

[डा० सुशीला नायर]

जहां तक दाम का सवाल है तो वह तो सही बात है कि कीटनाशी दवाओं के दाम मुनासिब ही होने चाहिए। सदन को मालूम है कि ग्राम दवाइयों के दामों के ऊपर तो अच्छा खासा नियंत्रण रखा ही जा रहा है। कोई कारण नहीं है कि इन्सेक्टिमाइड्स वगैरह के दामों के ऊपर भी ठीक तरह से ध्यान न दिया जाय। देश में जहां तक इन चीजों को बनाने का ताल्लुक है तो मुझे खुशी होती है यह कहते हुए कि कुछ इस प्रकार की कीटनाशी दवा तो अब देश में बन भी रही हैं जैसे कि डी०डी०टी० इत्यादि। और भी बनाने का प्रयास हो रहा है। हम तो चाहते हैं कि हमारे देश की दवा और इन्सेक्टिसाइड्स वगैरह इस तरह की जितनी चीजें हैं उनकी आवश्यकता हम अपने यहां इन चीजों को बनाकर पूरी कर सकें तभी हमें संतोष होगा और उसके लिए हम प्रयास कर रहे हैं।

इन शब्दों के साथ मैं फिर से सदन का आभार प्रदर्शित करती हूं कि उन्होंने इस विधेयक का स्वागत किया है। और मैं आप के द्वारा यह आश्वासन देनी हूं कि जो भी सुझाव उन्होंने दिये हैं या आगे भी जो प्रवर समिति के सामने देना चाहेंगे उन पर उचित ध्यान दिया जायगा।

Mr. Chairman: The question is:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the House on the Bill to regulate the import, manufacture, sale, transport, distribution and use of insecticides with a view to prevent risk to human beings or vertebrate animals, and for matters connected therewith, made in the motion adopted by Rajya Sabha at its sitting held on the 26th July, 1966, and communicated to this House on the 28th July, 1966, and resolves that the following 30 members of Lok Sabha be

nominated to serve on the said Joint Committee, namely:

(1) Shri Peter Alvares, (2) Shri K. L. Balmiki, (3) Shri Bibhuti Mishra, (4) Shrimati Zohrabai Akbarbhai Chavda, (5) Sardar Daljit Singh, (6) Shri Ganpati Ram, (7) Shri Ansar Harvani, (8) Shri J. N. Hazarika, (9) Shri S. Kandappan, (10) Sardar Kapur Singh, (11) Shri C. H. Mohammad Koya, (12) Shri P. Kunhan, (13) Shri Narendra-Singh Mahida, (14) Shri Inder J. Malhotra, (15) Shri P. Maruthaiah, (16) Shri Shiv Charan Mathur, (17) Shri K. L. More, (18) Shri P. K. Vasudevan Nair, (19) Shrimati Sahodra Bai Rai, (20) Chowdhary Ram Sewak, (21) Shri J. Ramapathi Rao, (22) Shri R. Surender Reddy, (23) Dr. Sisir Kumar Saha, (24) Shri C. Subramaniam, (25) Shri Surya Prasad, (26) Shri Mohammad Tahir, (27) Shri Dodda Thimmaiah, (28) Shri Vishram Prasad, (29) Shri Yudhvair Singh, and (30) Dr. Sushila Nayar. This House further recommends to Rajya Sabha that the said Joint Committee be instructed to report by the 30th November, 1966."

The motion was adopted.

15.19 hrs.

DELHI MUNICIPAL CORPORATION
(VALIDATION OF ELECTRICITY
TAX) BILL

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): I beg to move that the Bill to validate the imposition and collection of certain taxes on the consumption or sale of electricity by the Delhi Municipal Corporation, be taken into consideration.

Under section 150 of the Delhi Municipal Corporation Act, the Delhi Municipal Corporation levies a tax on the consumption and sale of electricity. There was some confusion about the words "sale and

consumption" and then the Delhi Municipal Corporation Act was amended to include the word 'supply' of electricity also. The procedure for levying such taxes has been laid down in this section. First of all, the corporation has to pass a resolution defining the maximum rate that could be levied on electricity, and then that resolution is sent to Government for its consideration and sanction, and after the Government accords its sanction to that resolution of the corporation, the corporation can levy the tax on the supply of electricity within the areas defined and charge that tax from the consumers and suppliers.

On the 9th February, 1959, the corporation passed a resolution for levying tax on electricity together with other optional taxes; while conveying its sanction, the Central Government made certain modifications, and those modifications were accepted by the corporation. Those modifications were made by the Central Government on the assumption that the power of the Government to sanction the resolution implied the power to sanction such modifications as might be necessary. The important modifications that were made by the Central Government were that lower rates were sanctioned for small-scale industries, electro-chemical industries and electro-metallurgical industries and higher rates were prescribed for some other kind of users of electricity. Upon this, the validity of the levy of this tax was challenged in the Punjab High Court through some writ petitions. The Punjab High Court dismissed these writ petitions, but then letters-patent appeals were filed, and these were accepted by the court, and the levy of this tax was set aside on the ground that while sanctioning the first resolution of the corporation, the Government was not empowered to modify or enhance the rates, and the corporation in its second resolution could not adopt rates in excess of the rates determined in the first resolution.

In 1965, the corporation passed another resolution for the levy of enhanced rate of tax on electricity

and the Government sanction to this levy has been communicated to them.

In order to validate the levy of the tax on the consumption or sale of electricity from 1st July, 1959 to 31st March, 1966, a Bill was introduced in the last session of Parliament. The total amount involved is Rs. 3.76 crores. I would like to tell the House a few salient features of this new proposal so that it could be seen that it is only an enabling Bill to correct certain mistakes that happened in the past. According to sub-clause (1) of clause 2 of the Bill, the resolution of the Delhi Municipal Corporation dated the 24th June, 1959 in so far as it determines the rate at which the tax shall be levied on the consumption and sale of electricity shall be deemed to have been passed in accordance with law and the rates specified in the said resolution shall be deemed to be the actual rates at which the tax shall be leviable with effect from 1st July, 1959 until such rates are altered in accordance with the provisions of the Delhi Municipal Corporation Act. Sub-clause (2) of clause 2 bars the courts from enforcing any decree or entertaining any suit. It further says that all proceedings or things done by the corporation in connection with the levy or collection of tax shall be deemed to be in accordance with law. These are consequential provisions of the validation of the tax. This proposal was placed before the Delhi Advisory Committee in its meeting on the 16th February, 1966. After some discussion, they also passed the Bill and endorsed this measure. There was some dispute between the New Delhi Municipal Committee and the Delhi Municipal Corporation on this account. The opinion of the Attorney-General was taken in this matter, and ultimately he also advised the Government that it would be better to clarify the position by a suitable amendment of the Act. In pursuance of that advice, this Bill has been introduced in Parliament.

Sir, I move that the Bill be taken into consideration.

Mr. Chairman: Motion moved:

"That the Bill to validate the imposition and collection of certain taxes on the consumption or sale of electricity by the Delhi Municipal Corporation, be taken into consideration."

Shri Narendra Singh Mahida

(Anand): This is a very surprising Bill. When the Delhi Municipal Corporation by its resolution in 1959 levied certain charges and then made a recommendation to the Central Government, the Central Government accorded their sanction, and later on this levy was challenged in the Punjab High Court. The court held that in according sanction to the first resolution of the corporation, Government had no power to modify or enhance the rates proposed by the corporation in that resolution and that the corporation in its second resolution could not adopt rates in excess of the rates determined in the first resolution. If the corporation could have had proper legal advice, they could have saved themselves this botheration of going to courts of law and facing the challenge to their rules. The court also held that the liability to pay the tax would commence only from 1st April, 1960. Now, this Bill proposes to validate the levy of the tax by the corporation on the consumption or sale of electricity in accordance with rates specified in the afore-said second resolution of the corporation with effect from 1st July, 1959 and until the alteration of such rates in accordance with the provisions of the Delhi Municipal Corporation Act. Now, what happens from 1st July, 1959 to 1st April, 1966, that is, for a period of seven years, those charges will be levied again, or will have retrospective effect. The hon. Minister has not clarified this point. I would like him to clarify this point and tell us whether the sum involved, which he has mentioned runs into some crores of rupees, is correct or not.

Anyway, this omission on the part of the corporation has been rectified

by a court of law, and we have no alternative but to support this Bill, and, therefore, I give my support to it. But in future, I would request the municipal corporation to be more careful before passing such resolutions.

श्री नवल प्रभाकर (दिल्ली-करोलबाग):
सभापति महोदय, यह एक साधारण विधेयक है जो हमारे सामने लाया गया है। जब भी दिल्ली के सम्बन्ध में कोई बात होती है तो उसकी एक कमेटी है जो कि कारपोरेशन की बनाई हुई है। उसमें विचार किया जाता है। विचार करने के बाद जब वह कोई निर्णय कर लेती है तो वह स्टैंडिंग कमेटी में आता है। स्टैंडिंग कमेटी भी जब उसे पास कर देती है तब वहाँ की साधारण बैठक में उस पर विचार किया जाता है। साधारण बैठक में विचार करने के बाद जो लोग दिल्ली के सारे भागों से चुन कर आते हैं वह अपने विचार व्यक्त करते हैं। व्यक्त करने के बाद एक प्रस्ताव पारित होता है। जैसा मंत्री महोदय ने बतलाया, वह प्रस्ताव पारित हुआ और उसके पारित होने के बाद इसे लागू कर दिया गया कि बिजली के उद्योग पर या उसके उपकरणों पर टैक्स नहीं लिया जाना चाहिये। किन्तु इसमें सरकार से राय नहीं ली गई। उसके बाद उसको पंजाब हाई कोर्ट में चैलेंज किया गया और पंजाब हाई कोर्ट ने अपना निर्णय दिया। उस निर्णय के विरुद्ध फिर भारत सरकार के पास, गृह मंत्रालय के पास यह गया है। गृह मंत्रालय ने उसको अपनी स्वीकृति दे दी, लेकिन उसके बाद भी हाई कोर्ट के निर्णय से कारपोरेशन को कुछ परेशानी हुई। उस परेशानी को दूर करने के लिए यह विधेयक लाया गया है। मौजूदा मेट्रो-पालिटन कौंसिल के आने से पहले दिल्ली में एक एडवाइजरी कमेटी थी, जिसमें दिल्ली के संसद-सदस्य थे और जिसकी अध्यक्षता गृह मंत्री करते थे। उस कमेटी में इस विधेयक पर विचार किया गया और उसने अपना

यह निर्णय दिया कि यह विधेयक ठीक है और इसको पारित किया जाना चाहिए, जिसके बाद इस विधेयक को लाया गया।

इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूँ और मैं समझता हूँ कि यह एक सही कदम है और हमें इस को मान लेना चाहिए।

Shri C. K. Bhattacharyya (Rai-ganj): This Bill relates to matters which commenced from the 9th February 1959. Substantially, the entire proceedings from that date up to the presentation of the Bill here depends on the interpretation put by the Central Government on sec. 150(2) of the Delhi Municipal Corporation Act.

The Delhi Municipal Corporation passed a resolution and the Central Government, in giving their sanction to the resolution, interpreted that particular sub-section in a way which was not accepted by the Punjab High Court. That led to a difficulty to remove which the Bill had to be brought in, because the Delhi Municipal Corporation had acted on the interpretation put by the Central Government on section 150(2) of the Delhi Municipal Corporation Act. Having acted upon that, the Corporation found itself in a quandary when the Punjab High Court set aside the interpretation of the Government on which the Corporation had acted. So the Home Ministry had to bring in this Bill.

What strikes me is this. Usually such matters are taken to the Supreme Court because it concerns the interpretation of a particular Act and the finality of the interpretation depends upon what the Supreme Court thinks about it and the opinion that Court holds about the intent and purposes of the Act. In any case, this interpretation of the Punjab High Court was accepted and was not taken for the opinion of the Sup-

reme Court. The Bill is based on the effect of that judgment of the Punjab High Court on the proceedings of the Delhi Municipal Corporation under the Government of India's modification and amendment of the Delhi Municipal Corporation's resolution.

Essentially this Bill is practically divided into two parts. In one part, it validates what the Municipal Corporation had done and does that with retrospective effect; in another it indemnifies what had been done from consequences to which the Corporation might be exposed before a court of law.

My hon. friend, Shri Mahida, had asked as to what happened from the point the Corporation began to realise taxes under the Government of India's order upto to the time the Bill is going to be passed into law. I believe the Bill makes provision for that. Cl. 2(2) says:

"Notwithstanding anything contained in any judgment, decree or order of any court to the contrary, all taxes on the consumption or sale of electricity levied or collected or purporting to have been levied or collected in pursuance of the resolution referred to in sub-section (1) shall, for all purposes, be deemed to be, and to have always been, validly levied or collected, and accordingly...."

Up to that extent, it is validated and then the indemnity comes. Thus the Bill will have served its purpose in helping the Corporation to get out of the difficulty in which it has been placed.

Another point that strikes me is this, whether in future it will be necessary to have the main Act amended for putting this position on a sound basis in the Act itself, that is, whether the Delhi Municipal Corporation Act itself will have to be amended and the lacuna which led to

[Shri C. K. Bhattacharyya]

the present difficulty removed in a different way. That is what I would commend for the consideration of the Home Minister and his department.

Shri Shree Narayan Das (Darbhanga): This Bill is just to give effect to the Resolution passed by the Delhi Municipal Corporation which was nullified by the judgment of the Punjab High Court. It has been said that the power to sanction any levy or tax on consumption of electricity has been vested in the Central Government. The only question was whether within that power the Central Government had a right to modify the proposals made by the Corporation. It appears that the Central Government did modify in the sense that it enhanced the rate of tax on the consumption of electricity levied by the Corporation.

I do not know whether this question has arisen for the first time. Generally there are provisions to the effect that the Central Government will just sanction the proposals made by some other bodies. I do not know whether the Central Government have got this question examined while considering the Corporation's proposal with regard to the levy of a tax on the consumption of electricity. Did the Home Ministry consult the Law Ministry as to the scope of this provision of sanction? Generally, the body which is empowered to levy taxes has that power, but for an institution like the Corporation, there is a provision in the Corporation Act saying that some of the proposals are to be sanctioned by the Central Government. I do not know what led the Government to enhance the levy and what persuaded the Government to alter the proposals made by a body like the Corporation, proposals that in the ordinary course comes for the sanction of the Government. No reasons have been given why a suggestion made by a body like the Corporation with regard to the levy of some taxes on consumption of electricity in this capital was modified. The reason has not been

given as to what led the Government to enhance or modify the rate. I support the Bill because the taxes that were levied are not to be returned now, and if that is not rectified the taxes have to be returned to the consumers, but I would like to know because I was not present when the hon. Minister moved for the consideration of this Bill, and I am sorry for that....

Mr. Chairman: You very rarely do that.

Shri Shree Narayan Das: Thank you. I was here, but I went out only for five minutes. So, I would like to know whether the hon. Minister had given the reasons that led the Government to modify the proposals made by the Corporation.

In such matters, generally the Government should consult whether the word "sanction" has been used for the first time, and whether it is for the first time that this word has been interpreted by the High Court that sanction does not include modification or enhancement of any tax which has been made by a body like the corporation. That question should have been examined before the Central Government enhanced the rates.

With these words I support the measure.

Shri Vidya Charan Shukla: Mr. Mahida wanted to know whether this Bill really validates the levy made by the Corporation from 1959. Shri Bhattacharyya has clarified that matter to an extent, but I would like to clarify that a little further. It was definitely possible to argue that the validation of the imposition and collection of the tax on the sale or consumption of electricity by the Delhi Municipal Corporation, which the Bill seeks to effect, implies the imposition by Parliament of such a tax with retrospective effect within the meaning of clause 1(a) of article 110 of the Constitution. Therefore, we obtained the recommendation of the President under article 117 (1)

1943 *Delhi Municipal Corporation (Etc. Etc.) Bill*, 1888 (SAKA) *Companies (Sec-ond Amendment) Bill*, 1944

of the Constitution, and this recommendation of the President was communicated to the Lok Sabha Secretariat. This will show that it really validates the collection of taxes right from that date.

As I said earlier, this Bill seeks to rectify some of the technical mistakes that happened in the resolution of the Corporation and the sanction that was accorded to the resolution by the Government. The reason why Government did not go in appeal against the judgement of the Punjab High Court was that the opinion given by the Attorney-General, after considering the entire matter, was that it would be best to remove any doubts about the whole thing by a suitable amendment of the Act and that is why the Government decided to bring forward this amendment rather than appeal to the Supreme Court which would have again taken a good deal of time.

Shri Shree Narayan Das raised some point which I mentioned briefly, but I would again mention it so that he would know why we had to alter the rates that were prescribed by the Delhi Municipal Corporation. The Municipal Corporation, while recommending the rates, did not distinguish between the small scale industries and the bigger industries, and since the Government was anxious to give encouragement to the small scale industries, the rates applicable to the small scale industries were reduced and the rates applicable to the other industries were very slightly enhanced just to counterbalance the entire thing; this did not affect the finances of the Municipal Corporation to any extent, and it was to the general good.

I am thankful to Members for their support to this measure.

Mr. Chairman: Mr. Bhattacharyya has made the point that rather than bringing in a fractional piece of legislation, the Corporation Act may be amended to bring it upto date. Have you got anything to say on that?

Shri Vidya Charan Shukla: This particular Bill was need to validate the collection of these taxes. It is a financial measure more or less. So, this had to be brought separately.

Mr. Chairman: The question is:

"That the Bill to validate the imposition and collection of certain taxes on the consumption or sale of electricity by the Delhi Municipal Corporation, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is:

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

The motion was adopted.

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

Shri Vidya Charan Shukla: I beg to move:

"That the Bill be passed"

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

15.48, hrs.

COMPANIES (SECOND AMENDMENT) BILL

The Minister of State in the Ministry of Law (Shri C. R. Pattabhi Raman): I beg to move:

"That the Bill further to amend the Companies Act, 1956, be taken into consideration."

This has been awaiting consideration by the House for some time. Very briefly, there are three amendments. The first two of them are purely of a verbal nature and are necessitated by the lapse of time since the introduction of the Amendment Bill in this House on 22nd November of last year. Therefore, I do not wish to commend elaborately on them.

The other amendment is also, if I may say, of a minor nature. It deals with section 240, and it seeks to provide that before authorising any per-