

CODE OF CRIMINAL PROCEDURE
(AMENDMENT) BILL

EXTENSION OF TIME FOR PRESENTATION
OF REPORT OF JOINT COMMITTEE

श्री शाहगीत (पूना मध्य) : अध्यक्ष महोदय, दंड प्रक्रिया संहिता में और ज्यादा संशोधन करने के लिए विधेयक सम्बन्धी संयुक्त प्रवर्ग समिति का प्रतिवेदन लोकसभा के सामने रखने के लिए नियत समय शुकवार, २ सितम्बर, १९५४, तक बढ़ा दिया जाय।

Mr. Speaker: The question is:

"That the time appointed for the presentation of the report of the Joint Committee on the Bill further to amend the Code of Criminal Procedure, 1898, be extended into Friday, the 3rd September, 1954."

The motion was adopted.

FOOD ADULTERATION BILL—
concl'd.

Clause 19.—(Defences which may or may not be allowed in prosecutions.)

Mr. Speaker: The House will now proceed with the further consideration of the Bill to make provision for the prevention of adulteration of food, as reported by the Select Committee.

Order, order. Hon. Members should not take the liberty of disturbing the House by carrying on conversations and loud laughter. It does not add to the dignity of the House. The deliberations have to be carried on in a dignified manner. Hon. Members who want to have talks and enjoy may better resort to the lobby rather than do it in the House.

Shri Syed Ahmed (Hoshangabad): May I draw your attention, Sir, to the talk that is being carried on by the Home Minister and Shri Karmarkar? Even when you are admonishing the Members, they are talking.

Mr. Speaker: I am admonishing all Members. Ministers are also included as they also are Members. The hon. Member need not take the cap to fit

himself. Whatever it may be, one thing is certain that talks on this side or that side do disturb me, particularly during the Question Hour. I have more than once appealed that the sound arrangements are such that even small whispers on this side or that or even there, do interfere and I hear even private talks which I do not wish to hear. Hon. Members will keep to this rule of not having any talks even in whispers. They may better go out or sit at a distance and do it.

Shri S. S. More (Sholapur): It is not compromising talk.

Mr. Speaker: Clause 19 was under consideration. Now, discussion of clause 19, will go on.

[PANDIT THAKUR DAS BHARGAVA in the Chair.]

Shri Tek Chand (Ambala-Simla): Clause 19 of the Bill deserves very special notice, because it is a significant departure from the very fundamental rules on which criminal jurisprudence is based. Even the merest tyro knows that what the criminal law proposes to punish is the guilty mind, the guilty intention and not the ignorant person or the man who is not aware that what he is doing is wrong. It is the *mens rea* that must exist before there is criminality imputed to the accused person.

The first provision of clause 19 is:—

"It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him...."

That is to say, articles of food, as we are well aware, are sold either in tins cartons, packets or bottles and a petty shopkeeper, may be in a small village, may be in a small town, may be on an obscure road side, is expected to know the nature, the content, the substance and quality of the package or bottled article which he is going to sell and he cannot stave off the evil

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day by saying, here is a bottled article, here is a sealed packet, I received it, I am not aware of the contents, I am too poor myself and I have never used the substance, I do not know what is inside the packet; and I am not interested in its manufacture. Under these circumstances, sub-clause (1) says, your ignorance will not prevent you from doing a term in jail if it transpires that this article contains certain impurities for which you may not be responsible. This is the principle to which we are going to lend countenance if we are asked to pass clause 19.

Certain palliatives are provided by sub-clause (2). These palliatives are that in certain cases, ignorance may be an excuse. Sub-clause (2) says:

"A vendor shall not be deemed to have committed an offence if he proves—

(ii) that he had no reason to believe at the time when he sold it that the food was not of such a nature, substance and quality; and

(iii) that he sold it in the same state as he purchased it."

What happens is that an accused person is not presumed to be innocent according to this measure. The presumption is that he is guilty. He is called upon to substantiate his innocence. He has got to substantiate his innocence not by presenting positive facts, but the burden of proof of a negative character is placed upon him. He is called upon to prove that he had no reason to believe at the time when he sold it that the food was not of such a nature, substance and quality. The burden of proving want of reason to believe that it was of such quality is placed upon the accused person. In other words, he is called upon to prove a negative. How can a person prove a negative except by saying, no? All that he could say as an accused person in the dock is, I had no reason to believe it. But a bare *ipse dixit* of the accused, his

bold statement, is not going to be believed. Not only do you presume him to be guilty and call upon him to establish his innocence but you also further call upon him to furnish data and prove facts which are of a negative character. So far as his own state of mind is concerned, he is the only judge and that state of mind he can project upon the attention of the court only by his own statement. All that he could say, or anybody in his predicament, could say is, I did not believe it, I did not think so, whether you believe my statement or not is a different matter. This is one curious result of the over-zeal exhibited in this particular clause.

Assuming he has been able to obtain a warranty,—please remember I am now visualising to myself the case of a roadside vendor, an obscure shopkeeper in a village—your first proviso says:—

"Provided that such a defence shall be open to the vendor only if he has within seven days of the receipt of a copy of the report of the public analyst, submitted to the food inspector or the local authority a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it.....".

That is to say, his guilt or innocence depends not upon the nature of the proof that he is in a position to present, but it depends upon the time within which he has furnished the proof. Supposing the proof of innocence is forthcoming—the trial has not yet started—nevertheless it is not on the seventh day but it is on the eighth or ninth day, the man must be held to be guilty and sentenced. I pray that the hon. Minister may concentrate on this provision:

"Provided that such a defence shall be open to the vendor only if he has, within seven days of the receipt of a copy of the report of

the public analyst, submitted to the food inspector or the local authority a copy of the warranty with a written notice stating that he intends to rely on it and.....".

It may be because of want of communications, it may be because of fortuitous circumstances not within the control of the vendor, it may be because of these circumstances he is not in a position to furnish within seven days his warranty, what happens? He can go and tell the magistrate: "Here is a proof positive, but I could not present it within seven days. I am presenting it on the 10th or 11th or 14th day", and the magistrate will turn round—and he is going to be converted into a laughing stock—and say virtually: "True, you are innocent, true you have furnished all the proof that the law requires, but in so far as you have done so beyond the period of limitation, whether the period happens to be one day or more, this will not be deemed to be a defence. You are guilty and you must merit a conviction." This is the stage to which criminal law is being reduced by clause 19. A period of limitation is going to be imposed for the first time in order to establish a person's innocence or guilt. Innocence or guilt does not depend upon the crime committed, innocence or guilt does not depend upon the fact whether the offence has been committed or not, innocence or guilt, liberty or prison, depends upon the fact whether within the seven days he has been able to furnish a certain document or he has failed to do so. If through circumstances over which he may not have any control, he fails to do so, well, the gates of the prison must open in order to receive a positively and demonstrably innocent man, because of this delay having extended beyond seven days.

Then, kindly look at the second proviso:

"Provided further that the warranty given by a person resi-

dent in any area in which this Act is not in force, shall be a defence to the vendor only if the vendor proves to the satisfaction of the court that he had taken reasonable steps to ascertain and did in fact believe in, the accuracy of the statement contained in the warranty."

It is curious. The question of obtaining the warranty or the source from which it emanates depends upon the reliability or the credibility of the source. If the Act does not happen to be current in a particular territorial limit from which the articles of food have been imported, then, of course, it does not matter whether the person who sends the article happens to be reliable or honest. Then, of course, in that case, he shall have further to satisfy that reasonable steps had been taken by him to ascertain the accuracy of the statement in the warranty. What are the reasonable steps. I pray that for a petty vendor, the reasonable steps are that he should write a letter. Reasonable steps are not that the resources of a well-equipped laboratory are available to a petty vendor or shopkeeper and that he should go and ascertain it there. In these circumstances, I feel rather strongly that all these provisions are harsh, and they are not only harsh, they are unjust, they are unworkable. It is impossible without embroiling the innocent along with the guilty to work these provisions.

There is one more thing. I yield to none in this House or outside in my anxiety to see that the articles of food—not only articles of food, but all consumptibles, all edibles—are pure. But purity can be ensured not by measures of this nature. If, in the case of bottled articles, tinned articles or other articles which are to be found in sealed packages, instead of putting the entire onus on the petty shop-keeper, the Government can take the responsibility of seeing that no article of food which is

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bottled, tinned or contained in a carton etc., reaches the consumer unless it has passed through its laboratory, it would be better. Such a course of action is easier for the Government but not for the petty shop-keeper whose number is legion. Therefore, had there been a provision, had there been some safeguard that certain imported articles, whether it is cod liver oil or something else, must pass through the test of the laboratory and after they pass through the test their sale becomes innocent, that would be understandable. But you are going to ask millions of petty shop-keepers, you are going to expect them to have the contents of the article either examined or tested or got tested before they will dare to sell them without running the gauntlet of a prosecution.

Kindly examine one more aspect of this matter. You have given tremendous powers in the hands of your Food Inspectors. So far as I am aware, Food Inspectors and the food vendors are ordinarily in league, in conspiracy in order to swindle the Government and to injure the consumer. What happens is that a Food Inspector has to report two, three, four, five cases of petty departures from or petty encroachments upon the Act. So long as he does so, it is all very well. So far as the vendor is concerned, so long as he can escape with a petty fine, he goes on keeping the Food Inspector in regular employment. Now, I put it to you, present this case to a vendor and examine his reactions. In the case of the first offence, he is going to get a minimum dose. We are not going to trust our magistrates as to what dose they are going to give. They must give at least a year.

In the case of a second offence, they must give a little more, but that again is the minimum, and we are not going to trust them. Under these circumstances, in whose

hands does the fate of a vendor who has infringed the provisions of this Act rest, with the magistrate, or with the lawyer or with the food inspector? The demand of the Food Inspector is going to be ten times more now, and the vendor is going to be at the mercy of the Food Inspector. The Food Inspector will say, I have got you on the wrong side of the law in one petty case, if you commit the second offence, however technical, or however, petty it might be, the least you will get is one year. Thus, the vendor will be under the constant threat or intimidation of the Food Inspector, once the Food Inspector has secured a conviction for a petty offence, against that person. The Food Inspector will now say, "It is for me now to see whether you go in for a year at least or you do not, you have got to satisfy me, and you have got to grease my palm." Therefore, whether you succeed in ensuring the availability of pure food or not, in one measure, you have succeeded admirably, and that is that you are going to bring in a class of persons before whom you have placed tremendous temptation to make ill-gotten money at the earliest, and at the quickest, from a very large number of vendors, because as I said a short while ago, vendors are plentiful. The result will be that your pure food will not be ensured. So far as the corrupt vendor is concerned, he is going to continue his vile trade; so far as the ignorant vendor is concerned, there is no manner whereby he can receive light or learning by examining the provisions of this Act, but so far as your Food Inspector is concerned, he will be in receipt of a regular pension, and a very tempting pension at that.

Therefore, I submit whether you examine the provisions of clause 19 on principle or you employ the rule of equity or of what is reasonableness; I feel that you are going to put lots of money into the pockets of your Food

Inspector, without corresponding gain to the consumers. Therefore, I feel that so long as clause 19 is going to be there, we are going to sanction indirectly tremendous potentialities for mischief on the part of your Food Inspector.

Shri Dhulekar (Jhansi Distt.—South): I do not see that this clause 19 is so dangerous as has been described by my hon. friend Shri Tek Chand. He has treated this clause as if he was treating a section under the Indian Penal Code for *mur-peat*, murder, or any other offence. He has lost the idea of how a prosecution is done.

The vendor has got a particular thing. He has sold it. The purchaser has complained to the food inspector or has got a certificate from the public analyst, that this food was adulterated. And then, the prosecution is launched. Now, the vendor has already committed the offence, by adulterating the food. He has committed the mischief already. My learned friend says that the burden of proof should not be cast upon him. When the public analyst has already stated that the food was adulterated, or a person has been harmed, where is the question of shifting the burden of proof from the accused vendor to the prosecutor or to any other person? Through the prosecutor, Government have already proved that the food was adulterated. Therefore, my hon. friend's argument that the burden in this case has been wrongly shifted to the accused does not conform to any sense of legality. It is not proper at all.

Shri N. S. Jain (Bijnor Distt.—South): What about *mensrea*?

Shri Tek Chand: Who is adulterating the food, the vendor or the manufacturer?

Shri Dhulekar: The person who is selling the food is responsible for the action of vending. He is responsible

for his action. He has committed the mischief. Therefore, there is no question whether there is a manufacturer sitting in the vicinity or at a long distance. The person who takes care to earn his livelihood or to make profit, by hawking from one street to another, or by vending from door to door, by selling adulterated food, must be held responsible for spoiling the food of the people. My learned friend has got in his mind tinned foods like ovaltine etc., and other such mixed foods. But he should see that from day to day, raw food is being sold through the streets, from door to door, by the vendors, which is spoiling the very life-blood of our country. Only a short while ago, during the Question Hour, we heard of a mysterious disease killing so many people in so many districts. Who can say that these vendors, who, my hon. friend says, are very small, very ignorant, do not know the nature of the food, and are very innocent people, are not spreading all these diseases? Can anybody say that these vendors who hawk about from door to door are not disseminating disease in the country? If my learned friend as also my other friends are anxious to prevent this, then I would certainly say that clause 19, which has been put here, is a very proper thing.

If you read sub-clause 1 of clause 19, you will find that it reads:—

“It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him.....”

At what stage does this happen? My learned friend says that only seven days have been given. But how is it seven days? He should add to it the one or two months which the prosecutor will take in sending the samples to the public analyst, and getting his

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report. The purchaser or the prosecutor goes to the analyst with the sample, and the report of the analysis comes after two months. It is after all this, that the accused is called upon to produce a warranty within seven days. So, why should you take it that only seven days are given and therefore it is a small period? Why should you not add to it the period of three or four months that elapse before the report of the public analyst is available?

Shri Tek Chand: Before entering on his defence?

Shri Dhulekar: The point is this. My learned friend should understand that if the prosecution is fixed for today, for instance, it means that several months have passed before it, that the vendor has been aware that a specimen has been taken, that the specimen has been sent to the analyst, that the report of the analyst has come after a month or two, and that after some time, he will be prosecuted. All this period has not been taken into account by my learned friend. So, there should be no question about what time the accused is given in the court; it is a question of how many months have passed since the article was sold and before the prosecution was launched. Since that period will be of the order of three or four months, I feel that even these seven days are too much.

There is one other point which has been mentioned by my learned friend. Shri Tek Chand has stated that every food that is sold must pass through government laboratories. But has he considered how many crores of rupees will be necessary for testing every food that is sold by a hawker? Thousands of laboratories will have to set up in the country for this purpose, and it will become almost impossible for any hawker to sell any food.

My learned friend has been characterizing these vendors as small vendors. I think that he has more the idea of Delhi in his mind than that of other places. He should go and see the food that is sold by the street-hawker in some of the small places.

In small places rotten things are sold; they are not put in tins and they are not packed in packages. Fruits, even good fruits, even dry fruits are not sold in packages. In the mofussil, in small towns, everything is sold uncovered, open to flies, open to dirty things. In that case, I will certainly say that this clause is very good. If you want that good food should be supplied to our people, then the prosecution must be a kind of harassment to people. Suppose some biscuits—tinned biscuits—are sold and there it is written 'Glaxo biscuits'. Suppose after some time the public analyst says that it does not contain any glaxo, but it has got bad sugar mixed in it and it is adulterated. Suppose a few hawkers, all round about Delhi are prosecuted. Even if they are sent to jail, I will certainly submit that there will be a benefit in that the manufacturer who is making lakhs of rupees sitting at some place like Gwalior or any other place will certainly find that these biscuits will not sell, and therefore he will mend himself, before going to jail.

Shri Tek Chand: He will not go to jail.

Shri Dhulekar: He will.

Shri Tek Chand: He will only be a witness.

Shri Dhulekar: If hawkers are sent to jail, then he will get a bad name and hawkers all over India and also sellers and merchants will say that they are not going to accept anything tinned by such and such manufacturer.

Shri N. S. Jain: But he will never go to jail.

Shri Dhulekar: Therefore, in every case we cannot go to the root of the offence. We have to catch the man somewhere and the person who sells an article openly in the market must be caught. There is no question of whether a capitalist is sitting at the back of the vendor; we are not concerned with it. Every man should be responsible for his own action.

Then one thing has been said, that it will lead to corruption and illegal gratification in the form of Food Inspectors taking something from the vendors. I will say that if this is accepted, then you cannot make any law; you cannot appoint any kind of inspectors either for milk or for food or for medicines or for anything; you have to employ your own men. My learned friend has not suggested any alternative to the appointment of Food Inspectors, as to what should be done supposing a law of this kind is passed. Is not my learned friend going to employ, any inspectors? There are inspectors of tongas, inspectors of motor cars, inspectors of buses and so on. If we accept his argument, then we have to come to the conclusion that no inspectors should be employed in India because every inspector is supposed to get something in the form of illegal gratification. Therefore, I do not think that that argument should stand. The point is, this, that there is a clear threat in this clause and it is a very good threat to any person who manufactures bad food and adulterated food causing damage to the health of the people. This threat is there that if such people are there, they will be sent to jail and the Government will not be merciful to them. Therefore, I commend this clause to the acceptance of the House.

श्री हेडा (निजामाबाद) : माननीय सभापति जी, मेरे मित्र धुलेकर साहब ने अभी अभी जो कहा है उसके तत्व से मैं आम तौर पर सहमत हूँ। इसमें शक नहीं कि जहाँ तक अन्न के मिश्रण बगैरह का सम्बन्ध है छोटे छोटे वेंडर्स के ही ऊपर सब से बड़ी जिम्मेदारी है। आम तौर पर इन वेंडर्स हैं कि वह इस

10 A.M.

प्रकार के अन्न या अन्न की बनी हुई चीजें बचते हैं और उनमें जो मिलावट होती है उसकी जिम्मेदारी प्रमुखतया उन्हीं पर होती है। इस संकशन के जरिये जो उन पर प्रतिबन्ध लगाया गया है वह उचित है और इस प्रकार की कार्यवाही के बगैर हम आगे बढ़ सकेंगे ऐसा दीखता नहीं है। श्री टंकचन्द साहब ने एक चीज के ऊपर ध्यान दिलाया था। वह यह कि इससे इंस्पेक्टरों की नई क्लास पैदा हो जायगी और वह रिश्त का बाजार गर्म कर देंगे। इसमें शक नहीं कि आज हमारा देश में जो वातावरण है उसमें इस प्रकार की बात होने की सम्भावना है। लेकिन महज इस सम्भावना को सामने रख कर अगर हम इस क्लाज को निकाल दें और इस प्रकार की पावर्स को निकाल दें तो क्या होगा। ऐसा करने से जो आल्टर्नेटिव होगा उसको भी हमें देखना चाहिये। वह सूरत और भी ज्यादा बुरी होगी। इसीलिये आज की हालत में इस प्रकार के क्लाज के बगैर और कोई चारा नहीं दिखायी देता है। हमको कुछ ऐसा करना चाहिये कि इन इंस्पेक्टरों के ऊपर कुछ पाबन्दी हो कि वह लोगों को परेशान न कर सकें और ठीक प्रकार से इस कानून पर अमल करवा सकें। हमें कुछ इस प्रकार से व्यवस्था रखनी चाहिये।

एक बात में मैं धुलेकर साहब से थोड़ा सह असहमत हूँ। वह यह कि अगर कोई मैन्युफैक्चरर कोई अन्न की चीज तैयार करता है और वह उसके सील बन्द टिन में या कार्डबोर्ड पैकेट में होती है और जिसमें वेंडर को कोई शुद्धा नहीं होता कि उसमें मिलावट है, उसके ऊपर जब कोई कार्यवाही की जाय तो उस वेंडर के ऊपर न की जाय बल्कि मैन्युफैक्चरर के ऊपर की जाय। टंकचन्द साहब ने एक सुझाव दिया कि वह चीज तैयार होने के बाद सरकार के पास टेस्ट के लिये भेजी जाय और उसके बाद उसको विक्राने की इजाजत दी जाय। यह चीज बड़ बड़

[श्री हेडा]

मैन्युफैक्चरर्स के लिये हो सकती हैं कि जब कोई मैन्युफैक्चरर कोई चीज तैयार करता है और एक ब्रांड के जरिये उसको सामने लाता है तो वह उसकी पहले गवर्नमेंट से तस्दीक करवा ले और फिर उसको उस ब्रांड को प्रचलित करने की इजाजत दी जाय और अगर इसके बावजूद भी कोई गड़बड़ हो तो उसकी जिम्मेदारी उस वेंडर पर नहीं होनी चाहिये बल्कि उस मैन्युफैक्चरर पर होनी चाहिये। धुलेकर साहब का जो इस सम्बन्ध में ख्याल है वह यह है कि हिन्दुस्तान में वेंडर तो तमाम जगह रहते हैं पर मैन्युफैक्चरर तो एक जगह रहेगा।

Mr. Chairman: Order, order. We are only discussing clause 19. Any new proposals as to whether the manufacturer can be proceeded against or whether in the circumstances it is the vendor or the manufacturer who is responsible, are all extraneous to this clause. I will request the hon. Member to confine his remarks only to the clause. It is true that some of the remarks which have fallen from the other Members have been on extraneous matters, but while replying to them even I will request the hon. Member to concentrate his attention only on the matter before the House—clause 19—and not travel outside.

श्री हेडा : मैं यह ही चाहता था कि इस क्लॉज के तहत में जो हम कार्यवाही वेंडर के खिलाफ करते हैं उस कार्यवाही में जहां पर कि मैन्युफैक्चरर की जिम्मेदारी है वहां वेंडर को सद्दीलगत ई दी जाय और उसके लिए वेंडर के खिलाफ कार्यवाही न की जाय। उस सम्बन्ध में अगर कोई कार्यवाही हो तो मैन्युफैक्चरर के खिलाफ हो। बर्हातक दूसरी चीजों का सम्बन्ध है.....

Mr. Chairman: Clause 19 does not speak of any proceedings against the manufacturer at all.

Shri Heda: Certainly. I would like the vendor to get this benefit, that if the article is sealed one or a branded one, he should not be prosecuted.

Mr. Chairman: I quite appreciate the anxiety of the hon. Member. It may be correct. At the same time, so far as clause 19 is concerned, he must confine his remarks to that. The defences open to the accused are the subject matter of this clause. Otherwise, since there is no amendment, all the suggestions he is making will be futile.

Shri Heda: I was submitting that vendors should be exempted from being prosecuted if the articles sold are sealed or branded ones and only the manufacturer should be prosecuted for such offence.

Shri Raghavachari (Penukonda) rose—

Mr. Chairman: I will request hon. Members to be very brief because we have already taken too much time on this.

Shri Raghavachari: I only wish one thing to be made clear. You will see that the particular proviso found in line 20 of page 12 says: "within seven days of the receipt of a copy of the report of the public analyst". So the accused person has to submit his warranty within seven days of the receipt of the report by the analyst. Receipt by whom? How would the vendor know that the report has been received? In fact, there is no section to this effect. Section 13, which provides for the report of a public analyst, has no reference to a copy being served upon the person. Section 19 has no reference to a copy being served upon him. After all, the certificate may be received by the Inspector or by the court. How should this vendor know? You say that within seven days after the receipt, he must do a particular thing. How should he know unless you have provided that he should be given a copy of it, and then he knows that it has been

received by him on a particular day. Otherwise, it becomes practically impossible, for, after all, the Inspector may not tell him and the court may not give notice and some day it may have been received. In the circumstances, subsequently, the Act itself will have to be amended. Therefore, unless provision is made that a copy of this report should be served by a particular person, it will lead to confusion. I do wish to make this point quite clear. The Minister in charge must provide for it here or in the rules, specifically. Otherwise, the matter will be seriously prejudiced.

Shri S. S. More: As a Member of the Select Committee, I try to stand by this particular clause. I share the anxiety of my friend, Shri Tek Chand pleading for the cause of the small trader. But the point is, what is our basic approach to this problem. As a matter of fact, I feel that this Bill ought to be called not an Act for the prevention of food adulteration. It is one of the measures for the protection of the health of the people in this country. In England and in other countries, there are positive enactments for protecting the health of the country. They have what is called a Health Act. We have no Health Act in this country, though the Government is prolific in giving us so many pieces of legislation on the subject. If we say 'adulteration', it is not for the prevention of adulteration; it is for the protection of health. I need not tell the House that a murderer is being punished for the loss of a life taken away by him. But I ask: are all those persons who unremittingly go on adulterating food in order to get some profit for themselves not killing millions of people, not directly, but by bits and bits. Death approaches us by inches whenever we consume any adulterated foodstuff, and so, serious action has to be taken against this. Otherwise, in such a vast country, with colossal ignorance, how could the people be protected? Not only colossal ignorance but poverty too plays its part. If I go to a bazaar to purchase some

food, and if any trader offers me some other food at a lower price, then, instead of going in for the food of the higher quality, my poverty compels me to purchase the food which is sold at a lower price. But does not that mean that I am purchasing the food along with the germs which have infected that food and thus have adulterated it? And that food might lead my children to tuberculosis and other serious diseases. Thus we not only contribute to the maintenance of illegal, dishonest enemies of society by tolerating...

Shri R. K. Chaudhuri (Gauhati): On a point of information. Is adulterated food responsible for T.B.?

Shri S. S. More: Of course, I am not a specialist in T.B. like Mr. Chaudhuri. I might say—I am subject to correction—that the root cause for T.B. from which many patients suffer, is this. I can cite an illustration.

Mr. Chairman: It may be some other disease due to adulteration.

Shri S. S. More: I shall cite an illustration. One Dr. Lohakare died of T.B. I had a talk with him, and he was an ex-Member of this House. He himself was telling me that he contracted T.B. because he had taken some milk produced by a cow which was infected with T.B.

Shri Tek Chand: How is it adulterated?

Shri S. S. More: It is adulterated. If Mr. Tek Chand cares to read the definition of the word 'adulterated' that we have given in clause 2, such a milk will be adulterated milk. Now, the only way open for the small distributor is to see that he gets a proper warranty. We are not going to take away the occupation of his, which gives him his daily bread. But at the same time, those people must see that the persons who use that milk must also be protected. The only way open to them.....

Mr. Chairman:.....is to get a written warranty prescribed by this clause.

Shri S. S. More: That will have to be developed. Take, for instance, the hawkers. They go on selling sweetmeats. Everybody does not prepare sweetmeats at his own place.

Mr. Chairman: Small traders or hawkers are not armed with warranties. There might be warranties in case of bigger traders.

Shri S. S. More: Supposing the manufacturers may be producing any number of articles, but the person who distributed the article may say that "unless a warranty is given to me, I am not going to run the risk of being prosecuted". Then the manufacturers will be on their guard and in the interests of their own produce they will have to surrender. Not only that. I will give you my own experience in Poona. When milk vendors were sought to be prosecuted in large numbers, heavy punishment were inflicted. What did the milk vendors do? They formed an association. They developed a union and they said, "We must now stand by ourselves. We must safeguard our own interests. Otherwise we run the risk of being sent to the prison." The result was that they automatically introduced fraternal control. That is the sort of organisational strength of these distributors that the hawkers will have to develop. This particular clause allows an innocent person who has entered a written warranty to escape. His defence will be accepted. The person who has given the warranty will be the next target for Government. Therefore, this proviso is meant to trace the man who is distributing, through different channels, tainted, contaminated or adulterated foodstuffs. Eventually, after section 17, if the warranty is accepted and the man is produced before the court, the next stage for the Government is to proceed against the fountain-source of the adulterated food.

Shri N. S. Jain: Under which law could he be prosecuted?

Shri S. S. More: I cannot say off-hand.

Mr. Chairman: There was a proposal to proceed against that person to handle him like an accused and try him. That amendment was not accepted. Now, Shri Jain is putting the question: where is the provision for prosecuting him?

Shri S. S. More: We will have to go to the definition of 'adulteration.'

Mr. Chairman: Under another provision, separate proceedings can be proceeded with.

Shri S. S. More: He can be proceeded with. Supposing I am prosecuted. I produce this warranty. I say "Well, X gave me this written warranty. I am not personally responsible for this." Then it is open to the Government to start proceedings against that man who has given that warranty and that will be a separate proceedings. My friend—if I have understood him properly—was keen on roping in that man in the same proceedings. The moment one accused, being acquitted, leaves the dock, he wants to place some other man there and continue that prosecution! That will not be the proper way. The proper way will be to proceed with the man by starting another case. Some investigation has to be done, and after this is done, and the authorities are satisfied, the man will be placed in the dock. I feel that this measure is a new attempt. It is a new legislation. It is a new field that we are covering by this sort of legislation. We are bound to commit some mistake. Even in countries where such legislation is kept on the statute-book, they learn only by their own experience. The only way to learn a good thing is by the method of trial and error. I am not prepared to state that the Select Committee has produced a perfect Bill. It is a Bill which might disclose some lacunae as we go on implementing its provisions, and then, it will be open for the Government and the Health Minister to try to fill in those lacunae. But some beginning has to be made. It may be a bad beginning but this bad beginning will lead to good results. And, if we do

something for safeguarding and preserving the health of the people of this country, that will be good to the country. That is my submission.

Several Hon. Members: rose—

Mr. Chairman: We have sufficiently discussed the matter. I will request the Members to make only new points and not make speeches to elucidate the points which have already been placed before the House because the time is short. We have already devoted a good length of time to this.

Shri U. M. Trivedi (Chittor): I would not like to take any length of time. This clause 19 and the scheme of the whole Bill—reading between the lines—are perhaps aimed at the protection against the use of adulterated food by the public and generally the adulterated food that has been aimed at is what we have now come to know as vegetable ghee. So instead of saying it in a direct manner we are having a circumlocutory way of catching the thing. Instead of saying definitely that we put a stop to the manufacture of this vegetable product this so-called ghee we have developed this whole law.

Mr. Chairman: The hon. Member was probably not here in this House during the last two days. That point has been argued threadbare and the manufacture of this vegetable product or *vanaspati* has got nothing to do with this clause. I would request him kindly to concentrate on clause 19 only.—(Interruption.)

Shri U. M. Trivedi: I did not know that Mr. More was so much interested in giving out his opinion as he was in the Select Committee. He would bear with me a little. I would come to the question of warranty. The prosecution that is to be launched, as contemplated in clause 19, is that of a small vendor, a man living in the village. The question is the sale of any adulterated or misbranded article of food. I was just remembering an illustration as to how this warranty

will be difficult of being proved or produced before the court. What happens? The sellers of the *Dalda* products have got most intelligent people behind them to protect them legally. They put down the label 'vanaspati product' but in the market they go and tom-tom:

“बढ़िया ची आ गया है, नये तरह का ची आ गया है, बहुत अच्छा है, खाने में बहुत बलदायक है”

This is being tom-tommed all over small towns and villages. Although there is the label *Dalda Vanaspati*—hydrogenated vegetable oil product—put upon it, the warranty, which is by word of mouth is there. How is the small trader the ordinary man in the street, one who carries on a small shop in a small village going to know that this is not a good warranty that is being given to him. Naturally, hearing all that noise which goes on over the loudspeakers and which has passed through his village, he offers to sell this. Then what warranty is he going to produce?

Of late the question was raised as to what this man who comes to give evidence will say. Supposing he says this is the warranty which I received; such and such a person uttered these words. Can anybody produce the warranty? Who is the person that is going to give evidence about this warranty? Will the real offender come and say that he was the person who gave the warranty? The clause reads:

“Any person by whom a warranty as is referred to in subsection (2) is alleged to have been given shall be entitled to appear at the hearing and give evidence.”

Will this offender at law, who gave the warranty, say, 'I take the responsibility, I gave this warranty'? He will simply say that he never gave the warranty and the poor small vendor will get in the neck.

Sir, you suggested that there could be a further prosecution. But, of

[Shri U. M. Trivedi]

whom? The man says that he never gave the warranty.

Mr. Chairman: A copy of the warranty is there.

Shri U. M. Trivedi: Provided you are making a law that anybody who sells products of this nature must give a written warranty.

Mr. Chairman: Mr. More says that after some time such a practice of taking warranties may develop.

Shri U. M. Trivedi: Yes, that will be after ruining the lives of so many people. By the time we all become literate it will take another fifty years. For these 50 years we are being kept in a very good Utopia.

Mr. Chairman: It appears according to the hon. Member, that for the coming fifty years there will be no case of any written warranty. Then sub-clause (2) will not come into operation at all.

Shri U. M. Trivedi: I say with great respect that the question is of written warranty. The law is like this. He may produce a copy of the warranty. The copy of the warranty is this. He will merely say that such and such a man gave him a warranty that people had heard him on the loudspeaker and that he said that this was *ghee* and that it was good *ghee* and that it makes people very strong. Somebody may write down that warranty.

Mr. Chairman: That warranty should be given by the seller.

Shri U. M. Trivedi: That will be only when we make a law that for the sale of all such articles a warranty in writing must be given. That is why, in the beginning of my speech, I said that this Act is aimed exactly at a particular product which is now being manufactured. It is manufactured for no other purpose except for adulteration. No other use is made of this *vanaspati* and we are not putting a stop to this product.

Mr. Chairman: I do not want to interfere with the speech of the hon. Member. The hon. Member will realise that nobody says that *vanaspati* is being manufactured only for the purpose of adulteration. They are producing this product which is being sold in the market for other purposes. It is assuming too much.

Shri U. M. Trivedi: There is no other purpose known at least to either chemistry or to the trade.

The Minister of Health (Rajkumari Amrit Kaur): I do wish to say that people who want to talk about *vanaspati* may ask for another day for a discussion about *vanaspati*. The manufacture of *vanaspati* has got nothing to do with this Bill.

Mr. Chairman: In fact the hon. Member is not talking on the manufacture of *vanaspati* at all; he is perfectly relevant.

Rajkumari Amrit Kaur: He is saying that *vanaspati* is being manufactured for the purpose of adulteration.

Mr. Chairman: The only point which the hon. Member is making is about adulteration. We are not concerned with the manufacture of *vanaspati* and, even so, I have asked him not to assume too much that the purpose of manufacturing *vanaspati* is for that of adulteration alone. It is manufactured for other purposes also.

Shri S. S. More: Some people may use it for adulteration.

Shri U. M. Trivedi: I say that hydrogenated oil all over the world is not manufactured for any purpose except for being sold as *ghee*.

Mr. Chairman: Let us proceed.

Shri U. M. Trivedi: Anyhow the position is this. It takes away the ordinary legal defence that a man can put forward under our law of evidence and under the Criminal Procedure Code. This is the sum and substance: You are putting up a burden on the ignorant man who may not understand the implications of this Bill.

Mr. Chairman: In fact, this is a sort of protection to the man against the provisions of sub-clause (1).

Shri U. M. Trivedi: This is an exception to sub-clause (1).

Mr. Chairman: Therefore it is a protection given and not a burden imposed.

Shri U. M. Trivedi: How will he produce the warranty? That is the difficulty.

Mr. Chairman: That is a different matter; but he is not being burdened too much by this.

Shri R. K. Chaudhuri: May I speak, Sir?

Mr. Chairman: I only ask the hon. Member to be relevant. Not that I assume that the hon. Member will be irrelevant; time is very short and we are racing against it.

Shri R. K. Chaudhuri: I was always boasting that in this house I have never talked an irrelevant matter.

Mr. Chairman: That is for others to judge.

Shri R. K. Chaudhuri: I am not merely returning a compliment when I say that I endorse all that Mr. Tek Chand said on this clause. I would ask my lawyer friend, Mr. More, to pause for a moment and consider what mischief he has done to the country.

Shri S. S. More: Myself?

Shri R. K. Chaudhuri: Yes. He has introduced for the first time a maxim or law whereby the magistrate is fettered to give a minimum quantum of punishment. He has, in this clause, thrown the burden of proof on the accused. Not only that he has thrown the burden of proof on the accused, but he has also introduced these two clauses so that that burden would be more severe. First of all, the vendor has to prove that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any, to the effect

that it was of such nature, substance and quality. Therefore, the burden of proof is on the accused to show that the article was purchased by him as the same in nature, substance and quality. But, what about those people who use certain kinds of oil or ghee for sale of sweet-meats? How can he prove that the ghee which he had used was received by him in the same condition as that demanded by the purchaser? These things are purchased in small quantities by retail shopkeepers. How can they prove it? Then, the written warranty is necessary. How is it possible for an ordinary retail seller, distributor or hawker to preserve the warranty which he had received so many days or months back?

Shri S. S. More: Does he not preserve his licence?

Shri R. K. Chaudhuri: He does preserve his licence but not the warranty. Then supposing this warranty is given by a person resident in an area where this Act is not in force, then what is the position? There it is said that such a warranty shall be a defence to the vendor only if the vendor proves to the satisfaction of the court that he had taken reasonable steps to ascertain and did in fact believe in, the accuracy of the statement contained in the warranty. How can he prove all these things? How is it possible?

Now, Sir, I was under the impression that this Bill was introduced for the benefit of the large mass of poor people in this country who are compelled to take adulterated things because they cannot afford to purchase pure food. I thought the hon. Minister introduced this Bill with a view to benefit the poorer section of the people of this country.

Rajkumari Amrit Kaur: It is, so.

Shri R. K. Chaudhuri: Now, take for instance the case of Shri More or some other Member. Mr. More does not purchase ordinary Dalda or ghee. He purchases ghee at Rs. 9 or Rs. 10

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a seer. For him this Act is meaningless.

Shri S. S. More: We cannot afford to purchase ghee!

Shri R. K. Chaudhuri: It is the poor people who are to benefit by this Act. The people of Northern India who live on vegetarian food and also people of the South who are vegetarians, they want good pure ghee and oil. That is what they want. For us, who are non-vegetarians, where fish cannot be adulterated egg cannot be adulterated and meat cannot be adulterated, we have absolutely nothing so far as this Bill is concerned.

Shri S. S. More: May I know from the hon. Member whether meat does not come under the definition of 'adulterated' if it is rotten?

Shri R. K. Chaudhuri: We must not mix up the two. It is one thing to sell a stale fish or a thing exposed to dust and it is quite a different thing to adulterate a thing. Here we are concerned with the question of adulteration.

I do not want to detain the House long with my speech, but I would just like to remind the hon. Minister that the provision of laying down minimum punishment and the provision of throwing the burden of proof on the accused are most revolutionising, and this is the maximum of totalitarianism.

Shri Mulchand Dube (Farrukhabad Distt.—North): May I say a word, Sir? In clause 19, section (1) it is said:—

"It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality...etc."

My submission is that a vendor who has not himself discovered that the article which he purchased from a manufacturer was misbranded

should not be caught in the scope of this section. I think he should not be prosecuted and that should be a complete defence for him because this misbranding is done by somebody else. That is all I have to submit.

Rajkumari Amrit Kaur: Sir, much has been said about the 'poor vendor' and every argument is, as far as I can make out, confined to defend him in some way or the other. I am not out to penalise anybody except the culprits. Now, whether it is a small vendor or big vendor, he has got to be punished. I am far more keen to get at the big people who have the money. If this clause is not in the Bill, everybody can plead ignorance and this Act will become infructuous. Therefore, this clause has to be there.

Now, if you turn to clause 20, you will find there:—

"No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority."

Therefore, although a petty vendor who does not know the nature of the adulterated food is liable to prosecution, it is for the State Government or local authority to judge the suitability of the case for launching the prosecution according to the clause which I have read. Now, the intention of this sub-clause which has been quoted in clause 19, that is sub-clause (2), is not to throw the onus of proving this case to the court on the accused because the onus of proving the case rests on the prosecution. Actually this sub-clause (2) provides defence for the vendor.

Further, as far as warranty is concerned, punishment for false warranties has been provided in clause 16(g). According to this, if a warranty is proved to be false the warrantor may

be prosecuted separately. You cannot make him a co-accused with the vendor because legally such a joinder may be challenged as a misjoinder as not falling under Section 2 of the Criminal Procedure Code. Now, in view of certain strong opinions that some of the hon. Members who have spoken have expressed, I am perfectly willing to delete the words: "within seven days of the receipt of a copy of the report of the public analyst" in lines 21 and 22. I would bring in that amendment myself so that the warranty may be submitted at any time. I have insisted on a written warranty for such purposes.

Then, I would like to say to the hon. Members of this House that no legislation, however comprehensive it may be, can ever be satisfactorily worked if the citizens in general are corrupt and dishonest. I am not willing to take it for granted that everybody in this country is dishonest. Of course, there is dishonesty and we have got to legislate to protect the poor. I am not here to protect the rich; I am here to protect the poor. I think this menace of adulteration is simply shocking and I would like people to be punished, and punished heavily, for this crime against humanity.

Some hon. Members talked about *mens rea*. In many cases *mens rea* has to be implied from the surrounding facts and circumstances, and in present day social legislation all over the world, and here too, *mens rea* is not always insisted upon as a condition precedent to criminal liability. Therefore, I say that this clause 19 has to be there and I would like to put it to the vote of the House. Mr. Chairman, with your permission, eliminating the words which I mentioned, from lines 21 and 22.

Shri S. S. More: I did not exactly catch the words of the hon. Minister. Are you proposing to delete these words: "within seven days etc.?"

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Rajkumari Amrit Kaur: Yes.

Shri S. S. More: My friend is asking me not to have any difficulties, but according to this particular provision, this is a pre-prosecution stage. The notice is received, then he has submitted the written warranty in spite of that the prosecution has been launched and then the man has taken up his defence saying "I have acted on a written warranty" and he produces it as his evidence. Then, he is entitled to acquittal. I am now trying to reconstruct the whole thing. Suppose we fix up the period at 15 days or even one month. Then, there will be no need of starting any prosecution. Otherwise, all the processes of starting a prosecution will be there and then only the man will come before the court and say "This is the written warranty on which I take my stand". All this prosecution will then be wasted. You must extend the time and I agree with the argument that seven days will be too short. If there is a time limit, then the necessity for a vexatious prosecution will not be there. We shall be doing greater disservice to the man whom we intend to protect by removing this period. Otherwise, he will have to face his prosecution and engage Mr. Tek Chand.

Mr. Chairman: There is no amendment to this effect before the House just at present, but the hon. Minister has expressed her intention of giving notice of such an amendment. I think all the implications of such an amendment must be gone through. Furthermore, the point taken up by Mr. More is very material. The question will arise when the written notice should be given. I think in criminal law, if a person can prove that whatever he has got was got from another person and that he did not know that the things were such as would come within the definition of "adulterated" then it will be no defence here and so the question of seven days, as has been rightly expressed by the hon. Minister, is really immaterial. I should think that the only material

[Mr. Chairman]

point is that if he produces a warranty, he should get an acquittal. So far as Mr. More's point is concerned, before the Government launches a prosecution, the vendor will be able to satisfy the inspector by saying that he has a warranty and there will be no necessity for prosecution at all if he takes advantage of the fact that he produces a warranty before the prosecution starts. But if he is unable to produce a warranty, even then, while on defence, he should be armed with the power of producing his warranty. The question of limitation of seven days should not arise.

Rajkumari Amrit Kaur: So much has been made of the seven days. If the desire of the House is that the seven days' period may be lengthened to 15 days, I am perfectly willing to make it so.

Mr. Chairman: There is no amendment before the House for this purpose. I would rather like that so far as this aspect of the case is concerned, it may be more fully thought out. I will now proceed with the other clauses and meanwhile, if any gentleman wants to move an amendment to this clause.....

Rajkumari Amrit Kaur: It is for the vendor to submit the warranty and he has got to submit it.....

Mr. Chairman: He can do so at two stages. If the warranty is produced within the time limit, the Government may not prosecute him, but they will prosecute the manufacturer.

Rajkumari Amrit Kaur: It is for the vendor to submit the warranty to the Food Inspector before the prosecution is launched, but if he delays it, he will then have to produce it in court after the prosecution is launched. I did not mean that he was not to produce the warranty; he has got to produce it. In view of the several speeches that have been made on this clause, I thought that it might be further liberalised.

Mr. Chairman: After the prosecution takes place, this clause comes into effect. I can visualise to myself that a very vigilant vendor may come before the Government and say "Do not prosecute me because I have got a warranty" and if the warranty is produced, I do not think Government will prosecute him, but they can prosecute the manufacturer. In case he does not produce the warranty then, the question of seven days will arise, and the difficulty, pointed out by Mr. Raghavachari, will arise, namely, seven days from what period. The copy of the analysis will not be with the vendor. How can he take action within seven days?

Rajkumari Amrit Kaur: It was because that the copy might not be with the vendor.....

Mr. Chairman: So far as the question of seven days or fifteen days is concerned, as the hon. Minister thought, it will be right to dispense with the period of time. After all, it will not look very just.

Rajkumari Amrit Kaur: That is what I say.

Mr. Chairman: The mere production of a warranty should not make for his acquittal; he shall have to prove it.

Rajkumari Amrit Kaur: The Government will not launch a prosecution unless they are certain that circumstances have arisen for a prosecution to be launched. If the warranty produced by the person is false, that is another matter, but if it is perfectly valid, Government will consider it.

Mr. Chairman: One question that will be of very great importance to the accused will be that he has got a warranty, and that he has not got to come before the court as pointed out by Mr. Tek Chand.

I would, therefore, like that a considered amendment be placed before the House in an hour or so and before we finish the other clauses, we

may debate upon it. Otherwise, there will be no use discussing it now.

Rajkumari Amrit Kaur: What is the proposal before the House? I have been told that clause 19 is a bad clause and that I am making it very difficult for the vendor. I say "No". I say that this clause has got to be there. It is only in regard to the question of the period of time.....

Mr. Chairman: As a matter of fact, the position is this. When we were discussing amendments to clause 19, and had practically finished them, I would have put it to the vote of the House and that was the occasion when the whole clause could be considered. Some Members took exception to clause 19, not as a whole, but to certain portions of the clause. The objection was such that the hon. Minister herself stated that she wanted to change the wording regarding seven days. Now, it is for the Government to say what amendment they wish to make or for any hon. Members to suggest what amendments should be made. If they give notice of their amendments within a short time before we finish the other sections of the Bill, I will certainly allow those amendments to be debated in the House and then the House can come to its own conclusions. That is the proper way of disposing of this matter.

Shri S. V. Ramaswamy (Salem): The difficulty is in respect of the period of the receipt of the copy of the public analyst's report. Is it going to be served on the vendor? If it is going to be served, then I can understand the difficulty, but I understand that no copy of the receipt is going to be served.

Mr. Chairman: So many questions arise and so many incidental points arise that cannot be the subject matter of discussion in the House now. When a considered amendment comes up before the House, we may debate on the question, and so far as this clause is concerned, we will take it up after the other clauses are finished.

Rajkumari Amrit Kaur: Will you please give only fifteen minutes' time for hon. Members to bring forward their amendments?

Mr. Chairman: As soon as the amendments are ready, I will take them up.

Rajkumari Amrit Kaur: How long have you given them time?

Mr. Chairman: Fifteen minutes will suit you?

Rajkumari Amrit Kaur: I would like to say that defence can be put up by the vendor even before he is prosecuted, that is, before the food inspector of the State Government,—and hence the word 'defence',—why should it be deleted?

Mr. Chairman: The hon. Minister is only arguing. If a proper amendment comes before the House, the House will consider it; otherwise, there will be no end to argument. I think it is proper that as soon as a considered amendment is brought before the House, I will take it up.

Shri E. K. Chaudhuri: Can we move an amendment that instead of "seven days" it should be "one month"?

Mr. Chairman: If I allow an amendment to be moved by Government I should allow an amendment to that amendment by members. I am ready to receive any amendments so far as this seven days' question is concerned.

New Clause 19A

Shri Mulchand Dube: Sir, I would like to move my amendment No. 71 in a modified form, for the first part of the amendment is covered by Section 16(c). I beg to move:

In page 12, after line 34, insert:

"19A.—A person who has given the warranty if he is a resident of an area in which the Act is not in force shall be deemed to have committed an offence of cheating under the Indian Penal Code."

[Shri Mulchand Dube]

This Act visualises that the entire Act may not be simultaneously enforced in all the States: there may be areas in which the Act is not in force, but where the Indian Penal Code may be in force. Therefore, if a person produces a warranty from a person who is living in an area in which the present Act, that is the Food Adulteration Act, is not in force, he is in fact deemed to be innocent. That is, there is no provision to cover a person who has given a false warranty. So such provision seems to be necessary to rope in a person who is living outside the area in which the Act is in force.

Shri A. M. Thomas (Ernakulam): May I enquire from the hon. Member whether it would amount to cheating under the general law? Then why should we have a special provision.

Rajkumari Amrit Kaur: In view of the proposed omission of the words "but section 7 shall take effect in any State only from such date as the State Government may, by like notification, appoint and different dates may be appointed by the State Government for different areas of the State", in clause 1, this amendment is not necessary.

Shri Mulchand Dube: Then, I do not wish to press it.

Mr. Chairman: We will now take up clause 20.

Clause 20.—(Cognizance and trial of offences).

Shri N. S. Jain: I beg to move:

In page 12, line 38, add at the end:—

"or by a purchaser mentioned in Section 12."

जो दफा २० में अख्यारत दिये गये हैं कि चन्प असहाब को या चन्द जमातों को यह हक है कि वह मुकदमा चला सकते हैं इस कानून

के मातहत, उस में मैं यह तरमीम करना चाहता हूँ कि यह इजाफा कर दिया जाय कि अगर कोई खरीदार, जिस का कि दफा १२ में जिक्र है, चाहे तो वह भी ऐसा मुकदमा चला सकता है। दफा १२ में पर्चिजर यानी खरीदार को अख्यार दिया गया है कि वह भी जब चीज खरीदें तो उस का नमूना उसी तरीके से ले सकता है जिस तरीके से कि फूड इन्स्पेक्टर, और यह तरमीम खुद सरकार की तरफ से आई है। मेरी तरमीम भी थी, लेकिन सरकार ने खुद इस को मंजूर कर लिया है कि खरीदार को वह तमाम तरीके इस्तेमाल करने दूंगी जो दफा १२ में फूड इन्स्पेक्टर के लिये दत्त गये हैं। ऐसी सूरत में अगर कोई खरीदार उन तरीकों के मातहत कोई चीज खरीदता है और उस का नमूना पीब्लिक एनालिस्ट के पास भेजता है, अपना रुपया खर्च करता है और अगर आप उस को यह अख्यार नहीं दते कि अगर एंडल्टेशन साबित हो जाय तो वह मुकदमा चला सके तो मैं समझता हूँ कि कोई भी खरीदार इस झमले में नहीं पड़ेगा। मेरी समझ में यह बात नहीं आती कि सरकार की तरफ से इस के बारे में क्या कहना है, क्योंकि खुद उस की ही यह तरमीम है। शायद उस की तरफ से यह कहा जाय कि खरीदार को चाहिए कि वह लोकल अधारिटी को दरखास्त दे या जो मौजूदा सरकार हो उस को दरखास्त दे कि मैंने इस इस तरीके की कार्यवाही की है लिहाजा उस आदमी पर मुकदमा चलाया जाय। मैं समझता हूँ कि यह चीज भी गलत होगी। जो लोकल अधारिटीज या सरकार होती हैं उस का काम जिस तरीके से होता है उस से जो उम्मीद हो सकती है वह इतनी नाकामी है कि किसी शख्स को प्रोत्साहन नहीं होगा कि वह खरीदार बन कर इस तरह से कार्यवाही करने को सहमत हो। इसलिये मेरी दरखास्त है कि इस को दत्त लिया जाय और मुनासब समझा जाय तो इस में इस का इजाफा कर दिया जाय।

Shri S. S. More: Before you place the amendment before the House may I bring to your notice that strange results would follow if this amendment is accepted? Who is to give the consent? If this amendment is accepted, it would mean that the person appointed by a purchaser in section 12 has to give consent. That is the person authorised must be by the State Government, or a local authority or by a purchaser. So, I can very well appoint a person to give consent for such prosecution.

Mr. Chairman: The words "or by a purchaser mentioned in section 12" will come at the end.

Shri S. S. More: That would mean the consent of a person authorised in this behalf by the local Government, or a local authority or by a purchaser mentioned.

Mr. Chairman: It can also be worded 'except by a purchaser mentioned in section 12'.

Shri S. S. More: This amendment itself is not suitably worded.

Mr. Chairman: It is quite suitably worded.

Shri S. S. More: I beg to differ from you because it is a qualifying clause. I am not so sure about my English but I feel it becomes a qualifying clause. It reads: "...a person authorised in this behalf...by the producer....." It looks like it.

Mr. Chairman: That is, it must be with the written consent of the State Government or the local authority or a person authorised in this behalf by the local authority...

Shri S. S. More: It does not require persons of competence; it refers to the consent which is to be obtained before the prosecution is launched. My submission is if it is introduced in this context, then it might lead to confusion; I am not so sure about it.

Mr. Chairman: So far as the present amendment is concerned it says 'by a purchaser'; he should be authorised to prosecute. So far as the words are concerned, 'written consent' comes subsequently; it reads 'except by, or with the written consent of...'. So, if these words are there at the end then it might be capable of such interpretation as Mr. More points out. He says it should be: "...except by the purchaser mentioned in section 12 or with the written consent of..." It is only a very technical objection and that can easily be met; when I put it, I will make it clear. Let me read the amendment

In page 12, line 28, add at the end:—

"or by a purchaser mentioned in Section 12."

Or, you can add after word 'by'—that is the only difficulty with Mr. More—if the hon. Member will agree, you can add after the words 'except by', the words 'a purchaser mentioned in section 12.'

Rajkumari Amrit Kaur: May I say that I object because the purchaser is already entitled under the relevant section to prosecute?

Mr. Chairman: It was brought to the attention of the hon. Minister that so far as the wording of clause 20 is concerned, if these words are there, no person shall be authorised to bring any prosecution under this Act and that section 272 etc. only deal with certain kinds of offences in which food adulteration is obnoxious and at the same time the punishment is only six months imprisonment. Those Sections in the Indian Penal Code are entirely different.

Rajkumari Amrit Kaur: Anyhow, Mr. Chairman, we do not want or propose to allow purchasers to launch direct prosecutions.

Several Hon. Members rose—

Mr. Chairman: Before the hon. Minister replied, the hon. Members should have taken part in the debate

Sardar Hukam Singh (Kapurthala-Bhatinda): But you have just put the amendment and immediately the Minister stood up.

Mr. Chairman: But immediately the hon. Members should have stood up; anyhow, I allow a discussion in this case.

11 A.M.

श्री इन्दुनन्दनबाला (भागलपुर मध्य) : अध्यक्ष महोदय, अभी जो हमारा मित्र नमी शरण जी ने आपके सामने संशोधन रखा है वह बड़ा ही महत्व का है। यदि वह संशोधन स्वीकार नहीं किया जायगा और इस एक्ट में नहीं आवेगा, जैसी कि स्वास्थ्य मंत्रीजी जी की राय है कि गवर्नमेंट यह संशोधन नहीं चाहती, तो मेरी समझ में यह जो आपका एक्ट है यह ऐसा का ऐसा ही रह जाएगा और इसमें कुछ भी नहीं होगा। इसमें लिख दिया गया है कि गवर्नमेंट की कंसंट के बिना प्रासिक्यूशन होगा ही नहीं, तो आप जानते हैं कि गवर्नमेंट किस तरह से कार्रवाई करती है और कहां एक्टिव रहती है और गवर्नमेंट से कंसंट लेने में कितना समय लगता है। इसको दृष्टि से हुए मेरी समझ में कुछ भी होने वाला नहीं है। मैंने, प्रारम्भ में ही कह दिया था कि अगर यह एक्ट आवे तो ऐसा होना चाहिए कि सचमुच कुछ कार्रवाई की जा सके। यह जो क्लॉज २० में दिया हुआ है कि कोई केस लावे और अदालत में जायें उसके पहिले सरकार की रजामन्दी लेना चाहिए ताकि केस लाने के पहिले गवर्नमेंट को उस चीज की अच्छी तरह से जांच करने को मौका मिल जाय। जहां तक इंसपेक्टरों का सवाल है यह बात ठीक है। परन्तु यह जो क्लॉज १२ दिया गया है और उसमें जो बातें लिखी गयी हैं मेरी समझ में नहीं आया कि यह क्लॉज १२ फिर क्यों दिया गया है। क्या कोई परचेजर अपनी खुशबक्ती के लिए किसी के यहां से चीज लेगा, अपना पैसा खर्च करके एनेलाइज करावेगा और फिर कहेगा कि यह चीज खराब है इसलिए बंदर से इसका पैसा ले लिया जाय। इसका क्या मतलब हुआ यह

मेरी समझ में नहीं आया। मैं स्वास्थ्य मंत्रीजी जी से पूछूंगा कि यह चीज क्लॉज १२ में क्यों दी गयी है यदि परचेजर को यह अधिकार नहीं होगा कि वह कोर्ट में जा सके और पब्लिक को बतला सके कि फलां आदमी खराब चीज बेचता है, उसको प्रासिक्यूट कर दिया जाय। हम वह तरद्दुद लेने के लिए तैयार हैं, कोर्ट में जाने के लिए तैयार हैं कि हम उसको प्रासिक्यूट करें, तो फिर सरकार उसके बीच में क्यों आती है। यदि हमारा केस ठीक है तो हम कोर्ट को बतला सकते हैं कि फलां व्यक्ति या मैन्युफैक्चरर या कोई भी हो, वह गलत काम करता है और वह लोगों के लिए हानिकारक है। हम कोर्ट में जाकर यह साबित कर सकते हैं, तो मेरी समझ में नहीं आया कि हमारी स्वास्थ्य मंत्रीजी जी ने क्यों उठकर तुरन्त ही कहा कि सरकार इसके विरुद्ध है। क्यों सरकार इसके विरुद्ध है यह मेरी समझ में नहीं आया। मैं संसद सदस्यों से आपके द्वारा कहना चाहता हूँ कि यह संशोधन आप लोग जरूर पास करें यदि आप इस एक्ट को किसी भी काम में लाना चाहते हैं। यदि इसको आप ड्रॉट लेटर बनाना चाहते हैं तब तो ठीक है। अभी तक जितने भी एक्ट आवे हैं वह सम्बन्ध ड्रॉट लेटर रहे हैं। हमारी स्वास्थ्य मंत्रीजी जी ने भी शुरू में कहा था कि यह जो एक्ट है इसका इम्प्लीमेंटेशन कैसे होगा। इस बार मैं उनको तरद्दुद था। उन्होंने हमको लिखा था। परन्तु जब कार्रवाई करने का सवाल आता है तो वे विरोध में खड़ी हो जाती हैं। मेरी समझ में नहीं आया कि वे क्यों विरोध में खड़ी हो जाती हैं। जो बातें कही गयी हैं वे मेरी समझ में नहीं आयीं इसलिए मैं फिर आप लोगों से प्रार्थना करूंगा कि आप अच्छी तरह से विचार करें और विचार करके इस संशोधन को जरूर स्वीकार करें।

Sardar Hukam Singh: Mr. Chairman, it is very unfortunate that we could not catch the eye of the Chair and the

hon. Minister had to give her first reactions so far as this amendment is concerned. We feel—at least there are some hon. Members who I know feel—that this is a very essential amendment that must be put into this Act if it is to be made effective. As has been argued by my friend just now, when we have given that option to the purchaser that he can get the food analysed if he informs the vendor of his intention to do so, this is essential. If he gets the report that it is adulterated, luckily, he can get that money refunded. But why should he spend at all; why should he take the trouble, spend the money if only he gets a refund—it would not be the refund of the whole amount that he has to spend. I should say that no purchaser would be coming forward to have recourse to get the food analysed, considering all the trouble he has to undergo. And, as has been just observed, this Act would remain a dead letter. Why should we leave it to the local bodies and State Governments alone? They are very loath to do it. And this would open the doors of corruption. It will make room for the influences which normally corrupt these officers. If the option is there and the purchaser also can move in the matter, the inspectors and other authorities will take care as they will know that if they do not move there is another agency that can move in the matter and that therefore they might be taken to task. But if that option is excluded and they are the sole masters of the situation, I am afraid that this Act would not work satisfactorily and the object that the hon. Minister has in view would be frustrated. Therefore, with all the force at my command, I appeal to the hon. Minister to reconsider this matter and take a fresh decision on it, because it is very essential that we should give this power to the purchaser.

Pandit S. C. Mishra (Monghyr North-East): With what we have seen of our Health Minister, we thought

her anxiety was for the health of the nation. We never thought that while catering for the nation she would be so much anxious about the offenders also. Here, though the Bill is in respect of adulteration of food articles, it is not really adulteration; for really, what goes on in our country is poisoning. If you add water to milk, it is adulteration. But when you grind chalk or something and put that into it, it is really poisoning. We are all being poisoned that way. I do not know why she should take away from a person who is badly injured by a thug or a cheat, the right that is his to go to court and prosecute that man. This practice is so very prevalent, and now every ingenious man is after poisoning food articles. Therefore, even if a maze of litigations were to go on between parties even that will do some good to the nation. Perhaps such offenders will take note, and that will have a deterrent effect on them.

I fail to understand the position taken by Government. If, as our friend said, the inspectors or other officials start the prosecution, it is quite all right that the Government should give sanction. But when an injured man wants to go to court and have the offender punished, where is the question of Government sanction? I think the hon. Minister should be pleased to accept this. Otherwise the whole Act will become infructuous.

Shri Sadhan Gupta (Calcutta—South-East): We are all agreed that the practice of adulteration has become so widespread that it needs a very salutary check, and we thought that the Government was honest in its professions that this Bill was meant to provide such a salutary check. From the instant reactions of the Minister of Health even before she had heard the arguments in favour of modification of clause 20, it is quite obvious that the mind of the Government is made up and no amount of argument is going to sway it. I shall therefore not attempt...

Mr. Chairman: It is not a fair comment. She has changed even clause 19 in accordance with the wishes of the House.

Shri Sadhan Gupta: But, Sir, in regard to clause 20 she has declared very categorically.

The point is adulteration is very widely prevalent. It has to be checked. We cannot rely on the machinery provided by the Government for the purpose of checking it. The real, aggrieved person is the person who buys adulterated stuff, and he has the greatest interest to prosecute the person who adulterates, the person who mixes impure stuff with what he sells to him as pure stuff. It is he who is most interested in the prosecution, and what we seek to do is to exclude him from prosecuting the offender.

Let us be quite clear about it. Clause 20 refers to an offender and not to an innocent person. What clause 20 in effect says is that a man might have committed an offence, a man might have done something wrong, but the person wronged shall not be able to prosecute him without the sanction of the Local Government, without the sanction of the local body or without the sanction of an authority designated in this behalf. What would be the result? The Food Inspector is there. He will start all sorts of prosecutions, of petty people. As has been said a little while ago by Mr. Tek Chand, out of the sheer necessity of showing some activity, they would proceed against small offenders, perhaps against innocent people. But big vendors will see their way to get round this machinery by so many devices, corrupt and otherwise.

That is the great danger that besets the administration of this measure unless purchasers are allowed to prosecute the offender.

Speaking for myself I would much wished that not only purchasers but also public-spirited organisations should have been allowed to come in

for the purpose of prosecuting those who adulterate. If we do not go so far—although that would provide a much greater uprightness in prosecution and would have led to much better administration of justice—if we do not accept that principle, we can at least accept that the purchaser should be enabled to prosecute the man.

The Indian Penal Code has been brought in, I do not know for what purpose. Section 272 and section 273 of the Indian Penal Code are quite different from the present Bill. They are different in their application. Section 272 refers to adulteration which renders something noxious. The Bill refers to adulteration, which does not necessarily render it noxious. The Indian Penal Code aims at preventing injury to health. This particular Bill aims at the prevention of persons from adulterating and not necessarily poisoning any article. The two things are entirely different and there is great difference in the measure of punishment. The penalties inflicted by the Indian Penal Code are very meagre. The present Bill puts these penalties on a much more serious footing. I wonder why the purchaser who has been aggrieved by the sale of adulterated foodstuffs should not be allowed to bring the full force of justice to bear upon the delinquent and subject him to the severest penalties, which he deserves when we are out to check adulteration.

Now the object of the Government is quite the contrary. Sir, on the last occasion when I was speaking on the first reading I had said that many high ups in Government were linked up with big business. Now the Minister of Health was touchy about it and denied it. Now, Sir, may I say just now that I have never insinuated that the Minister of Health herself was in touch with big business.

Mr. Chairman: That part of the argument is over. We are only concerned with clause 20.

Shri Sadhan Gupta: My argument is clause 20 is the result of that. I want to make out that they have strong links in the Government and it is these links which have resulted in the introduction of this clause. Both the Minister of Health and every section of the House have come up with the strongest condemnation of the adulteration of food. Then, if that is so, what is the meaning in seeking to give them protection? This protection will make prosecution very difficult. Sanction will be given by local governments or local bodies or authorities designated in this behalf. Next, the sanction is not readily available; papers will go; files will be considered and after a long time sanction will be given. Now, Sir, why this dilatory process? Obviously, the reason is that the production of articles of food is of vital concern not only of the small vendors or small traders but of big businessmen and it is big businessmen who are responsible in a great measure for adulteration of so many foodstuffs. It is they, who have introduced this clause as a measure of protection to enable them to avoid prosecution when they are affected. Seems they have many avenues to escape prosecutions. Small vendors may not satisfy the rapacity of the government machinery, the corrupt machinery, which will administer this Bill, whether they be authorities or local bodies or State Governments. But, big businessmen have the means to satisfy their rapacity. Moreover, they have also the means to enable them to induce authorities or local bodies, or even State Governments to corrupt them and satisfy them into withholding their consent to prosecution. It is for this purpose that I would wholeheartedly support the amendment and oppose clause 20 as it stands.

Mr. Chairman: May I request the hon. Members to be brief?

Shri Raghavachari: I have not risen to voice the usual chorus that has

been now going on for the last ten or fifteen minutes but I have been anxious to contribute something. I see that in the anxiety of providing a right for the private purchasers to prosecute the whole scheme is going to be affected seriously. The whole matter will have to be considered in a long view. Sir, now I am one with my friends that the private purchaser must have right also to prosecute because it is a widespread evil and any man must be permitted to have a chance to establish the purity of things sold and to that extent I am one with them. But if you simply add the purchaser in clause 20 what it will result in is we have to think of a proof of the article and the purchaser under section 12. The scope of section 12 is restricted. The purchaser can send an article which he has purchased, provided he gives notice at the time he had purchased. On the other hand section 11 provides that anybody who wants to prosecute a vendor has to purchase the quantity, divide it into three parts, give one part to the vendor, take another part for himself and send the third part to the analyst and then the proof is complete.

Mr. Chairman: It is already there.

Shri Raghavachari: If the purchaser has not taken all these precautions to prove the matter, he has only a part of the thing and any purchaser can now do it. So I go to a market and purchase the material.

Mr. Chairman: We have already passed the amendment that the purchaser will be bound by those things which bind the Food Inspector. This argument is not all right. At this stage, I will request the hon. Minister to resume her speech because I am informed that perhaps the hon. Minister has got an amendment which may be acceptable to him.

Rajkumari Amrit Kaur: Mr. Chairman, first of all, I wish to apologise for having stood up. I did not know there were any Members wishing to

[Rajkumari Amrit Kaur]

to speak on this amendment. But, my first reaction in opposing this amendment was natural. I did not want it to be available to everybody to prosecute because it is always open to any purchaser to go to local authorities including even a *panchayat* and get the Government to prosecute the case. But if the general feeling in the House is that the purchaser should also have the power of prosecution, I would like to move the following amendment. I beg to move:

In page 12, after line 38, add:

"Provided that a prosecution for an offence under this Act may be instituted by a purchaser referred to in section 12, if he produces in court a copy of the report of the public analyst along with the complaint."

Shri N. S. Jain: In view of the Minister's amendment, I do not press my amendment.

Some Hon. Members: That is all right.

Some Hon. Members: We accept it.

Mr. Chairman: In lieu of the amendment moved by Shri N. S. Jain which he does not press, the following amendment will be put to the House. Amendment moved:

In page 12, after line 38, add:

"Provided that a prosecution for an offence under this Act may be instituted by a purchaser referred to in section 12, if he produces in court a copy of the report of the public analyst along with the complaint."

May I take it that it is acceptable to the House?

Shri B. K. Chaudhuri: I wish to oppose this. It does not improve the position at all. It would have been much better if the hon. Minister had straightforwardly accepted the amendment. It makes no change. For every private prosecution, he must produce a report. I am opposed to

this amendment on the ground that there should be no amendment to the existing section. Those who are supporting the amendment which was put forward, have not, I am afraid, seen the other side of the picture. First of all, they should not have attacked or suspected the *bona fides* of the Government or the local authority or any person employed by them. Government, at the risk of some amount of unpopularity have brought this legislation. It cannot for a moment be supposed that the Government would delay grant of sanction or refuse to grant sanction in deserving cases. The only ground of objection may be delay. This section provides that Government can appoint any officer, the local authority can appoint any officer, and so, even a village *panchayat* can appoint anybody to take cognizance and to make a complaint in such cases, and to give sanction in such cases. I therefore do not see what would be the necessity for having any amendment to this clause.

The other side of the picture is this. If you leave it to private prosecution, there are two dangers. One danger is that it will open the floodgate of blackmailing. (Some Hon. Members: No). There are rich persons.

Shri Bogawat (Ahmednagar South): Private persons must have the right to prosecute; otherwise, rich people will get protection.

Shri B. K. Chaudhuri: A Private prosecution may be started; but after he gets some stuff from the rich man, he will drop the prosecution altogether. That prosecution will be dropped without the knowledge of the Government or the local authority. For instance, *Dalda* people are influential people and they are rich persons. If a person makes a complaint and it is left to private prosecution, the complaint may be dropped automatically on payment of some compensation. Then, there is the danger of non-prosecution. An elaborate procedure has been laid down for prosecution by private persons and they may not be able to

prosecute the case. The prosecution would break up at any stage either on account of the fact that the private persons has been won over or the man has not got the means to carry on the prosecution. On this ground, I oppose the amendment. I support the section to stand as it is.

Mr. Chairman: I shall put the amendment to the vote of the House. The question is:

In page 12, after line 38, add:

"Provided that a prosecution for an offence under this Act may be instituted by a purchaser referred to in section 12, if he produces in court a copy of the report of the public analyst along with the complaint."

The motion was adopted.

Mr. Chairman: What about amendment No. 145? Does he not propose to move amendment No. 132?

Shri S. V. Ramaswamy: In view of amendment No. 145, I do not want to move amendment No. 132.

Mr. Chairman: Amendment No. 145 was debated for a long time yesterday also.

Shri S. V. Ramaswamy: I referred to it. It does not form part of.....

Mr. Chairman: It is not out of order. I only said that it was discussed yesterday also for a long time.

Shri S. V. Ramaswamy: I beg to move:

In page 12, for lines 39, and 40, substitute:

"(2) Prosecutions under this Act shall ordinarily be instituted in the court of a magistrate of the second class for the first offence:

Provided that it shall be competent to State Government to prescribe the class or classes of offences that may be initiated

before a magistrate of the third class specially so empowered.

(3) Prosecution for the second or subsequent offences shall be instituted in the court of a magistrate of the first class.

(4) No prosecution shall be instituted after six months of the commission of offence."

I press para 4 of this amendment. I discussed this amendment yesterday for record purposes. Instead of three months, I agree to its being six months. I give the time up to six months.

Mr. Chairman: I shall put it to the House.

The question is:

In page, 12, for lines 39 and 40, substitute:

"(2) Prosecutions under this Act shall ordinarily be instituted in the court of a magistrate of the second class for the first offence:

Provided that it shall be competent to State Governments to prescribe the class or classes of offences that may be initiated before a magistrate of the third class specially so empowered.

(3) Prosecution for the second or subsequent offences shall be instituted in the court of a magistrate of the first class.

(4) No prosecution shall be instituted after six months of the commission of offence."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, as amended, was added to the Bill.

Clause 19.— (*Defences which may or may not be allowed in prosecutions*)

Mr. Chairman: In regard to clause 19, the amendments which have been tabled may now be moved by the Members concerned.

Shri Tek Chand: I beg to move:

In page 12, omit lines 20 to 30.

Shri Dabhi (Kaira North): I beg to move:

In page 12, omit lines 20 to 25.

Shri U. M. Trivedi: I beg to move:

In page 12, lines 21 and 22, omit "within seven days of the receipt of a copy of the report of the public analyst".

Shrimati Sushama Sen (Bhagalpur-South): I beg to move:

In page 12, line 21, for "seven days" substitute "one month".

Shri Dabhi: I beg to move:

In page 12, line 26, omit "further".

Mr. Chairman: These are the amendments for discussion before the House. Since the matter has been fully discussed, if any hon. Member wants to speak on them, I would request him to speak for a minute or two, because the matter has been discussed in full.

Shri Bogawat: We want to know what the Government attitude is.

Rajkumari Amrit Kaar: May I say that I have already suggested that these words "within seven days of the receipt of a copy of the report of the public analyst" be omitted, and that has now been proposed by Shri U. M. Trivedi. I would accept it.

Shri Tek Chand: My amendment is that if the two provisos are omitted, the object will be served. I would request the hon. Minister to kindly consider it and concentrate on sub-clause (2) (1), because it provides that a written warranty is to be in the prescribed form. If the form is prescribed according to the rules, the question of these two provisos become

redundant. It will be open to the person if he has got the warranty earlier, to tell the Government, please don't proceed against me. At the same time, it is available to him for his defence. Therefore, these two provisos have to be omitted, and then, the desideratum is reached. You will be pleased to find that the heading is, defences which may or may not be allowed in prosecutions under this Act. Then, the question of seven days or any limitation or any other condition stands removed. You have got this sub-clause (2) which says:

"A vendor shall not be deemed to have committed an offence if he proves—

(i) that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any....." etc., etc.....

Thus, if the defence prosecution has already been launched and he has got the written warranty, he can produce that, and that written warranty, as you say, must be in the prescribed form. If he happens to have it earlier, he can communicate it to the Government and say: "This is the material I possess. Please do not prosecute me. If you choose to prosecute me, well, the defence is, of course, forth coming." I submit that if these provisos are avoided, the object would be achieved.

Mr. Chairman: Amendment Nos. 1 and 2 have been discussed. Shri U. M. Trivedi is not in the House. Shri K. C. Sharma.

Pandit K. C. Sharma (Meerut Dist.—South): I beg to submit under the law as it stands, it means that the defence should be produced at the first opportunity, and I put "reasonable time" because it is a generally accepted principle that the first opportunity means within reasonable time.

but as the hon. Minister has accepted the proposition which necessarily, as the law stands today, means reasonable time and the first opportunity, I am not moving my amendment.

Mr. Chairman: Shrimati Sushama Sen. Not in the House.

The hon. Minister has already indicated her intention in the matter. So, I put these amendments to the vote of the House.

Shri Dabhi: May I ask one question? Even after the omission of the words "within seven days of the receipt of a copy of the report of the public analyst", when the accused is on his defence, can any law prevent him from making whatever defence he likes. The law can only say that the burden of proving certain matters lies upon you, but it cannot say that only in certain conditions he can put forward that defence. That is my question. So, I think, the first proviso is unnecessary, because reasonable doubt must be created in the mind of the court that he had a particular warranty.

Rajkumari Amrit Kaur: What I wish to say is that it is always open to the accused to put forward any defence under sub-clause (2) of clause 19. It is only to offer further protection to the vendors that this was brought in. I think those provisos are necessary. It is in order to liberalise the defendant's position still further that I have agreed to the omission of the words in the amendment.

Mr. Chairman: I put these amendments to the vote of the House. The question is:

In page 12, omit lines 20 to 30.

The motion was negatived.

Mr. Chairman: The question is:

In page 12, omit lines 20 to 25.

The motion was negatived.

Mr. Chairman: The question is:

In page 12, lines 21 and 22, omit "within seven days of the receipt of a copy of the report of the public analyst".

The motion was adopted.

Mr. Chairman: The question is:

In page 12, line 21, for "seven days" substitute "one month".

The motion was negatived.

Mr. Chairman: The second amendment moved by Shri Dabhi is consequential.

Shri Dabhi: It does not survive now.

Mr. Chairman: It does not arise now.

I put the clause to the vote of the House.

The question is:

"That clause 19, as amended, stand part of the Bill."

The motion was adopted.

Clause 19, as amended, was added to the Bill.

Clause 21.—(Magistrate's power to impose enhanced penalties).

Shri S. V. Ramaswamy: I beg to move:

In page 12, for clause 21, substitute:

"21. The procedure that shall be followed in prosecutions under this Act shall be the warrant procedure, provided that it shall be competent for State Governments to prescribe that any class or classes of offences may be tried summarily."

I am not going to repeat the arguments I have urged already. It is left to the House to accept it.

Mr. Chairman: The question is:

In page 12, for clause 21, substitute:

"21. The procedure that shall be followed in prosecutions under this Act shall be the warrant procedure, provided that it shall be competent for State Governments to prescribe that any class or classes of offences may be tried summarily."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22.— (Protection of action taken in good faith)

Shri Raghavachari: I beg to move:

In page 12, line 47, for "other legal proceedings" substitute:

"legal proceedings other than that provided for under sub-section (8) of section 10".

I am aware it is possible to contend for the retention of the clause as it is; because the words here used are "in good faith done" under this Act. If you turn to sub-clause (8) of clause 10, you will find that:

"Any food inspector exercising powers under this Act or under the rules made thereunder who—

(a) vexatiously and without any reasonable grounds of suspicion seizes any article of food; or

(b) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty shall be guilty....."

So, the Select Committee after careful consideration have provided a means of prosecuting unscrupulous inspectors for things being done not in

good faith. But the word "vexatiously" is used only in (a), but it is not found in (b). In (b) the words are: "commits any other act to the injury of any person...." Therefore, it is possible that this clause, if it is to be passed as it is without the amendment that I have submitted, is likely to create the impression or afford room for interpretation that it goes contrary to what has been provided for in clause 10 (8). Therefore, I say it would be fair and quite clear if these words "legal proceedings other than that provided for under sub-section (8) of section 10" are substituted for "other legal proceedings". You will also note even that inspector does not run any risk under clause 20:

"No prosecution for an offence under this Act shall be instituted except by....."

Therefore, even there he has a protection. Therefore, my submission is that to make the matter clear the amendment which I have submitted is essential and may be accepted.

Mr. Chairman: May I put it to the vote of the House. Does the hon. Minister want to reply?

Rajkumari Amrit Kaur: I only want to say that this amendment is unnecessary as proceedings under clause 10 (8) are not in relation to acts done in good faith. They are only in relation to acts done vexatiously, and not in good faith, and therefore, this really would upset that.

Shri Raghavachari: With your permission, I would like to draw the attention of the hon. Minister to the fact that the word 'vexatiously' is used only in clause 10 (8) (a); and in clause 10 (8) (b), that word is not to be found. Therefore, the necessity for this amendment is there.

Mr. Chairman: Does the hon. Member want his amendment to be put to the vote of the House?

Shri Raghavachari: Yes.

Mr. Chairman: This needs no reply. The thing is so obvious. Nothing can be said to be done in good faith, unless it is done with good care and intention. There cannot be good faith in any such state of things where not only there is absolutely no reason to proceed against a person, but proceedings also have been started vexatiously. They are inconsistent with good faith from start to finish.

Shri S. S. More: May I submit that even in clause 10 (8) (b), the words 'without having reason to believe that such act is necessary' are there? They carry the same meaning.

Mr. Chairman: I shall put Shri Raghavachari's amendment to the vote of the House.

The question is:

In page 12, line 47, for "other legal proceedings" substitute "legal proceedings other than that provided for under sub-section (8) of section 10".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

Clause 23.—(Power of Central Government to make rules).

Rajkumari Amrit Kaur: I beg to move:

(i) In page 13, line 1, before "The Central" insert "(1)"; and

(ii) In page 14, after line 12, insert:

"(2). All rules made by the Central Government under this Act shall, as soon as may be after they are made, be laid before both Houses of Parliament."

Mr. Chairman: There is a similar amendment in the name of Shri S. V. Ramaswamy.

Shri S. V. Ramaswamy: In view of this amendment, I am not moving my amendment No. 46.

Shri Dabhi: I want to speak on this clause.

Mr. Chairman: Does the hon. Member want to speak on this amendment?

Shri Dabhi: Not on the amendment, but on the whole clause.

Mr. Chairman: Let me first put the amendment to the vote of the House, and then the hon. Member may speak.

Shri S. V. Ramaswamy: Before you put the amendment, may I make a submission? In the proposed sub-clause 2 of clause 23, the word 'be' occurs twice, first in the phrase 'as soon as may be' and for a second time in the phrase 'after they are made, be laid...' I would suggest that the wording of sub-clause 2, which is proposed, may be changed as follows:

"All rules made by the Central Government under this Act shall, as soon as possible, after they are made, be laid before both Houses of Parliament."

Rajkumari Amrit Kaur: I accept this amendment. I think the words 'as soon as possible' will be better.

Mr. Chairman: I shall put amendment No. 134 as amended to the vote of the House.

The question is:

(i) In page 13, line 1, before "The Central" insert "(1)"; and

(ii) In page 14, after line 12, insert:

"(2). All rules made by the Central Government under this Act shall, as soon as possible, after they are made, be laid before both Houses of Parliament."

The motion was adopted.

Shri Dabhi: I want to say a few words on clause 23(1) (L) which provides that the Central Government

[Shri Dabhi]

may make rules 'prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food'.

You will see that out of the several things which have been used as adulterants of food, *vanaspati* is the most prominent. I do not want, at the present moment, to say anything on this, because hon. Members have already condemned *vanaspati* on the floor of the House. Everyone admits that *vanaspati* has been an adulterant of food, and has been causing havoc among the people. Leaving aside the question whether *vanaspati* is injurious to health or not, there cannot be any doubt about the fact that it has been used on a very large scale as an adulterant of food. Everybody wants that adulteration of *ghee* with *vanaspati* should be stopped. There are two ways of doing that. The first is to make colouring of *vanaspati* compulsory, and the second is to stop its manufacture altogether. While speaking on the Bill, the hon. Minister has stated that it is not possible to find any suitable colouring agent for *vanaspati*. There, I do not quite agree with her. But if we take it for granted, as Government say, that there is no suitable colouring agent for *vanaspati*, the next course is to allow the sale of *vanaspati* to continue as an adulterant of food, or to stop its manufacture altogether. I am glad that by this rule, Government have taken power to prohibit or regulate the manufacture, transport or sale of any adulterant of food, and since *vanaspati* is an adulterant of food, I hope Government would make use of this rule for prohibiting the manufacture of *vanaspati*...

Mr. Chairman: Is the hon. Member making a speech on the third reading?

Shri Dabhi: No, on this clause.

Mr. Chairman: In clause 23, we are concerned only with the rule-making powers. Now to go deeply into the matter of *vanaspati*, as to whether it

should be coloured or its manufacture should be prohibited etc. would be....

Shri Dabhi: I merely say that I hope Government will make use of this rule for prohibiting the manufacture of *vanaspati*.

Mr. Chairman: The hon. Member knows that exception has been taken by the hon. Minister in respect of propaganda relating to *vanaspati* in this Bill. I would, therefore, request the hon. Member to reserve his remarks, if he has any, to be offered at the time of the third reading. At this stage, while we are in clause 23, this question, to my mind, is not relevant.

Shri Dabhi: Yes.

Mr. Chairman: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clause 24—(Power of State Government to make rules).

Shri S. V. Ramaswamy: I have got an amendment to this clause, viz. amendment No. 47. In principle, it has been accepted that all rules framed under this Act shall be placed before both Houses of Parliament. I am seeking to extend the principle to the State Legislatures also. But one thing, I would like to submit, and that is that I am not happy about the language of my own amendment. With your permission, I would like to change it a bit and then move it.

I beg to move:

In page 14, after line 35, add:

"(3) All rules made by the State Governments under this Act shall, as soon as possible, after they are made, be laid before the State Legislatures."

Mr. Chairman: Amendment moved:

In page 14, after line 35, add:

"(3) All rules made by the State Governments under this Act shall, as soon as possible, after they are made, be laid before the State Legislatures."

Rajkumari Amrit Kaur: I accept that amendment.

Shri S. S. More: Why not Parliament also?

Mr. Chairman: Clause 23 provides for that. Here, we are in clause 24, which relates to the State Governments' rules.

The question is:

In page 14, after line 35, add:

"(3) All rules made by the State Governments under this Act shall, as soon as possible, after they are made, be laid before the State Legislatures."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 24, as amended, stand part of the Bill."

The motion was adopted.

Clause 24, as amended, was added to the Bill.

New Clause 24-A

Shri C. R. Narasimhan (Krishnagiri): I beg to move:

In page 14, after line 35, insert:

"24-A. Annual Report.—(1) As soon as may be after the end of each financial year the Central Government shall cause to be prepared an annual report on the working of the Act during the previous financial year.

(2) The Central Government shall cause every such report to be laid before both the Houses of Parliament."

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The amendment is self-explanatory, but let me briefly state my objects in moving this innocuous amendment. This Bill is a big experiment, and the field before the measure is very vast. In my opinion, this measure is just a skeleton, to which a shape will be given only by the various rules that are to be framed by the Central and State Governments. In other words, this measure will stand or fall by the manner in which the rules are framed. Just now, we have accepted an amendment to the effect that the rules framed by the State Governments will be placed before the State Legislatures. But Parliament will not be in a position to take cognizance of them, unless they are brought to its notice. Therefore, I think it is desirable to have some kind of sanction given to the Central Government to obtain annual reports from the State Governments to be placed before us.

Rajkumari Amrit Kaur: My reaction is that it will be the State Governments who will be concerned with the administration of the Act and hence compilation of annual reports will not be practicable—I mean I might not very often be able to get them. Moreover, I do not think it is customary to add a provision of this sort to a legislation. But I would like to assure the hon. Member that I shall be extremely anxious to know how the Act is being worked in the States and to get all the information which is possible to get and I would always be willing to submit it to this House.

Shri S. S. More: May I make a suggestion? It is one of the very important measures that the Central Government is bringing forward. Now, according to clause 25, the moment this Act is made applicable to any State, all the local enactments which are in operation are repealed. It has been stated by various committees that such legislation even in the States is not wholeheartedly implemented. It will be the business of the Central Government and this House to see how far this Bill which is passed by this House is seriously implemented and

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what are the difficulties coming in the way in submitting annual report? For instance, we are getting reports about the progress of the Damodar Valley Project, progress of this project and progress of that project, and the reports of the Health department...

Shri C. R. Narasimhan: If I may interrupt the hon. Member, there are similar provisions existing in the Food Adulteration Acts in some of the States.

Shri S. S. More: I do not want at this particular time to overload the record by quoting precedents. But it is our responsibility to see that this Act is not reduced to a farce. What are the prosecutions started, what are the difficulties in the Central Food Laboratory, what are the recommendations made by the Central Committee for Food Standards you are appointing under clause 3—all these details will have to be placed before this House. and in the light of the experience that we might acquire, the Health Minister will be coming forward with necessary adjustments or amendments to the law. I quite realise the difficulties, but the State Governments can be made to submit reports. To make the difficulties an excuse for not submitting the reports will be like giving a licence to the State Governments to make this Act...

Mr. Chairman: All these matters can come in the report of the Health Ministry also.

Shri S. S. More: On many occasions the reports are very scrappy. They are only bones like the famished peasant we find in the rural area. There must be more flesh and blood in the report.

Rajkumari Amrit Kaur: I have given the assurance that I shall get the information and I shall supply it to the House. But I ask you not to put down anything as a statutory

obligation which I shall not be able to fulfil. That is all that I have to submit.

Mr. Chairman: Does the hon. Member want to press his amendment?

Shri C. R. Narasimhan: No, I do not want to press it.

Clause 25.—(Repeal and Saving).

Rajkumari Amrit Kaur: I beg to move:

In page 14, omit lines 40 to 46. It is consequential to the amendment omitting a certain number of lines in clause 1(3).

Mr. Chairman: Amendment No. 135 is the result of that amendment?

Rajkumari Amrit Kaur: Yes.

Mr. Chairman: Amendment moved:

In page 14, omit lines 40 to 46.

Shri S. S. More: Are we dealing with sub-clause (3) of clause 1?

Mr. Chairman: No, we are dealing with clause 25. Amendment No. 135 relates to that clause.

The question is:

In page 14, omit lines 40 to 46.

The motion was adopted.

Mr. Chairman: The question is

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill.

12 Noon.

Mr. Chairman: Now, we shall take up clause 1.

Clause 1.—(Short title, extent and commencement).

Shri S. S. More: There is a Government amendment.

Rajkumari Amrit Kaur: May I just clarify one thing? Yesterday I forgot to move amendment No. 111 which stood in my name. It reads....

Mr. Chairman: I will come to that.

Shri S. S. More: There is a Government amendment, No. 76.

Mr. Chairman: There are several amendments, some by Government and some others. Let us first deal with the other amendments. There is one amendment by Shri Mulchand Dube, No. 48.

Shri Mulchand Dube: I beg to move...

Mr. Chairman: Is it not practically the same as the Government amendment, No. 76?

Rajkumari Amrit Kaur: It is covered by the official amendment.

Shri Mulchand Dube: It is covered by the Government amendment.

Mr. Chairman: If it is covered, that is all right. There is Government amendment No. 74.

Rajkumari Amrit Kaur: I beg to move:

In page 1, line 4, for "1953" substitute "1954".

Mr. Chairman: The question is:

In page 1, line 4, for "1953" substitute "1954".

The motion was adopted.

Rajkumari Amrit Kaur: I beg to move:

In page 1, lines 8 to 11, omit—

"but section 7 shall take effect in any State only from such date as the State Government may, by like notification appoint, and different dates may be appointed by the State Government for different areas of the State."

Shri S. S. More: Before you put it to vote, I want to know what will be the effect of this omission. If this

amendment is passed, will not this Act come into force in all the States? We have had a lot of discussion about this matter in the Select Committee. Looking to the difficulties of the State Governments and looking to the backwardness of some tracts and non-availability of proper machinery for enforcing this Act, it would be unwise to extend the whole thing to all the areas mentioned in this Act unless there is some preparation. We must leave this to the States. Are they ready? Are the local authorities ready? Of course, I share the enthusiasm of the hon. Minister for the measure, but all the same enthusiasm should be accompanied by caution; otherwise, we shall be passing a measure which the local authorities or the State Governments will not be in a position to implement or give effect to.

Rajkumari Amrit Kaur: May I give the assurance that the States will be consulted before fixing the date of commencement of the Act?

Shri S. S. More: Then the result will be that the original application or introduction of this Act will itself be postponed, because State Governments are not so prompt in replying; particularly in railway areas where the Central Government can make it immediately applicable, you have sufficient experience about the promptness on the part of the State Governments. So at least one year will be required before you receive the opinions of all the State Governments. So we will be passing this measure in such a post-haste that the introductory notification will not be issued till all the States have replied, that is, eventual postponement of this measure.

Shri Syammandan Sahaya (Muzaffarpur Central): Different dates may be fixed for States.

Shri S. S. More: But there is no clause like that here. I am not discussing anything about what happened in the Select Committee, but we have had a lot of discussion and we

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said that looking to the state of their preparedness and all those things...

Mr. Chairman: I have no doubt that wherever Mr. More has been in a Committee, there must have been quite an amount of discussion, but at the same time.....

Shri S. S. More: I accept that compliment.

Mr. Chairman:.....the amendment has been moved and I have to put it to the House. There are safeguards also; different dates may be appointed by the State Governments for different areas of the States. I shall put it to the vote of the House. Anyhow, the vote of the House is final.

The question is:

"In page 1, lines 8 to 11, omit—

"but section 7 shall take effect in any State only from such date as the State Government may, by like notification, appoint and different dates may be appointed by the State Government for different areas of the State."

The motion was adopted.

Mr. Chairman: The question is:

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

The motion was adopted.

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

Rajkumari Amrit Kaur: Amendment No. 73 has not been put.

Mr. Chairman: That is the Enacting Formula. I will come to it subsequently.

Title and Enacting Formula

Shri S. S. More: There is some correction. We have stated that this Act shall be known as "The Prevention of Food Adulteration Act, 1953", and yet the title is: "Food Adulteration Bill, 1952." The correction will have to

be introduced. Why not make it complete?

Mr. Chairman: The hon. Members will please see that the words are: "The Prevention of Food Adulteration Act, 1953." In the title, which stands at the top, it is clear: the words are "The Food Adulteration Bill, 1952." The name of the Act is "Prevention of Food Adulteration Act."

Shri S. S. More: I brought this to the notice of the House that this very correction should be made. If you think that I have nothing to fight for, it is all right. But I feel that the title at the top and clause 1 should be consistent with each other.

Mr. Chairman: I am informed that these words "Food Adulteration Bill" will disappear and that the words will be "Prevention of Food Adulteration Act, 1954." So, any change is unnecessary.

Rajkumari Amrit Kaur: I think we may leave it as "The Food Adulteration Bill, 1952." The short title is there.

I beg to move:

In page 1, line 1, after "Parliament" insert "in the Fifth Year of the Republic of India".

Mr. Chairman: The question is:

In page 1, line 1, after "Parliament" insert "in the Fifth Year of the Republic of India".

The motion was adopted.

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

The Title was added to the Bill.

Mr. Chairman: Now, there is a consequential amendment by the Government to clause 12. The question is:

In page 9, line 18, for "further", substitute "also".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted

Clause 12, as amended, was added to the Bill.

Rajkumari Amrit Kaur: I beg to move:

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

Mr. Chairman: Motion moved:

"That the Bill, as amended be passed."

There is not much time left. So, I would request the hon. Members to be very brief. Within the time left to us we must pass the Bill. As a matter of fact, we have taken too much time to this Bill so far as the original discussion is concerned and so far as the clauses also are concerned. They have all been considered in very great detail, and I will, therefore, request the Members to be very brief and co-operate with me in finishing the Bill.

संघ गौबिन्धु दास (मंडला जबलपुर विज्ञान) :
सभापति जी, मैं दुःख के साथ कहता हूँ कि मैं इस विधेयक पर स्वास्थ्य मंत्री जी को बधाई देने में असमर्थ हूँ। इसका कारण है। यह जो विधेयक हमारे सामने उपस्थित किया गया उसका एक बहुत पुराना इतिहास है। वह इतिहास आरम्भ होता है सन् १९२६ ई० में जब रायबहादुर रामसरन दास काँग्रेस आफ स्टेट के सदस्य थे और मैं भी उसी गृह का एक सदस्य था। उन्होंने सबसे पहले इस प्रश्न को उठाया था कि हम शाकाहारियों के लिये जो सबसे आवश्यक वस्तु है वह घी है। घी में उसी समय मिलावट प्रारम्भ हुई थी और बनस्पति के उस समय इतने कारखाने नहीं थे जितने उसके बाद धीरे धीरे बनते गये। तभी से यह आवाज उठी कि घी की मिलावट रोकने के लिये हमें कोई न कोई कानून चाहिए, लेकिन वह कानून अब तक नहीं आया। स्वराज्य के

बाद भी यह प्रश्न उठता रहा और जब जब घी की मिलावट का प्रश्न आया तब तब सरकार की ओर से यह कहा गया कि किसी प्रकार के भी खाद्य पदार्थ में मिलावट न की जाय, इसके लिये सरकार एक विधेयक उपस्थित करने वाली है। यह विधेयक उपस्थित हुआ इसमें घी का कोई जिक्र न था। उसके बाद यह विधेयक एक प्रवर समिति के सुपुर्द किया गया और यह आशा की गयी कि प्रवर समिति कम से कम घी के मामले में इस विधेयक में कुछ न कुछ कहेगी। यदि आज मिलावट का पूरा प्रश्न आप ध्यानपूर्वक देखें तो आपको मालूम होगा कि एक ओर दूधी दूधता हैं और दूसरी ओर क्षेत्रपाल अन्य पदार्थों में जो मिलावट होती है वह बहुत कम होती है। अन्य समस्त पदार्थों की मिलावट को यदि हम एक तरफ रखें और घी की मिलावट को दूसरी तरफ तो घी की मिलावट कहीं बढ़ जाती है। मैं यह तो नहीं कहता कि बनस्पति का सारा निर्माण मिलावट के लिये होता है पर मैं यह कहने की जुरत करता हूँ कि यदि घी में कोई चीज सबसे अधिक मिलायी जाती है तो वह बनस्पति मिलाया जाता है। इस विधेयक की धारा ७ में कहा गया है.....

Mr. Chairman: Order, order. As already indicated, there is only one hour left to us. I am sure that there are as many Members as possible who will take part in this debate. So far as the question of *vanaspati* is concerned, it has been several times objected by the hon. Minister and rightly so. After all, this Bill is not meant to consider the question of the manufacture of *vanaspati*, etc. The question is only relevant so far as the aspect of adulteration is concerned. I am not submitting to the hon. Member, who is nodding his head, that whatever he said was irrelevant. I am submitting that so far as time permits, we can consider that question to that extent. I request him to be very brief and to finish his speech within, say, a space of seven to ten minutes.

'सैंट गॉथियस' दास : मैं केवल मिलावट की बात कह रहा था। मैं यह नहीं कह रहा था कि बनस्पति का निर्माण बंद कर दिया जाय और वह इस विधेयक का विषय है। मैं तो केवल यह कह रहा था कि जो घी की मिलावट की मुख्य चीज है वह बनस्पति है और मिलावट जो सबसे अधिक की जाती है वह घी में की जाती है। जहाँ तक इस विधेयक का सम्बन्ध है, इस की धारा ७ को अब मैं नहीं बढ़ाऊँगा क्योंकि मरें पास समय नहीं है और मिलावट की जो वस्तुएँ हैं उन पर भी मैं कुछ नहीं कहूँगा। मैं स्वास्थ्य मंत्री जी का ध्यान इस ओर आकर्षित करना चाहता हूँ कि जो मिलावट की मुख्य चीज घी है उस के सम्बन्ध में यहाँ पर एक विधेयक उपस्थित किया जाना था या इस विधेयक में ही घी के सम्बन्ध में एक विशेष धारा जोड़ने की आवश्यकता थी। मगर दोनों बातों के न होने के कारण इस बिल का जो अभिप्राय है, इस का जो उद्देश्य है, वह सफल नहीं होता। इसी लिये मैं कहना चाहता हूँ, अपनी स्वास्थ्य मंत्री जी से, कि इस प्रकार का कमजोर बिल, बल्कि मैं और आगे बढ़ कर कहना चाहूँगा कि इस प्रकार का निरर्थक बिल, ला कर इस सभा का समय इस विधेयक पर खर्च कराना, जनता का ध्यान एक बात की ओर आकृष्ट करना और जनता को असन्तुष्ट करना, यह उचित बात नहीं हुई। इसी लिये जैसा मैं ने आप से कहा, कि इस विधेयक से न तो मुझे सन्तोष है और न उन लोगों को सन्तोष होने वाला है जो इस खाद्य पदार्थ की मिलावट की मुख्य चीज घी की मिलावट को रोकना चाहते हैं। जहाँ खाद्य पदार्थों की मिलावट रोकने का जिम्मा इस विधेयक में किया गया है वहाँ पर बार बार एक बात कही गई है कि एंसी चीजों की मिलावट को रोकना जो कि तन्दुरुस्ती के लिये इन्ज़ूरियस है, इस विधेयक का कर्तव्य है। 'इन्ज़ूरियस' शब्द का बार बार प्रयोग हुआ है। जहाँ तक बनस्पति का मामला है, इस दश में एक विभाग है, और वह विशेषज्ञ का विभाग है जो कि बनस्पति को तन्दुरुस्ती के लिये, कम

से कम उन लोगों की तन्दुरुस्ती के लिये जो कि शाकाहारी हैं, इन्ज़ूरियस मानता है। मैं जानता हूँ कि सरकार के पास भी इस प्रकार के विशेषज्ञ हैं जो इस बात को कहते हैं कि बनस्पति तन्दुरुस्ती को नुकसान नहीं पहुँचाता। इस लिये जब सरकार इस बात को मानती है कि बनस्पति इस दश में जो शाकाहारी हैं उन की तन्दुरुस्ती को भी नुकसान नहीं पहुँचाता, और बार बार इन्ज़ूरियस शब्द का प्रयोग किया गया है, तो उस के रहते हुए मुझे इस बात का भय है कि पता नहीं कि बनस्पति को मिलावट की इन्ज़ूरियस चीजों में माना जायेगा या नहीं। इसी लिये मेरा निवेदन है कि यह विधेयक न तो लोगों को सन्तुष्ट करने वाला है और न दश के शाकाहारी लोगों की तन्दुरुस्ती में कोई फायदा पहुँचाने वाला है।

सभापति जी, दुनियाँ के किसी भी दश में शाकाहारियों की इतनी बड़ी संख्या नहीं है जितनी कि इस पृथ्वी भूमि में है, और जो लोग यह कहते हैं कि बनस्पति तन्दुरुस्ती को नुकसान नहीं पहुँचाता वह अधिकतर मांसाहारी हैं। उन को दूसरी एंसी चीजें शरीर के लिये मिल जाती हैं जिस से कि बनस्पति उन को हानि नहीं पहुँचाता। पर जो लोग शाकाहारी हैं उन को बनस्पति बहुत अधिक हानि पहुँचाता है। जो लोग शाकाहारी हैं उन के लिये घी ही प्रधान पोषक खुराक है और बनस्पति सब से अधिक घी में ही मिलाया जाता है।

इस लिए यह विधेयक हमारे उद्देश्य को पूरा नहीं करता, यह पास भले ही कर दिया जाय, और पास होने वाला ही है। हम लोग देखेंगे कि इस का क्या नतीजा निकलता है। मैं स्वास्थ्य मंत्री जी से कहना चाहता हूँ कि यदि वे इस दश की इस प्रधान मिलावट को रोकना चाहती हैं, यदि वे चाहती हैं कि इस दश के जो शाकाहारी लोग हैं उन की तन्दुरुस्ती को फायदा हो तो घी के सम्बन्ध में उन को एक नया विधेयक शीघ्र से शीघ्र इस सदन में उपस्थित करना चाहिये।

बाबू रामनारायण सिंह (हजारीबाग पश्चिम) : सभापति जी, मैं आप को बहुत धन्यवाद देता हूँ और अपने को बधाई देता हूँ कि आज इस समय पर मेरी ओर दृष्टिपात हुआ।

सभापति महोदय, इस लोक सभा में बहुत कानून पास हुए हैं, सरकार का पुस्तकालय कानूनों से भरा पड़ा है, लेकिन जितने कानून पास होते हैं उन का फल इतना ही देखता हूँ कि सरकार को पैसे मिलते हैं, सरकार खाती है और मोटी होती है, पर जनता को कोई लाभ होता हुआ नजर नहीं आता है। लेकिन इस विधेयक के सम्बन्ध में मंत्रीजी को बहुत बहुत धन्यवाद मिला है, बधाई भी मिली है, लेकिन निराशा के साथ। मुझे एक बात का आनन्द अवश्य हुआ कि इस विधेयक पर बोलने के समय हमारे कांग्रेस के सदस्यों ने भी अपने दिल की बात कही है। आप भी बोल सके हैं। इस के लिये मैं कांग्रेस सदस्यों को भी बधाई देता हूँ कि इस बिल पर बोलने के समय उन को साहस हुआ और सरकार के सम्बन्ध में तथा इस विधेयक के सम्बन्ध में वे लोग दिस खोल कर बोल सके। और अभी हमारे

Mr. Chairman: I am very sorry to interrupt but the rules require that at this stage only such changes could be discussed as have been made in this Bill. I would request the hon. Member not to waste even a minute or two on just criticising the attitude of this party or that party. Because the time is very short I would request the hon. Member to kindly concentrate on the Bill itself.

बाबू रामनारायण सिंह : सभापति जी, आप ने जो कहा वह मुझे को शिरोधार्य है। मैं किसी के ऊपर टीका टिप्पणी नहीं कर रहा हूँ, मैं केवल उत्साह के कारण बोल रहा हूँ। यद्यपि सेंट गोविन्द दास तथा अन्य लोग निराशा की छाया उत्पन्न करते थे, मैं यह जान कर के कि दुनियां आशा पर जीती है, मंत्रीजी को धन्यवाद और बधाई देता हूँ।

केवल आशा पर। अगर पूरी पूरी आशा मुझे भी होती तो मैं बड़े उत्साह के साथ धन्यवाद देने का अवसर पाता और बहुत खुशी की बाढ़ रहती। लैर, वह आशा तो नहीं है, लेकिन तो भी यह जान कर के कि, जैसा मैं ने पहले कहा है, दुनियां आशा पर जीती है, मैं उन को बधाई देता हूँ।

मंत्रीजी को मैंने कहा कि उन को सहयोग मिलना चाहिये। मैं उन से कहता हूँ, और सारी सरकार से कहता हूँ कि भले काम के लिये जिस वक्त सरकार खड़ी होगी, उस को देश के कोने कोने से सहयोग प्राप्त होगा, इस में कोई सन्देह नहीं, खास कर के इस विषय में तो असहयोग का कोई प्ररन ही नहीं है। सभापति महोदय, जब इस सभा में, इस देश की लोक सभा में कोई भी विधेयक आता है तो उस से देश का चरित्र प्रतीबिम्बित होता है, देश की परिस्थिति प्रतीबिम्बित होती है। किसी भी देश में इस प्रकार की बातें नहीं होतीं कि खाद्य पदार्थ में इस प्रकार की मिलावट हो जिस से देश के लोगों को हानि पहुँचे। लेकिन हमारे देश का दुर्भाग्य है कि इस युग में ऐसा विधेयक आता है। लैर, अब भी अगर सचमुच सरकार की नींद टूटी है तो बड़ी खुशी की बात है और मैं यहाँ पर कहता हूँ कि सरकार को सहयोग मिलेगा इस में कोई शक नहीं है। लेकिन सहयोग प्राप्त करने के लिये सरकार के पास भी कुछ अक्ल होनी चाहिये और ईमानदारी होनी चाहिये। मैं तो कहता हूँ कि हमारे देश की परिस्थिति इतनी बिगड़ी हुई है कि हर विषय में, खाद्य पदार्थ में बुरी चीजों की मिलावट होना तो एक चीज है, हर विषय में सरकार एक चीज है और जनता दूसरी चीज। सरकार और जनता में मेल मिलाप हो, सरकार के साथ जनता का सहयोग हो, वह दिन आना चाहिये कि सरकार और जनता एक हो। जिस दिन लोग और सरकार एक होंगे उस दिन सहयोग मिलेगा और सब काम ठीक से चलेंगा। अभी तो ठीक से नहीं चल रहा है। अभी कुछ लोगों ने एक

[बाबू रामनारायण सिंह]

संशोधन दिया कि जो खरीदने वाला है, जिस की हानि पहले हुई है, सब से पहले उस को ही मुकदमा चलाने का अधिकार हो। लेकिन मंत्रीजी जी ने नहीं माना। इस के मानने में क्या हानि थी ?

सभापति महोदय : मान तो लिया है।

बाबू रामनारायण सिंह : खैर इस के लिखे बधाई है। मैं बाहर गया हुआ था इसलिए नहीं सुन पाया। मैं अधिक नहीं कहना चाहता। मेरा कहना यही है कि मंत्रीजी जी के पास दूध की सारी शक्ति है और उनको जहां जहां से जो जो सहायता मिलनी चाहिए वह मिलेगी। वे दूध में एक वायुमंडल पैदा करें जिससे दूध में लोग खाने पीने की किसी भी चीज में मिलावट करना बुरा समझने लगें। जैसा और भाइयों ने कहा, यह तो एक तरह का खून करना है। खून करने वाला तो एक दिन खून कर देता है लेकिन इस तरह की मिलावट करने वाले तो लोगों का बहुत दिनों में धीरे धीरे खून करते हैं। इसमें शक की बात नहीं है। इस वास्ते उनको दूध में सब से प्रथम एक वायुमंडल पैदा करना चाहिए और जो लोगों ने निराशा की भावना प्रकट की है उसको दूर करना चाहिए। इस वास्ते मैं हृदय से शुभकामना करता हूँ कि इस विधेयक के सम्बन्ध में जो अभी कानून हो जायगा जो जो अभिलाषा जिस किसी को हो ईश्वर वह अभिलाषा पूरी करे।

श्री लक्ष्मी रमण (दिल्ली नगर) : सभापति जी, मैं सर्व प्रथम अपनी स्वास्थ्य मंत्रीजी जी को इस विधेयक के लिए जो कि उन्होंने सदन के सामने रखा है, हृदय से धन्यवाद देना चाहता हूँ। यह ठीक है कि इस सदन में हमारे बहुत से मित्रों ने इसकी कड़ी आलोचना की है और इसमें जो क्लोजेज हैं उनमें से कुछ के लिए यह बताया है कि उनसे जो आशा की जाती है वह पूरी नहीं होगी। लेकिन मैं यह बताना चाहता हूँ कि जब हम दूध में किसी पीढ़ा से काफी व्यथित होते हैं और हम यह

चाहते हैं कि दूध की अवस्था सुधरें तो हमें कोई न कोई कदम उठाना पड़ता है और वह कदम ऐसा नहीं होता जिससे हम हर प्रकार से मुक्तिमूलक कह सकें। वह एक रास्ता होता है जो हमें उस तरफ ले जाना चाहता है। और अगर सब लोग उसमें अपना सहयोग दें और उस पर नेकनीयती से अमल किया जाय तो निःसन्देह उसके बहुत अच्छे नतीजे निकल जाते हैं।

यह विधेयक जो आज सदन के सामने है लगभग तीन वर्ष से दूध के सामने रहा है। इस पर पहले भी काफी विचार हो चुका है। फिर यह एक सिलेक्ट कमिटी के सुपुर्द किया गया जिसने सब बातों पर विचार करके जो कुछ भी उसका निर्णय था दिया और उसके बाद अब यह सदन के सामने आया है। इस बीच मैं इसमें अनेकों संशोधन हुए हैं और सदन में भी इस दो दिन की बहस के दौरान मैं मंत्रीजी जी ने कुछ संशोधन मंजूर किये हैं। मेरा अपना ख्याल यह है कि जब सर्व प्रथम यह बिल दूध के सामने और सदन के सामने आया था उस समय इसमें काफी त्रुटियां थीं जिनके कारण जो आशायें हम रखना चाहते थे वे पूरी होती नजर नहीं आती थीं। लेकिन आज जिस शक्त में यह विधेयक हमारे सामने है उससे हमें पूर्ण विश्वास है कि इससे जो आशायें हम रखते हैं वह हम पूरी होचि देंगे।

सैठ गौरीबन्धु दास : बहुत कम।

श्री लक्ष्मी रमण : अगर आप को इस पर विश्वास नहीं है तो इसके लिए तो भुइयों और सब लोगों को दुःख है क्योंकि जिस चीज को बहुत निर्णयपूर्वक आप करते हैं और पहले से ही उसके लिए अपने दिल में निराशा पैदा कर लेते हैं तो समझ लीजिये कि जिस काम को आप करना चाहते हैं उसको खत्म करने का बीड़ा आप पहले से ही उठा लेते हैं। मैं कहूंगा कि हम में इस तरह की निराशा का

होना उस काम को मंजिल तक न ले जाने के लिए काफी हैं। आज इतना विचार करने के बाद जो बिल आपके सामने आया है उसमें हमें पूरा पूरा सहयोग देना चाहिए और उसे कामयाबी की उस मंजिल तक ले जाने की पूरी कोशिश करनी चाहिए कि जिस कामयाबी की मंजिल को हम देखना चाहते हैं।

आज यह सवाल है कि देश में इस वक्त खाने पीने की चीजों में इतनी जबरदस्त मिलावट है, खासकर दिल्ली शहर में जहां का मुझे तजर्बा है क्योंकि मैं यहां का रहने वाला हूँ, कि उसको देखकर शर्म से हमारा सिर झुक जाता है और हम महसूस करते हैं कि हम किस दर्जे तक गिर गये हैं। यही कारण है कि यह महसूस किया गया कि एक ऐसा बिल आपके सामने आवे और वह आया। और सभापति जी में समझता हूँ कि जिस शकल में यह बिल आज हम लोगों के सामने आया है वह हम लोगों के लिए एक नैक कदम है और इसके जो नतायज होंगे वे भी अच्छे होंगे।

सेठ गोबिन्द दास : पहाड़ खादा तो चूहा निकला।

श्री राधा रमण : यह कहना कि हम चाहते हैं कि यह बिल ऐसा हो कि जिसमें हम खान पान की चीजों में किसी मिलावट करने वाले को शहर में न देख सकें और इस तरह का कोई आदमी शहर में रह ही न पावे, तो मैं कहूंगा कि यह ख्याल बहुत नैक है, लेकिन मैं समझता हूँ कि जो साहब बार बार इस बात को कहते हैं कि खादा पहाड़ और निकला चूहा, उन्होंने कोई पहाड़ निकाला हो ऐसा नहीं दिखायी देता और वह चूहे के ही पीछे लग रहे हैं और उसको भी माँका नहीं देते कि वह अपना काम कर सके। तो मैं आपसे अर्ज करूंगा कि मेरी राय में यह विधेयक एक निहायत ही अच्छा कदम है और हमारे देश के लिए एक ऐसा कदम है जिससे हम यह उम्मीद कर सकते हैं कि खान पान की चीजों में जो आज मिलावट देखने में आती है वह

कम होगी और जो लोग इस किस्म का काम करते हैं वे ऐसा करने से गुरंज करेंगे।

एक बात जो इस सिलसिले में यहां बहुत काफी कही गयी और जिसकी जिम्मेदारी हम पर है उस पर मैं सदन का ध्यान दिलाना चाहता हूँ। कोई विधेयक आप देश के अन्दर लाइये, जबतक आप उस पर अमल करने का कटिबद्ध नहीं हो जाते और अपनी सारी शक्ति उसे सफल करने में नहीं लगा देते तबतक चाहे वह कितना ही अच्छा विधेयक हो उसमें उसकी कामयाबी नहीं हो सकती। आज हालत यह है कि हम खाने पीने की चीजों की मिलावट की तो बहुत चर्चा करते हैं मगर देश के बहुत कम लोग ऐसे हैं जो अपना कुछ भी वक्त इस काम में लगाते हों कि आस पास जो ऐसी चीजें मिलती हैं उन्हें बन्द किया जाय और न मिलने दिया जाय और जो इस तरह का काम करने वाले लोग हैं उन्हें मुहब्बत से और प्रेम से बतलाया जाय कि इसके क्या बुरे नतायज हैं। आज जो सदन के 400 सदस्य हैं वे अपनी अपनी कांस्टीट्यूएन्सी में जाकर इस प्रकार की कोशिश करें तो मैं समझता हूँ कि यह विधेयक चाहे जितना ही कमजोर क्यों न हो और चाहे इसमें उतनी सख्त सजायें न रखी गयी हों जैसी कि हमारे सदन के बहुत से भाई और बहिनों की इच्छा थी, तो भी इसके अच्छे नतीजे निकल सकते हैं। हम हमेशा केवल कानून की शरण लेते हैं लेकिन महज कानून की शरण लेने से उतने अच्छे नतायज नहीं निकलते जितने कि अपनी आवाज को बुलन्द करने से निकलते हैं। अगर हम जनता में जाकर इसके बुरे नतायज की तरफ उनका ध्यान दिलायें तो बहुत अच्छे नतीजे निकल सकते हैं। इसलिए जहां में स्वास्थ्य मंत्रिणी जी को इस विधेयक के लिए बधाई देना चाहता हूँ वहां मैं तमाम सदस्यों से यह कहना चाहता हूँ कि वे सारे देश में इस कानून पर अमल करने में अपना पूरा पूरा सहयोग दें। इसको सफल बनाने के लिए हमें पूरा पूरा प्रयत्न करना

[श्री राधा रमण]

चाहिए जिससे कि हम दंश के सामने यह रख सकें कि यह भयंकर बीमारी हमारे बीच से कम हो गयी है या खत्म हो गयी है।

इतना कह कर मैं आपका कृतज्ञ हूँ कि आपने मुझे समय दिया, और मैं इस विधेयक को पास करने के लिए संसद से अनुरोध करता हूँ।

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

"That the question be now put."

Mr. Chairman: The question is:

"That the question be now put."

The motion was adopted

राजकुमारी अमृतकर : सभापति जी, मुझे बहुत कहना नहीं है। मैं इतना ही कहना चाहती हूँ कि मैं लोक सभा के सदस्यों को हार्दिक धन्यवाद देती हूँ कि उन्होंने तमाम इस बिल के बनाने में मेरे साथ सहयोग किया। जब से मैं स्वास्थ्य के मुद्दकमे में सेवा करने के लिए आयी हूँ तब से मेरा दिल दुखता रहता था कि हमारे बच्चों को पानी मिला दूध मिलता है, शुद्ध घी दंश में नजर नहीं आता। चाहे चावल हो या आटा, जो भी हो सब चीज में मिलावट होती है। इसलिए यह मेरी दिली ख्वाहिश थी कि यह मिलावट किसी न किसी तरह दूर कर दी जाय और जब भी मेरे हाथ में यह शक्ति आयी कि मैं इस बिल को लोक सभा के सामने रख सकूँ तो मैं ने उस बिल को रखा। मुझे इतना ही अफसोस है कि सिलेक्ट कमेटी से आने के बाद यह बिल डेढ़ साल तक पड़ा रहा और केवल आज ही यहां आ सका। लेकिन आज भी आया तो भी अच्छा है, और मैं आशा करती हूँ कि इससे हमें बहुत कुछ फायदा पहुंचेगा। जैसा आप लोगों ने सहयोग यहां दिया है, आप लोगों से मेरा यही निवेदन है कि बाहर भी मुझे वही सहयोग दें और इस बीमारी को मैं इसे एक बहुत भयानक बीमारी समझती हूँ जो कि तमाम दंश में फैली हुई है दूर करें। जरूरत

इस बात की है कि हम सब मिल कर इस की रोकथाम में जुट जाय ताकि यह हमारे दंश से दूर हो जाय और हमारी जनता की और खास कर हमारे बच्चों की सेहत की रक्षा हो।

Mr. Chairman: The question is:

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

The motion was adopted.

UNTOUCHABILITY (OFFENCES) BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom, be referred to a Joint Committee of the Houses consisting of 49 members, 33 from this House, namely, Shri Upendranath Barman, Shri Narayan Sdoba Kajrolkar, Shri T. Sanganna, Shri Pannalall Barupal, Shri Naval Prabhakar, Shri Ajit Singh, Shri Ganeshi Lal Chaudhary, Shri Bahadurbhai Kunthabhai Patel, Shrimati Minimata, Shri Motilal Malviya, Shri Doda Thimmaiah, Shri Rameshwar Sahu, Shri M. R. Krishna, Shri Ram Dass, Shri Nemi Saran Jain, Pandit Algu Rai Shastri, Shri Shree Narayan Das, Shri S. V. Ramaswamy, Shri Resham Lal Jangde, Shri Balwant Nagesh Datar, Shri P. T. Punnoose, Shri Mangalagiri Nanadas, Shri P. N. Rajabhoj, Rt. Rev. John Richardson, Shri A. Jayaraman, Shri V. G. Deshpande, Shri B. S. Murthy, Shri Vijneswar Missir, Shri R. Velayudhan, Shri N. M. Lingam, Shri Mohanlal Saksena, Shri N. C. Chatterjee, and Dr. Kailas Nath Katju and 16 members from the Rajya Sabha;

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

that the Committee shall make a report to this House by the last