witnesses and examine them on oath, the power to compel the production of documents, the power to issue commissions for the examination of witnesses, etc."

A similar recommendation was also made by the Election Commission in their report in 1957 on the Second General Elections. This Bill now seeks to vest the Election Commission with these powers, the powers being the same as mentioned in the Commission of Inquiry Act, 1952. It is now proposed to include sections 146, 146A, 146B and 146C in Chapter VIII of the Representation of the People Act, 1951.

This is a formal amending Bill and I commend this Bill for the acceptance of the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951 be taken into consideration."

Shri Kapur Singh (Ludhiana): Sir, it is my pleasant duty to rise to support this Bill but not without some observations on the tardiness and on the remissness of duty which this Government has shown in presenting this Bill. The hon. Minister has just now read the recommendations on the basis of which they have acted, namely, the recommendations made by the Commission in their report on the General Elections in India in 1962. He has cursorily referred to the previous recommendations which were made by the Commission in their