

[Shri Tek Chand]

with skimmed milk. Most of the grain he gets, most of the husk the others get. It is not only that. In clause 335, there is a further provision that under special circumstances, the remuneration of 12½ per cent. may further be increased and enhanced. I think you have dealt with this gentleman a little too generously.

Shri S. V. Ramaswamy: May I draw the attention of the hon. Member to clause 330 where a number of deductions are given? The net profit is practically nil.

Shri Tek Chand: I had taken into consideration those deductions. I said 'net profit'. The time at my disposal is rather restricted and I would, if given an opportunity, convince my learned friend on the opposite bench, that this gentleman is getting more than his fair share of cream.

There are two other classes besides the shark or octopus. You have left them completely untouched and unaffected. The first among them comes the promoter of the company. The promoter of the company finds himself happily ignored by the penal provisions of your enactment. So much so, the word 'promoter' does not even find its place in the definition clause. Promoters are those persons who make all the hay, who make all the profit long before the company comes into existence. Most of these gentlemen are styled as professional promoters. They get huge remuneration for services, usually undisclosed. Their remuneration very often is in the form of either fully or partly paid-up shares and rarely lump sum. Very often, they manage to get commission from diversion of assets of business. They also get profits on property originally purchased by the promoter with the real intention of selling it many times over subsequently to the company. They play Dr. Jekyll and Mr. Hyde. As sellers they are there. In a different shape as directors or managers of the company, they are there and they want to sell their stuff

and walk out. These gentlemen get all the benefits.

It is curious that in a leading case in England Lord Cairne had to say some home truth. The case is that of Emile Erlanger *versus* The New Sombrero Phosphate Co. and others, in which Lord Kairne had to pass certain strictures which will be extremely helpful for the draftsmen of this Bill.

"They (that is promoters) stand, in my opinion, undoubtedly in a fiduciary position. They have in their hands the creation and moulding of the company; they have the power of defining how, and when, and in what shape, and under what supervision it shall start into existence and begin to act as a trading corporation. If they are doing all this in order that the company may, as soon as it starts into life, become, through the managing directors, the purchasers of the property of themselves, the promoters, it is, in my opinion, incumbent upon the promoters to take care that in forming the company they provide it with an executive, that is to say, with a Board of Directors, who shall both be aware that the property which they are asked to buy is the property of the promoters, and who shall be competent and impartial judges as to whether the purchase ought or ought not to be made."

Mr. Deputy-Speaker: The hon. Member may continue tomorrow. The House will now take up Private Members' business.

MOTION RE SEVENTH REPORT OF
 COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

Shri Altekar (North Satara): I beg to move:

"That this House agrees with the Seventh Report of the Committee on Private Members' Bills and

Resolutions presented to the House on the 29th April, 1954."

The Committee at its meeting on the 27th April 1954, decided that the Resolution that comes after Shri S. N. Das's Resolution is that of Shri Sadhan Gupta, but he informed the Committee that he was not going to move the Resolution. Therefore no time was allotted for Shri Sadhan Gupta's Resolution. Then the next Resolution that comes up is that of Shri Sivamurthi Swami regarding the reservation of the production of *saris* and *dhotis* for the handloom industry. For that, two hours have been allotted. The next Resolution is that of Shrimati Jayashri regarding creation of a Department of Social Services to which also two hours are allotted. We are to go on with Shri S. N. Das's Resolution for one hour and fifteen minutes and thereafter the other two Resolutions will come up.

Shri N. C. Chatterjee (Hooghly): Sir, I would like to say something with regard to the Resolution standing in the name of Shri Sadhan Gupta. It appears that Shri Sadhan Gupta is withdrawing that Resolution. In this connection I would like to submit, that if you look at page 48 of the Rules of Procedure, Rule 194—Moving of resolution—says:

"194(1) A member in whose name a resolution stands on the list of business shall, except when he wishes to withdraw it, when called on, move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) A member may, with the permission of the Speaker, authorise any other member, in whose name the same resolution stands lower in the list of business, to move it on his behalf, and the member so authorised may move accordingly."

In this case what has happened is, 28 Members tabled the identical Resolution which is of great importance,

including Shri Sadhan Gupta. The Resolution deals with the Delimitation Commission Act, 1952 and he wants some amendments because some of the constituencies have been so delimited that they have vanished completely. We want to bring in some amendments now. The position is, that one out of the 28 Members, as I understand, has notified his intention not to move the Resolution. What is to happen in such cases? All the other 27 Members who have never been consulted, are they to be debarred from placing the Resolution before the House? I am not casting any reflection on Shri Sadhan Gupta, nor challenge his *bona fides* but the question is as to what we should do? I maintain, Sir, that it is not fair to the House or the 27 Members who tabled an identical Resolution not to have the chance of bringing it before the House. Really, when the ballot was taken, it was not with reference to Shri Sadhan Gupta alone, but it was for the Resolution sponsored by 28 Members, and the other Members were satisfied that they would get a chance because it was put down on the Motion paper. Now I submit, Sir that you as Deputy-Speaker of the House would give a ruling and give us a chance, so that the other Members who have tabled the Resolution, any one of them, can move the Resolution and the amendment as well, and have a discussion in the House. This is of primary importance.

Shri H. N. Mukerjee (Calcutta North-East): Sir, Shri Chatterjee has been good enough to say that he is not casting any reflection on Shri Sadhan Gupta. Shri Sadhan Gupta belongs to a particular Party and I have to take some responsibility for his decision in withdrawing the Resolution of which he had given notice. Now, Sir, I would submit for your consideration one aspect of the matter. It is this. Notices of Resolutions are sent by individual Members separately; on occasion we can also send notices together, sponsoring a Resolution jointly. On this occasion it appears, it so happen-

[Shri H. N. Mukerjee]

ed that the notices were sent under different names, on different pieces of paper and signed differently. The luck of the ballot happened to be in favour of Shri Sadhan Gupta and Shri Gupta decided on subsequent thought that this was a Resolution which he could not sponsor, and that he had given notice of it without giving due thought to all the aspects, and therefore, he decided to withdraw it. I do not understand how, when Resolutions are sent for ballot, and it falls to the luck of one particular Member, and when that particular Resolution comes up, the other Members who have given notices of the same Resolution can claim to command the luck which turned in favour of one particular Member. I do not see how it can be done. I can understand that there are other Members in this House who are very keen on having a discussion on this particular subject. I respect their views, but I think there are other ways and means of securing a discussion on this subject, and if the Chair so decides, the Chair may certainly direct that some time be allotted to this subject. I know that so many hon. Members are keen to have a discussion; that is a different matter. As far as the ballot is concerned, it has turned out in a particular fashion; the result has turned out in a particular fashion and I do not see how other Members whose luck was not as good as that of Shri Sadhan Gupta could say that it has been unfair to them. Shri Sadhan Gupta did something which is absolutely *bona fide*. He gave notice of the Resolution on the basis of certain facts which he had, but afterwards he thought over the matter. As a matter of fact,—there is no secret about it—we had a discussion on this matter and we decided, that this is a matter, which in this particular form we need not bring up before the House, and so he decided not to sponsor it. Therefore, he withdrew his Resolution. This is what happened. If you choose to give an opportunity to those Members of this House who feel strongly

over this matter, I suppose there are other ways and means open to them to have some time allotted for discussion of this issue. That is a different matter. I would say again on behalf of Shri Sadhan Gupta, that his *bona fides* are absolutely clear.

Shri N. C. Chatterjee: All that I said was that the discussion on the subject should not be left out because Shri Sadhan Gupta decided not to move the Resolution. That means the other Members do not get an opportunity.

Dr. Lanka Sundaram (Visakhatnam): There is one short point which has been missed in the submissions made so far. I am one of the signatories to the particular Resolution. 28 of us including Shri Sadhan Gupta signed the same Resolution on the same paper to begin with. That is the point which has been missed. No reflection is cast on the *bona fides* of Shri Gupta. I would like you kindly to take a note of this that the 28 Members including Shri Sadhan Gupta signed in favour of the same Resolution on the same paper.

Shri Nambiar (Mayuram): The signatures were obtained on different papers. I obtained some signatures and it was on a different paper.

Mr. Deputy-Speaker: I think we have had a sufficient exposition of this matter. Now, I find in the motion moved by Shri Altekar giving the time allotted to the various Resolutions and that the proceedings of the Committee may be adopted by the House, the second Resolution stands in the name of Shri Sadhan Gupta. In the Committee on Private Members' Bills and Resolutions, Shri Sadhan Gupta stated that he was not pressing his Resolution and that no time should be allotted. The point raised by Shri Chatterjee is that when Shri Sadhan Gupta has withdrawn his Resolution and no time is allotted to it, whether it is not open to the other Members who have also been signatories to the same Resolution, to

move that Resolution, place it before the House and carry on the debate.

Rule 194 has been invoked in this behalf. I am sorry that this rule will not help hon. Members who want to move this Resolution.

The House has also heard Shri H. N. Mukerjee, the Deputy Leader of the Communist Party. He seems to be very accommodating to the other hon. Members,—they are about twenty-eight or so in number—who are anxious to move this Resolution. It so happened that the luck was in favour of a Member of his party, namely Shri Sadhan Gupta. But he wanted to find a way out of this, if possible. Shri Sadhan Gupta could have authorised anyone of the other twenty-seven hon. Members to move that Resolution. That is provided for in rule 194, and that may not commit him. I would like to say one other thing also in this connection. In these cases, it is not the resolution that is balloted, but the names of individual Members who have given notice of that resolution. A number of Members give notice of the same resolution, so that the resolution may come up at least in the name of one person. Therefore, according to the hon. Member, Shri N. C. Chatterjee, that luck is in trust for the other hon. Members, and is not an individual luck. If there is an important motion, any Member who wants to oppose it may easily take the chance of one in twenty-eight, and when the resolution comes up in his name, he can keep out, and prevent the other Members effectively from bringing up that resolution before the House. Of course, there is no such intention at all on this side of the House. So far as that matter is concerned, such a thing has neither been said, nor alleged nor accepted; there is no such allegation at all. But *bona fide*, it is open to the party to reconsider the matter; whatever an individual Member might have thought of originally at the time of giving notice of the resolution, it is open to the party to consider the matter again

and say that for various reasons, the resolution is not desirable and that it ought not to be pursued. That is the present position. I can only say that inasmuch as the signatures of twenty-seven other Members have been taken on the same paper, or individually on separate papers, the responsibility is there upon the hon. Member who gave the impression that it should be balloted in his name, and that he would move it, if it comes in his name, and give an opportunity to the others.

I hope this kind of thing will not be repeated in the future. I hope that when hon. Members take the signature of other hon. Members, they would consult each other, and ask every Member who puts his signature to see that he stands by it or at least moves it and then leaves it to the House to decide. Otherwise, it will be embarrassing, and similar situations may arise from all parties.

So far as the question of allotment of time is concerned, that is quite a separate matter, and that is done by an independent motion. If this Resolution is sought to be pursued, what can be done is that under rule 194, Shri Sadhan Gupta, if he is willing, could authorise any other hon. Member who wants to move this Resolution.

Shri S. S. More (Sholapur): Supposing he does not?

Mr. Deputy-Speaker: If he does not, I think I cannot help anybody here in the House.

Shri H. N. Mukerjee: I have ascertained Shri Sadhan Gupta's views in the matter. Of course, we had a discussion with him on this point. I would say that just as a Member has the right to give notice of a resolution, he has also the right to withdraw it on second thoughts. But what happened in this case is that on second thoughts Shri Sadhan Gupta has withdrawn his Resolution. But you, Sir, suggest that since Shri Sadhan Gupta was a kind of trustee for the other twenty-five or more co-signatories, he might allow anyone of them to move the Resolution. Our difficulty is that, because

[Shri H. N. Mukerjee]

we are an organised group, if any of us sponsor a certain resolution or a Bill or whatever it is, we take full responsibility for it, and so we cannot persuade ourselves to sponsor a resolution, which, on second thoughts, we have found to be a resolution which we ought not to have sponsored in the first instance. This right to change our opinion is, I expect, a fundamental right which need not be written down in the Constitution. That being so, it is very difficult for Shri Sadhan Gupta or any Member of our group to authorise somebody else to move a resolution, to which he himself is not willing and able to give his support. That being so, I am very sorry that Shri Sadhan Gupta—he is not here, but I can speak on his behalf and inform other hon. Members—cannot authorise other hon. Members to move this Resolution.

Shri N. C. Chatterjee: May I point out one thing? There seems to be a lacuna in the rule, for there is nothing in the rule exactly providing for this. The rule clearly provided for this that when a person sponsors a resolution, he will stand by it, or at least allow the co-signatories who are of the same mind and the same opinion to place that resolution before the House. But there seems to be a lacuna here, and therefore, the discretion of the Chair comes in. I appeal to you that in your undisputed right as the Deputy-Speaker, you have got the power, the authority and the jurisdiction to give the appropriate ruling, so that the discussion may not be sabotaged or made abortive. It is a matter of very great importance to many hon. Members who are really representing no constituencies, or at the most, representing constituencies which have vanished from the face of Mother India. Therefore, we ought to take the earliest opportunity to discuss this matter. If, for any reason, Shri Sadhan Gupta—I am not doubting his *bona fides*—does not choose to allow anyone of the twenty-seven co-signatories to move that

resolution, certainly you have got the right to give us that opportunity.

Shri S. N. Das (Darbhanga Central): Unless he authorises, how can it be moved?

Mr. Deputy-Speaker: Shri N. C. Chatterjee is fully aware that when a particular matter is provided for by rules, the general right of the Chair cannot be invoked. The rules do not contemplate a number of hon. Members giving notice of the same resolution, though it is open to them individually to give notice. The rules only take note of an individual Member, and his name is balloted.

11 A.M.

Unfortunately, this situation has occurred now. Even if Shri Sadhan Gupta were here, and I call upon him to speak, if he keeps quiet then, I am helpless.

Shri Algu Rai Shastri (Azamgarh Dist.—East cum Ballia Dist.—West): The others may speak.

Mr. Deputy-Speaker: On what can the others speak?

Shri Algu Rai Shastri: On what you would call upon them to speak.

Dr. Lanka Sundaram: There is one point to which I would like to draw your attention. There is one extraordinary circumstance about this matter, and if you would permit me, I shall briefly state it. My hon. friend Dr. Krishnaswami drafted the resolution and started taking the signatures, because of the great importance of the work of the Delimitation Commission for the whole country the signatures were taken in order to convey both at the time of balloting and before that, the importance of the matter. The result is that twenty-eight of us, including Shri Sadhan Gupta, had given notice of the same resolution. It is the device or procedure of balloting that has been responsible for his name coming up. If, for the reasons explained by Shri H. N. Mukerjee, he is not willing to move that Resolution, I would say that it is within your powers to allow some of us to move the Resolution.

Mr. Deputy-Speaker: I am sorry I do not agree with the suggestion made by Dr. Lanka Sundaram of Shri N. C. Chatterjee. In view of the specific rule 194 which provides that if an hon. Member has authorised another hon. Member to move it, he could be permitted to do so, I feel myself unable to agree to the suggestion made. I do not know whether the Chair has got any right to allow any other hon. Member who might have given notice of the same Resolution, but whose name has not been balloted, to move this resolution. I am therefore exceedingly sorry. Hon. Members must seek other remedies.

Dr. Lanka Sundaram: At an earlier stage, you were pleased to say that Shri Sadhan Gupta was trustee to the other twenty-seven.

Mr. Deputy-Speaker: But what can I do? He must realise that responsibility. It is not I that can do it.

Shri Nambiar: I have something to say in this connection, because the question of trusteeship etc. has come in.

Mr. Deputy-Speaker: Order, order. I allowed an opportunity to the Deputy Leader of the hon. Member's party earlier. Thereafter, I allowed other hon. Members also to speak. Ultimately I came to a decision. But if, once again, the whole discussion starts, where is the end to all this?

Shri Nambiar: The question of trusteeship has come in. So, may I be permitted to say a word?

Mr. Deputy-Speaker: Order, order. Whether it is trusteeship or anything else, the hon. Member must have interrupted me earlier. When I said that Shri Sadhan Gupta was a trustee, the hon. Member must have immediately got up and said, no, he is not a trustee.

Shri Nambiar rose—

Mr. Deputy-Speaker: Order order. I am generally appealing to all hon. Members to bear this in mind. It so

happens that sometimes, we get arguments after the whole thing is over. It is not enough that the argument is there merely in the pocket, but it should come out at the appropriate time. We will assume that I allow discussion on this to go on for ten hours, or even for ten days; even then, there may be some hon. Member who may think of something else and who may get up and say something, after I come to a decision. At this rate, where is an end to all this?

Now, there will be no more discussion on this point. I shall put the question to the vote of the House.

The question is:

"That this House agrees with the Seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 29th April, 1954."

The motion was adopted.

RESOLUTION RE WORKING OF ADMINISTRATIVE MACHINERY AND METHODS AT THE CENTRE—Contd.

Mr. Deputy-Speaker: The House will now take up further discussion of the following Resolution moved by Shri S. N. Das on the 2nd April, 1954:

"This House is of opinion that a Commission be soon appointed to inquire into the working of the existing administrative machinery and methods at the Centre, covering particularly the following aspects with a view to suggesting comprehensive measures for re-forming and reorganising the administrative set-up, namely:

(a) adequacy or otherwise of the existing enactments, rules and regulations regarding recruitment, training and conditions of services;

(b) adequacy or otherwise of the existing All India Services including the necessity and desirability of establishing an All India Economic Service and Social Service;