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LOK SABHA

Saturday, 9th April, 1955

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

11-47 A.M.

MOTION FOR ADJOURNMENT

ASSAULT ON PRESIDENT OF GOAN NATIONAL CONGRESS AND OTHERS

Mr. Speaker: I have received notice of an adjournment motion by the hon. Member Shri Shibban Lal Saksena. It appeared to me that the motion was clearly not admissible for various reasons and I communicated to him that I had withheld my consent. However, he desires that I should mention it. Therefore, I mention the adjournment motion, not reading it. The subject is the failure of the Government to prevent the national degradation and humiliation resulting from the blood-curdling atrocities perpetrated on the 6th April, 1955 by the Portuguese on Mrs. Sudhabai Joshi and some others and that kind of thing.

Clearly this is something which happened outside the territory of India. The whole thing is a process going on in connection with the Goa agitation from time to time. It is a continuous process. I do not think it can be said to be in any sense a definite matter. The issues are vague and indefinite. The Government of India is not responsible for what is happening in the Portuguese territory. If

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the hon. Member wishes to have any information and to invite the attention of the Government to what, according to him, the Government should do, the best course, as I have advised him, is to put a short notice question, get the information and then have a discussion with the Minister in charge of External Affairs.

SEA CUSTOMS (AMENDMENT) BILL.—Contd.

Mr. Speaker: We will now take up legislative business. The House knows that the Bill further to amend the Sea Customs Act, 1878, is to be taken into consideration now. Two hours have been allotted for this Bill excluding the time already taken or the 12th March. This would mean that this Bill will be disposed of by about 2 P.M. when the House will take up the Finance Commission (Miscellaneous Provisions) Amendment Bill for which half an hour has been allotted. That Bill would be disposed of by 2-30 P.M. whereafter the House will take up Private Members' Business.

Shri Dabhi (Kaira North): While supporting this Bill, I will make a few observations, so far as clause 14 which seeks to insert a new section, section 178A, in the Sea Customs Act, 1878, is concerned. The proposed new section reads as follows:

"Where any goods are seized under this Act on the ground that they are smuggled goods, the burden of proving that the goods are not smuggled goods shall be on the persons from whose possession the goods are seized."

You will see that this section is worded in such a way as to go against the accepted principal of criminal

[Shri Dabhi.]

jurisprudence, namely, that in a criminal case, the burden of proof lies upon the prosecution. Not only this, but this section is worded in such a way that it becomes very dangerous for innocent people because, as it is worded, it would be practically impossible to discharge the burden thrown upon the accused. It is true that in some cases, especially in the case of some social legislation dealing with anti-social elements, the burden of proof is thrown upon the accused, but even in such cases, the initial burden is always thrown upon the prosecution. When that initial burden has been discharged by the prosecution, then in such cases, especially in those cases in which a particular fact lies within the special knowledge of the accused, the burden of proving that fact is thrown on the accused. But in the present case, the whole burden has been thrown upon the accused and the burden is so great that it is practically impossible to discharge. What is that burden? If the police or the prosecution or the authorities concerned seize any article only on the suspicion that it may be a smuggled article, then the person from whom it was seized would be convicted unless he proves that that article is not a smuggled article. Now, it is practically impossible to prove in most cases that that particular article is not a smuggled article. I will take a concrete instance. Suppose a man buys a watch from a watch dealer in a city. It may be that that particular watch may be a smuggled article. Now, that man goes to that shop and buys that watch. Not only that he receives a receipt, and he has got it with him. Afterwards, the police or the authorities concerned seize that article from the possession of that man who had bought that. Now, because there is an allegation by the prosecution that it was a smuggled article, therefore the burden of proving that that article is not a smuggled article would lie upon the accused. How will it be possible for that man to prove it? Only he can say that he had bought it from a

particular shop. That does not mean that he has discharged that burden because he can only say that he had purchased it from that shop. So how is it possible for him to prove it? If that shopkeeper might have been prosecuted, then perhaps the burden of proof may lie upon him. But how is it possible for this man, who had *bona fide* purchased that article from the shopkeeper, to prove that it is not a smuggled article? It is impossible. In this case, if he cannot prove it, he is prosecuted. This is quite unfair.

There is another reason why such a burden should not be completely thrown on the accused. Initially, if there is a *prima facie* case made out by the prosecution that that particular article was a smuggled article, he may have to explain the circumstances under which he had obtained that particular article. That is something understandable. But there is another reason why this section should not remain as it is. Only recently this House considered the Railway Stores (Unlawful Possession) Bill, 1954, and it has been referred to a Select Committee. The Select Committee has reported on that Bill. Even in that Bill, the Government have taken upon themselves to prove first that the particular article was belonging to the Railway Administration and when that initial burden was discharged by the prosecution, namely, that the particular article belonged to the Railway Administration, then only the accused has to prove that he came to possess that article in a lawful manner. It says that unless he can satisfactorily explain how he came to possess that article, he is to be convicted. So my suggestion is that, similarly, in this case also, the initial burden should be thrown upon the prosecution and only afterwards if that man cannot satisfactorily explain how he came by that article can he be convicted. So I do not understand why there should be two policies Government should adopt regarding the same matter. The object of both the Bills is the same. In the Railway Stores (Unlawful

Possession) Bill, the object is to punish for unlawful possession and in the Bill that is before us, the object is to punish for unlawful possession of a smuggled article. In both cases, the object is to save the authorities from any financial loss. So my suggestion to the Government is that they must accept some of the amendments which are going to be moved by some of the hon. Members. I would suggest that Government see their way to accept one of the two amendments which I am going to move, namely, amendment Nos. 20 and 21.

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I hope that under the circumstances mentioned by me, it is not only improper but unjust to throw the whole burden on the accused which is impossible to be discharged by him. We may not ordinarily accept the common dictum that nine guilty persons may be acquitted but no innocent person should suffer. But, at the same time, we must see that no innocent person suffers. So, unless Government accepts one of the several amendments which are going to be moved by the hon. Members, perhaps, it would be quite unjust and improper for the innocent people and they would suffer. So, I appeal to the Government to accept one of these amendments.

Mr. Speaker: Before we proceed further with the general discussion, I may say two hours have been allotted, out of which, I believe, nearly one hour has been taken up, 44 minutes on the previous day and 15 minutes now. There remains one hour. I should like to have allotment of time now for the various stages. I see that there are 28 amendments and I should assume that the discussion on the amendments will not be considerable. Because, the hon. Member who just now spoke on the Bill has discussed his amendments. If the House likes, we might go on with the first reading stage for half an hour and leave the remaining half an hour for both the second and third reading stages so that we may stick

to the time allotted by the House. Is the House agreeable to that?

Shri Bansal (Jhajjar-Rewari): My impression was that two hours were given for today.

Mr. Speaker: Is it the intention that the Bill will again be discussed after today?

Shri M. S. Gurupadaswamy (Mysore): This will go on for two hours till 2 P.M.

Shri Bansal: Exclusive of the time taken previously.

Mr. Speaker: Is it exclusive of the time previously taken? That was my misunderstanding. I am very sorry.

Now, what is the time that the House will require for the second reading?

Shri Tulsidas (Mehsana West): Between one and two we may have the second and third readings and up to one o'clock we may have the general discussion.

Mr. Speaker: We will proceed on that basis. But, the object of my referring to this was to remind hon. Members not to be very lengthy in their arguments and to finish them up in as short a time as possible, touching on only those points that are necessary, because general principles of criminal law are well-known to all and they need not be repeated.

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): May I know what time will be given to me for replying to the general debate?

Mr. Speaker: What time does he require?

Shri A. C. Guha: That will depend upon what time taken and the points made out by the hon. Members.

Mr. Speaker: Twenty minutes?

Shri A. C. Guha: At least twenty minutes I will require.

Shri Tulsidas: Sir, I must extend my appreciation for the laudable objective behind this move and this Bill which has been brought forward. It is certainly true that those indulging in this nefarious trade are defrauding the exchequer of its legitimate dues by contravening the trade regulations; neither do they deserve any sympathy nor should they receive any quarters for favours. However, the wide and sweeping powers proposed to be vested with the customs authorities by certain amendments and new sections are bound to cause, in actual practice, not only harassment and hardship to the genuine trade but will also drag many an innocent and unwary citizen into trouble.

Some of the amendments sought to be made to the Act militate against the principles of criminal jurisprudence and natural justice and violate the fundamental rights guaranteed under the Constitution. What I am trying to bring to the notice of the hon. Minister is that under clause 10, certain powers are now being taken. I do not know the reason why these powers are necessary. Because under the Import and Export Control Act, there are already such powers. Then, under the Foreign Exchange Regulations Act, similar powers are also vested in the Government. What is the necessity to include these very powers under this Act also is a thing which I really cannot understand?

Shri A. C. Guha: Which clause does the hon. Member refer to?

Shri Tulsidas: I refer to clause 10. Under the Import and Export Control Act there are these very powers. Similar punishment is also found in the corresponding provisions of sections 23, 23A and 23B of the Foreign Exchange Regulations Act. In the face of these provisions, I do not understand what is the necessity for this further legislation, as contemplated under sub-clause (c) of clause 10.

This clause vests in the customs officers powers of a judicial nature. I appreciate that the customs officers should be empowered to investigate

and look into all these things. But, the experience that we have of the customs officers is such that it is not possible for them to utilise these powers in the best possible manner in order not to have any harassment of or hardship to the people. If these powers are there under the different Acts, I do not see why such powers are further given to the customs officers under this Act. At any rate, the customs officers should not be vested with wide and sweeping powers as to hamper the normal functioning of the trade. That is my contention.

Similarly the provision in clause 13 regarding documents relating to prohibited goods will certainly cause harassment to the trade. For instance, the insertion of the words regarding documents suggested in that clause is bound to cause hardship to the trade. Under clause 13, the powers are given to the customs officer to seize documents and to seize books and everything. I can understand if there is a *prima facie* case of a particular person that is smuggling goods or something of that sort or if there are reasonable grounds of doubt, then such extraordinary powers are given to the customs officers.

I know in most of the countries particularly in U.K., these powers are vested in the customs officers. But we have all seen how these customs officers act. It is only when one travels to other countries that he knows how these customs officers act. The customs officer acts in such a manner as to create unnecessary hardship. When you travel in different countries, even while you are going there as a visitor, you find that the customs officer not trying to unnecessarily create hardship. But, I do feel that in India particularly this is a complaint and I have always brought this to the notice of the authorities. We expect a number of tourists to come over here and we expect a number of people to visit our country and we want the customs officers to be more courteous to them and to utilise the powers only if they really find that a particular person is smuggling

or trying to smuggle goods. I am afraid that by all these powers that we are now trying to give to the customs officers, it will be very difficult and that it will create hardships to the trade as well as the people who visit this country.

My friend Mr. Dabhi has already spoken with regard to the objectionable part of clause 14. It is very objectionable because, as you know, when any one buys a thing in the market, he does not know whether they are smuggled goods or not, and if he has these goods in his possession, then the onus of proving that these are not smuggled goods is cast on the accused person. It is hardship. I know it means a certain amount of difficulty to the department because it would like to know from the person that these are not smuggled goods. But, these powers are going to create a lot of hardship and so it must have a certain amount of safeguards. I am not saying that these powers must not be given, but, if the safeguards are there the customs officers in the department would not create unnecessary difficulties to the public.

I find a number of amendments which have been tabled on this particular clause by a number of Members and I find that some of the Members do find this difficulty and they have provided a certain amount of safeguards for avoiding this harassment. There is one amendment which is to clause 14, No. 13 of Mr. Bansal. That sort of provision will have a check on the unnecessary harassment which would otherwise be created. I would only like the hon. Minister to realise that such safeguards are necessary and unless you have those safeguards against such wide powers, it is likely that they will be misused for harassment purposes.

These are few of the points which I feel I should place before the hon. Minister that whenever such wide and sweeping powers are taken, they must simultaneously also have a certain number of safeguards by which unnecessary harassment could be avoided.

श्री को० सी० लोधिवा (सागर) : मैं ने इस सी कस्टम्स ऐक्ट को ध्यान से पढ़ा है। मेरी राय में इस बिल को बनाने में काफी ध्यान नहीं दिया गया है, क्योंकि खुद मिनिस्टर साहब ने दस बारह अमैंडमेंट अपनी तरफ से रखे हैं। अगर यह बिल ध्यान से बनाया गया होता तो यह अमैंडमेंट रखने की जरूरत ही न होती। तो एक तो यह बात निश्चित है कि यह बिल ध्यान से नहीं बनाया गया।

दूसरी बात यह है कि मुझे ऐसा मालूम होता है कि कस्टम्स डिपार्टमेंट में बड़ी अन्वेषुन्धी हो रही है। इस सिलसिले में मुझे एक किस्सा याद आता है। कुछ डाकू लोग थे, उन्होंने कुछ कौबों को ऐसा सिखा रखा था कि अगर किसी यात्री के पास कुछ पैसा होता था तो वे कौबे झाड़ पर बैठ कर कांव कांव करने लगते थे और डाकू लोग समझ लेते थे कि इस आदमी के पास पैसा है और वे उस की नंगाभोली लेकर उस से पैसा ले लेते थे। एक बार एक आदमी परदेश गया, वहां पर उस ने बहुत पैसा पैदा किया। वह उस पैसे को घर लाना चाहता था। पर वह जानता था कि रास्ते में डाकू लोग पैसा छीन लेते हैं। तो उस ने उस पैसे से कुछ लाल खरीदे और उन को अपनी जांच का चमड़ा काट कर उस में भर दिया, और भर कर सी दिया, और सी कर वह चला। जब वह जंगल में आया और कौबों ने उसे देखा तो वे कांव कांव करने लगे। इस पर डाकू लोग आ गये। उन्होंने ने कहा कि "नंगा भोली दो"। उस ने अपने कपड़े उतार कर रख दिये। वह तो जानता था कि जो कुछ उस के पास है वह तो भीतर रखा है। उस ने कहा कि "देख लो मेरे पास कुछ नहीं है"। डाकू बोले "नहीं हमारे कौबे सच बोलते हैं। वे ५०० बरस से जराबर ऐसा करते आये हैं। कभी एक मर्तबा

[Shri K. C. Sodhia]

भी ऐसा नहीं हुआ कि उन्होंने काब कांब की हो और आदमी के पास कुछ न कुछ पैसा न निकला हो। इसलिये हम तो तुम्हारा शरीर चीरेंगे और देखेंगे कि कहीं न कहीं कुछ छिपा तो नहीं रखा है।”

[PANDIT THAKUR DAS BHARGAVA in the Chair]

आज किस्सा यह है कि जो आदमी आते हैं उन को रेडियोलॉजिस्ट के पास ले जाया जाता है और वह देख लेता है कि यह अपने शरीर में माल लाये हैं या नहीं। न मालूम ये लोग किस तरह से अपने शरीर के भीतर माल रख कर लाते हैं इस का हिसाब तो कमी मिनिस्टर साहब ने बतलाया नहीं। उन्होंने यह नहीं बतलाया कि इतने आदमी आते हैं और उन में से इतने चोरी का माल लाते हैं। इसलिये जबकि रेडियोलॉजिस्ट न उस को देख लिया तो फिर एक जगह यह क्यों लिखा है कि रेडियोलॉजिस्ट की रिपोर्ट पर या “अदरवाइज” भी कार्यवाई चलाई जा सकती है। इस में लिखा है :

“When on receipt of a report from a radiologist under subsection (5) or otherwise.....”.

जब वह रेडियोलॉजिस्ट के पास हो आया और उस ने रिपोर्ट दे दी तो फिर इस “अदरवाइज” का क्या मतलब है यह मेरी समझ में नहीं आता। वह मजिस्ट्रेट क्या उस आदमी के पेट से माल निकाल कर देखेगा। इसलिये में समझता हूँ कि यह “आर अदरवाइज” बिल्कुल गलत है।

तीसरी बात यह है कि एक बेचारा व्यापारी है और उस ने माल रखा हुआ है। वह उसे बेच रहा है। अब अगर कस्टम आफिस के किसी अफसर के दिमाग में यह आया कि यह माल तो ड्यूटी बचा कर लाया गया है, और उस ने यह कह दिया, तो बेचारे व्यापारी को फांसी लग गई। अब

वह बेचारा नाबित करता फिरे। तो यह बहुत भारी धांधलेबाजी है। इन धांधलेबाजियों को रोकना चाहिये और तब इस बिल को ठीक तरह से बनाना चाहिये।

एक दूसरी बात यह है कि जब बड़े बड़े सरकारी अफसर या बड़े बड़े पूंजी-पति यूरोप के दौरे पर जाते हैं तो खर्चा पूरा करने के लिये कुछ षड़ियां या इसी तरह की चीजें लाते हैं। इस की निगरानी की जाय। ये लोग हवाई जहाजों से आते हैं। लेकिन आप ने यह खिन्न नहीं किया कि यह कानून हवाई जहाज से यात्रा करने वालों पर भी लागू है या केवल समुद्र से आने वालों पर। यह हवाई जहाज से आने वालों पर भी लागू है या नहीं इस का कुछ पता नहीं। इसलिये मेहखानी कर के मिनिस्टर साहब इन सब बातों को सोच लें और फिर कानून बनावें।

Shri Bansal: I do not propose to make a long speech because almost all the points have been so ably covered by the hon. speakers who have preceded me. It is one of the rare occasions when there does not seem to be any difference of opinion whatsoever either on this side of the House or on the other as to some of the shortcomings of this Bill.

Before I take one or two provisions of the Bill, I would like to voice my protest against the manner in which such important amending Bills are sought to be rushed through this House. I do not know what difficulty is there which faces the Treasury Benches in moving motions for referring such Bills to Select Committees. The other day when the hon. Finance Minister moved this Bill for consideration, it seemed that he was in such a great hurry to get this amending Bill passed that even the loss of an hour or two would bring heavens down. But, as you know, this Bill has been before us now

for quite some days, and if a Select Committee had been allowed to report on this, I am sure a number of very important and good amendments would have been made in the Bill. As my hon. friend Shri Sodhia has just now pointed out, there is no doubt that there is a great deal of scope for improving the Bill. This is self-evident from the large number of amendments that the hon. Minister has himself proposed. He might turn round and say "I am proposing these amendments because I have had discussions with some of you and I have taken into consideration what was said in the debate the other day." But I would very humbly suggest that even before the Bill came before the House, the amendments from the Finance Ministry were already there, or at least some of them were there. It proves, therefore, that his Bill has been drafted in hurry and nothing would have been lost if it had been referred to a Select Committee.

As a number of points have been referred to already, I would confine my attention to only two points. One is that, in clause 12, I do not understand the meaning of the words "or other person". The clause reads:

"Any duly empowered officer of Customs or other person duly employed in the prevention of smuggling shall have power to summon any person whose attendance he considers necessary either to give evidence....."

It is all right if he is an empowered officer of Customs, but I do not understand why.....

Mr. Chairman: May I just point out to the hon. Member that there is an amendment by the Government on this point and they want to take away the words "or other person"?

Shri Bansal: Very well. I thank you for pointing this out at this early stage.

Then, I come to this inevitable clause 14, where the onus of proof is

being shifted on to the so-called smugglers. No one has any sympathy for the smugglers, and this House has rightly said that no one here wants to give any quarter to any person who tries to smuggle. But what does this clause say? It says that where any goods are seized under this Act on the ground that they are smuggled goods, the onus of proof will be on the person who is in possession of the goods at that time. As you know, the other day my hon. friend Shri C. C. Shah who is a very able solicitor brought to the notice of the House the case of gold. I think from 1942 no gold is being imported into the country. Supposing somebody is in possession of five tolas of gold *bona fide* and the Customs Officer or somebody *chalaans* him on the ground that it is smuggled gold, I want to know from the hon. Minister as to how that person is going to prove that he is in possession of *bona fide* gold and not of smuggled gold.

My hon. friend Shri Dabhi referred to the case of watches. Watches are being imported every day, and there very genuine hardships will occur. But I think the hardship will be much more genuine in such cases where things are not being imported now. I know a lot of smuggling of gold is taking place, and drastic steps have to be taken to stop that smuggling as long as we prohibit the import of gold. But do we not have any other method of stopping this smuggling than placing this heavy onus on innocent people?

I know the hon. Minister will say that a provision similar to this exists also in countries like U.S.A. and U.K. I have also carefully gone through these provisions, but I would humbly suggest that they have nothing comparable to this drastic provision. In the U.S. Act, where a similar provision, although it is not so strict, does obtain, it is with regard to goods which are seized from ships, not with regard to goods which are already ~~imported~~ imported into the country. Those

[Shri Bansal]

provisions apply only to goods which are seized from ships. Therefore, I would suggest to the House to consider my amendment which says:

"Provided that such persons shall be deemed to have discharged the burden if they prove that they paid full price in respect of the goods and that they had no reason to believe that they were smuggled goods".

I think this meets the case of Government very fully. It does not seek to protect the smuggler, but at the same time it seeks to protect a bona fide purchaser of goods, i.e. a person who has paid full price, and who also says that he had no reason to believe that they were smuggled goods.

I would not like to refer to other points because I know it is too late in the day to make any further changes in the Bill. But I do hope that the hon. Minister will very kindly consider this particular amendment of mine, and thereby remove this great hardship that will be caused to not only genuine importers but innocent citizens of this country.

Shrimati Jayashri (Bombay—Suburban): While welcoming the amendments in the Bill, I take this opportunity to draw the attention of the hon. Minister to the difficulties experienced by the trade and especially by the clearing agents in places like Bombay, and I hope that some of the problems facing the trade *vis-a-vis* the Customs Department will be looked into.

I would like to draw the attention of the hon. Minister to a number of practical difficulties that exist in bringing about greater understanding between the Customs on the one hand and the trade on the other. For example, I am informed that there is delay on account of the procedure adopted for the Merchandise Marks Act and the penalty cases. Whenever on examination of any goods or on scrutiny of the B/Entry and licence there

is discovered an infringement of any of the provisions of the Merchandise Marks Act, or the Sea Customs Act, the appraising Department adopts the procedure of the issue of a show-cause-notice, receipt of reply thereto, and thereafter consideration of the case. On paper there appear to be only these three stages of the procedure. In reality there is also the attendant procedure of the despatch of the papers to the clerk, their registration, the filing in of the notice and its issue, its registration and then its despatch. The experience of the members of the clearing agents' association is that this causes great delay. The reason for the adoption of this procedure is quite obvious. The importer concerned must know what the offence is, that is to say, when the duty is not properly paid.....

Shri A. C. Guha: I would like to know whether the hon. Member is referring to delays caused on account of the existing provisions in the Act, or whether she apprehends delays that would be caused by the present amending Bill.

Shrimati Jayashri: I am talking about the difficulties.

Shri A. C. Guha: At present?

Shrimati Jayashri: Yes, at present. And I am glad as I said earlier that these amendments are being made. I am drawing the attention of the hon. Minister to the difficulties which are felt at present, or experienced at present by these people. That is why I welcome these amendments.

What they want to say is that the Association has nothing whatever to urge against this most obvious legal process. But what the Association is unable to understand is that this procedure is followed even when the clearing agent furnishes the Department with a letter admitting the offence on behalf of the owner and requesting on his behalf the imposition of penalty and waiver of the issue of a show-cause-notice in order to save

time. I am glad that in this amending Bill there will be improvement in this procedure.

All these days their grievance was that even though the agents were licensed, they were not for this purpose considered as agents acquiring the right and status of an importer by virtue of the presentation of the B/Entry. They are held liable for all the acts of commission and omission on behalf of the owner of the goods, right up to the point of payment of a less charge of duty in the event of the owner's default. It is said that it is they who are more conversant with the provisions of the Acts than the owner, and it is they who see the goods and therefore are in a better position to appreciate the offence and its consequences; the owner may or may not be in Bombay and has entrusted the clearance to the agent. Their grievance is that in spite of this, they are put to great trouble, and delays take place, and they have to pay great demurrage and wharfage charges. I am glad that this Bill will make some improvement in this respect.

The second reason for the delay is this. If some of the appraisers fall ill, then also they have to wait. I would request the hon. Minister to see that there are properly trained personnel who are put in charge of appraising the goods. If one person falls ill, there should not be delay on that account in clearing the goods. This was also one of their difficulties, and they drew my attention to this fact that many a time, if an appraiser falls sick, a lot of time is taken in clearing the goods, and they have to pay a lot of demurrage and wharfage charges.

The other point to which my hon. friends Shri Bansal and others drew the attention of the hon. Minister is this, that the foreigners who are coming here as tourists are experiencing great hardships at the hands of the Customs Officers. I am glad that this thing also will be looked into.

Then I was told that at present there is no provision in the Sea Customs Act for an appeal from a decision or order of an officer of Customs to an independent tribunal. And I am glad that in clause 16 there is a provision that the Chief Customs-authority will now be able to see into this matter and help the agents. So I am glad that some of the amendments are going to help the trade and that the things will improve.

Mr. Chairman: It is 12-30 and I propose to call the Minister at 12-45 for replying to the debate. There are only fifteen minutes. And I find several Members are anxious to speak. I would therefore request hon. Members to finish within as brief a time as possible, and I expect that more than five minutes will not be taken.

Shri Tek Chand (Ambala-Sirmia): Within the very brief span of moments allotted to me I wish to invite the pointed attention of my esteemed friend the hon. Minister: how is he going to defend himself if I were to level a charge against him that the spectacles that he wears, the frame that he has got and the Crooks lenses that he has got, are smuggled goods? I have only to level a charge at him, and let me see what defence he has got. He wants us to believe that we are all guilty and each one of us has to establish his innocence. What is his plea in defence? Let him confide his defence to me if I were his counsel. The defence would be "I went and purchased it from a reputable firm". Has he got a receipt? Most probably he has not; he has lost it. How is the court to believe that what he says is true, especially if the prosecution is loaded against him? How is he going to prove that the Crooks lenses—since lots of them have been smuggled, and a good few genuinely imported—how is he going to prove that the lenses are not smuggled or distinguish between one and the other? It may be that the lens of his right eye is smuggled and the lens of his left eye is genuine. Does he want that the whole lot of us ought to be treated as potential criminals to be

punished in the absence or failure on our part to prove the innocence of the articles that we have purchased? It is not your innocence. For an innocent fool, an innocent credulous person, a moderately intelligent purchaser—there is no defence at all for him, Mr. Chairman. He has to establish the innocence of the articles he has got. And by the time Mr. Guha has got his pair of spectacles it is possible that the frame may have changed a number of hands, namely from one shop-keeper to another, from the wholesaler to the retailer, from the retailer to the shop-keeper, from the shop-keeper to a petty shop-keeper and so on. The same is true of his watch. The same is true of his fountain-pen, and also of his Kruschen Salt—if he is in the habit of taking Kruschen Salt. One never knows to what extent it is smuggled and to what extent it is not.

This is not a Sea Customs (Amendment) Bill, it is almost a universal public harassment Bill. Kindly see. In this case goods change not only hands, but they change their form and shape as well, and perhaps he is an innocent receiver of something which has changed form and shape. What is his defence? My fears are that if any person were to level such an accusation against him, he has absolutely got no defence, none whatever. Then kindly see that the sins of incompetent and corrupt officials, the sins of smugglers are not to be visited on the innocent men. Legislation ill-conceived, and ill-executed is going to be disastrous. As to the genuine smuggler, Mr. Chairman, his first anxiety is to get rid of the smuggled stuff at the earliest, pass it on to some innocent booby, some sucker, some clumsy man who cannot distinguish one from the other. And the man you are going to punish is not the smuggler, not the incompetent Customs Officer through whose fingers the things have slipped, but an innocent person. Yes, that is an excellent way. Shut the gates after the horses have fled. The smuggled goods have come, and

the smugglers have fattened themselves. And now get hold of an innocent man and thereby appease and salvage your conscience by telling yourselves "we have prosecuted someone, the noose fitted some neck whether the person was guilty or was an innocent man did not matter". That is the policy of my friend Mr. Guha, "so long as I can punish some innocent possessor of smuggled goods, my conscience is satisfied; whether the person is guilty in fact or not is no concern of mine". His conscience is not troubled. This is the law we are supposed to enact now. And within the short space of time at my disposal I wish to lodge my emphatic protest on behalf of the innocent man whom you propose to rope in, whom you propose to enmesh in your web because the really guilty culprit has fled.

I am sorry to say that all those who have the occasion to run the gauntlet of our Customs offices have tremendous complaints of harassment, of indignity, of humiliation. The first welcome that a foreigner receives in any country and the first idea that he derives of the hospitality or the boorishness of any country is from the treatment that is meted out to him first thing on planting his foot on the soil of the country he visits. And the first man he comes across is the Customs officer. His good or bad opinion is based upon the treatment meted out to him when he lands. And I wish my esteemed friend Mr. Guha could travel incognito and endeavour to cross any one of our land or air or sea customs barriers and see for himself first-hand, the treatment that is meted out. Almost all the discourtesy seems to be concentrated in the Customs Department whenever somebody has to cross the Customs barrier. Discourtesy is at its peak. Boorishness is held in high esteem. And a show of ill-manners a show of pomposity, a show of officiousness seems to be a *sine qua non* of every Customs officer's train-

ing in this country. These are not words but you have complaints galore, and people who come with high expectations of geniality, hospitality, cordiality are always disappointed and embittered against our Customs officers. Pray, look for them and not for their victims, for purposes of prosecution.

Shri M. S. Gurupadaswamy: This Bill has been brought by the Minister for four objects: to place on statutory basis certain existing practices relating to procedure; secondly, to take certain additional powers which have been found to be necessary for the effective control of smuggling; thirdly, to make provision for the regulation of licensing of custom-house agents; and fourthly, to provide for review in certain circumstances by Customs authorities of decisions of their subordinates.

Among these four objects, I do not dispute about three, namely about the first, the third and the fourth. About the second object, I have to say—and many Members have already said—that if this amendment is accepted and passed without sufficient safeguards, it may become in the long run an instrument of harassment and intimidation. I am not in favour of laxity in controlling the smuggling trade. I want that stringent measures should be adopted for purpose of preventing smuggling of goods. I know that nowadays, especially after Independence and especially when our foreign trade is developing in leaps and bounds, smuggling has been on the increase. It has become a very fine art of a few people and I find to my amazement that this fine art has become a very lucrative trade of the fair sex. It should be stopped. There is no difference of opinion on this point. But I want to know from the Minister whether this Act which provides sufficient powers to the customs authorities has been worked satisfactorily and whether there has been misuse of powers by the customs officials. Cases of misuse of powers are

many and the time is very insufficient for me to go into those individual cases; but the cases are many and the Members are aware of them, and those cases will show that there has been a greater misuse than use of the powers by the customs officials. The misuse of powers is mainly due to the corruption prevailing among the customs authorities. That aspect has been covered and made out by hon. Members. I repeat once again that the main problem facing the Customs Department is the problem of corruption. Unless corruption is ended, unless it is at least reduced, there is no possibility of working this Act satisfactorily. So, if we want to succeed in putting a stop to the smuggling of goods and materials, if we want to prevent this nefarious trade, the only way is to tone up the administration.

There is no use of the hon. Minister merely saying that there has been too much of smuggling of goods nowadays and that is why they want more powers. The smuggling of goods is on the increase, because the trade has increased; the interchange of goods has increased and the people who are participating in the trade have also increased. So, simultaneously, the laxity among the officials has also increased. The existing powers have not been utilised for the purpose of preventing smuggling. Only small people have been caught. The big people have been left out and I know of many instances where the monied people who are holding high positions in business and trade are simply left out because all these customs officials are under their obligation one way or the other. The customs officials are maintained by them. It is not really the Government which is maintaining these customs officials. The Government may be paying the customs officials small salary and allowances, but actually the larger part of the private budget of the customs officials is met by the big money-lords and trade interests. So, the first duty of the customs officials is to satisfy these big money-

[Shri M. S. Gurupadaswamy]

bags, these big interests in trade and business! Their first obligation is to please these big people in trade and business, and not the Government and not the society. That has been the case.

Secondly, this Bill has been amended to a small extent. I hope this is not final amendment of the Bill. I gather from the speech of hon. Minister that he is going to revise the entire Sea Customs Act in the light of the many changes that have occurred since so many years. I want to know why he has not done it till now and why he has brought only a small amendment. Why should he not take steps to see that the entire Act is reviewed, revised and reconsidered in the light of the existing circumstances? He has not done it. There has been too much of delay in this matter. I would have supported him if he had brought one single amendment for the entire Act, and if there had been a thorough overhauling of the original Act, I would have been satisfied. Unfortunately the Government believes in piecemeal legislation and in small doses of amendments. They do not believe in overall change of the system and an overall change of the Act. It is very unfortunate.

Lastly I say that steps should be taken by the Government to see that the powers are used properly by the customs authorities. There is no meaning in having more powers unless they are exercised properly. I do not grudge giving more powers. You can take more powers. You can even demand the onus of proof from the accused. But it must be properly exercised. Unfortunately the powers have been grossly misused.

Shri A. C. Guha: I am glad most of the Members have welcomed the Bill as such or the aims and objects of the Bill. But naturally they must have their own dissatisfaction regarding some of the provisions of this Bill. I think I shall be able to deal with the points made by the different Members today but before that, I think

I should refer to the speech made by Shri H. N. Mukerjee on the 12th March, last. He did not say much about the present Bill but he mentioned something about some alleged irregularities at the Calcutta Customs House regarding aviation spirit for the airlines. The company concerned is a foreign company. The amount is also very big amount. He put a question about an irregularity. After replying to the question in the House, I had a talk with him and I said to him that I would like to have any further information that he might like to give me. And he was kind enough to forward some information which I orally acknowledged and I thanked him for supplying it. We had the matter thoroughly enquired into and the refund of the amount which I think would amount to more than about a crore of rupees has been withheld since then. The whole matter is still under examination. The result of that case—it is only a tentative result—has revealed that there was nothing of corruption, there were no *mala fides* established so far. There was no corrupt practice on the part of our officials or even of the company. But there might have been some irregularities in our procedures, and I do not think that this has caused any loss of revenue to the Government. Anyhow the whole amount has been held back. The payment has been kept in abeyance for over a year. So he cannot have any grievance that the Government has not taken any action on the complaint made by him.

[SHRI BARMAN *in the Chair*]

On that day when Shri H. N. Mukerjee spoke, another hon. Member, Shri C. C. Shah, also spoke on the Bill, and the points he mentioned were more or less the same as those mentioned by the hon. Members today. Now, I shall come to today's debate and the Bill. But before dealing with the objections to the present Bill, I would like to say a few words about the delay in the Customs House in clearing the goods and the personal

behaviour of the customs officials referred to by the hon. lady Member Shrimati Jayashri from this side. I am sorry she is not present here now, but we shall be glad to enquire into this thing and we welcome any complaint. I do not claim that the customs officials in their personal behaviour, in their efficiency and promptness of doing their work or even in their honesty are all without any scope for improvement. I would not make any such claim. I should however like to make this claim that things have been improving considerably during the last few years. As for the question of delay, things are not so bad as before. Regarding personal behaviour also, we have issued repeated directives to our officers that they must behave decently and properly, particularly with the tourists and also with our own business community in the country.

Coming to the Bill, I think the largest amount of opposition has come against clause 14. Shri Tek Chand, naturally with his lawyer's conscience, has given a horrible picture about this provision in the Bill, but I can assure him that similar provisions already exist in a number of enactments. Under the Opium Act, the accused, if unable to account satisfactorily that the opium in his possession is lawful, has to be convicted.

Shri Tek Chand: Can opium be compared with fountain pen?

Shri A. C. Guha: May not be. But there has not been any occasion when any innocent person in Punjab was convicted for having opium. But surely, I do not like Mr. Tek Chand to be in any such danger.

Shri Bansal: What is the hon. Minister trying to prove?

Shri A. C. Guha: That similar powers are already vested in Government officials and there have not been any complaints of misuse of those powers.

Shri Bansal: They are in respect of specific goods. Here this Act will apply to all the goods,

Shri A. C. Guha: I am coming to other goods also. Let us take military stores. It can cover all sorts of goods. Unless a man proves that the article came into his possession lawfully, he will be punishable. Under the Essential Supplies Act also, the burden of proving that the man has come into possession of such article with lawful authority shall be on him. Then there are the Factories Act and Telegraph Wires Act.

Shri Bansal: What is the wording in the Essential Supplies Act?

Shri A. C. Guha: The burden of proving that he has come into possession of such article with lawful authority shall be on him.

Under the Factories Act, "the burden shall be on the accused to prove that such person is not under such age." Under the Telegraph Wires Act, unless he proves that the telegraph wires came into his possession lawfully, he will be punishable. Then we have the Dangerous Drugs Act and the Railway Stores Act.

Pandit Thakur Das Bhargava (Gurgaon): Not yet passed.

Shri A. C. Guha: The Select Committee has made certain recommendations. We have also moved an amendment long before the Select Committee's report came out. I do not think there is any reason for much apprehension. There is no reason to think that this power would be misused by the customs officials. I can give you this assurance that by administrative instructions we shall ensure that the power is not misused. I can assure the House that it is not the intention of Government to resort to this provision indiscriminately. The seizing officer has to be satisfied that there are reasonable grounds to believe that the goods he seizes are smuggled goods.

Under section 181 of the Sea Customs Act, the official making the seizure has to give in writing all the reasons for such seizure. The Government proposes to issue executive instructions to Collectors of Customs that this power should be exercised

[Shri A. C. Guha]

with great care, so that small purchases made by common citizens for household use are not covered by that. Also, I assure the House that any *bona fide* complaints received about the misuse of this power would be promptly investigated by the Government.

Some Members while mentioning their objections about this provision have been under a misapprehension. This provision does not refer to any conviction. Mr. Dabhi repeatedly said that it refers to conviction and punishment. This clause only refers to the seizing of the goods. If Mr. Tek Chand can arrange for some customs officials to come up to me and seize the spectacles, for that he cannot prosecute me or punish me. That is altogether outside the provision of section 178A. Here the goods are only seized.

Pandit Thakur Das Bhargava: Such goods will not be confiscated nor will there be any penalty?

Shri A. C. Guha: Confiscation may also be called a penalty, but smuggled goods must be confiscated. Now, Mr. Dabhi repeatedly said that burden of proving, at least to some extent, should be upon Government before any conviction is made. He used the word 'conviction'. There is no conviction in this clause.

Shri Tulsidas: It means that the person will not be convicted when the goods are smuggled goods. Only the goods will be seized. What about confiscation of the goods?

Shri A. C. Guha: This clause only refers to seizing. Confiscation will come later on. There may be different procedures for this.

Pandit Thakur Das Bhargava: Not seizure alone. When a presumption arises that the goods are smuggled, they will be liable to confiscation.

Shri A. C. Guha: Confiscation may follow.

Pandit Thakur Das Bhargava: Confiscation will consequently follow. Is it so?

Shri A. C. Guha: Later on it may not be confiscated also.

1 P.M.

Shri Tulsidas referred to the powers to be given under clause 10. These things refer to X-raying and other matters. He has admitted that these powers are already vested with the Government. We have been using X-ray and other things for some time. But, we are not sure, if a smuggler resists, how far it is within our power to compel him to be X-rayed. Fortunately none has resisted so far. I can give some figures to hon. Members. In 1949, we recovered 7108 tolas of gold valued at Rs. 8 lakhs concealed inside the body of the smugglers. In 1951, we recovered some diamonds from inside the body of smuggler valued at Rs. 3½ lakhs.

Shri Tek Chand: For that you do not need clause 14.

Shri A. C. Guha: I am referring to clause 10. I have finished with clause 14. As the criminals are advancing in their ingenuity and taking to new courses of evading the laws, Government also has to cope with their progress and tighten up the provisions of the Act.

Pandit Thakur Das Bhargava: To come into line with them.

Shri A. C. Guha: Yes; not only with criminals but also with criminal lawyers who are ready to help criminals.

Mr. Chairman: And also help the Government.

Shri A. C. Guha: Yes, occasionally.

Shri Tulsidas: I do not understand what is meant by criminal lawyers.

Shri A. C. Guha: That is a lawyer who deals with criminal laws but not a criminal himself.

Shri Bansal: You make a criminal out of everybody.

Shri A. C. Guha: Shri Bansal referred to clause 12, to the words 'or other person', as also to clause 14. I think I may mention it here that I discussed this matter with him and another gentleman, and we have accepted his suggestion to delete the words 'or other person'. We have put in an official amendment, which will bring this Bill in line with the proposal of the Select Committee regarding the Railway Stores Bill. But, I should say that our amendment came very much earlier than the publication of the Select Committee report.

I should like to refer to another point. Shri M. S. Gurupadaswamy asked why we have not taken up the entire revision of the Sea Customs Act. That is a very big Act and it will take some time to revise the whole Act. We had to wait till the publication of the report of the Taxation Inquiry Committee. After the publication of this report, we are taking up the revision of the Sea Customs Act. In the meantime, we have to take some urgent measures. I think I should be frank with the House. The greatest difficulty is about bullion market. According to our estimates, about 2000 tolas of gold are produced daily inside the country from the gold mines. But, the bullion markets handle daily about 6000 tolas of gold, that is, three times the production in the country. Apparently, this excess of 4000 tolas or a major portion of it, is smuggled gold. It is primarily for this that we have to tighten the provisions as put in section 178A or clause 14 of this Bill. Shri M. S. Gurupadaswamy also mentioned that we have been only seizing small fishes and the bigger ones have all escaped. But, I think our performance in seizing large consignments of gold and precious articles in the last 2 or 3 years is quite appreciable and deserves recognition. In January-December 1952, we seized gold and other precious articles worth Rs. 149 lakhs, and in January-

December 1953, articles worth Rs. 80 lakhs. In January-December, 1954, we seized articles worth Rs. 208 lakhs.

Shri Sadhan Gupta (Calcutta-South East): How many small fish and how many large fish?

Shri A. C. Guha: Small fish would not give this amount. Recently in Calcutta, we seized gold from a foreign ship worth Rs. 10 or 12 lakhs. In Delhi and Bombay recently we made some seizures. There also the value came to several lakhs. In Bombay, there were some seizures on the sea shore whose value came to several lakhs. These are all big seizures. It is not true that all the big fish have been able to escape our nets. Some may have and surely some must have; that is why we are tightening up the net by this Bill. If we had been confident that all the big fish were in our net, there was no necessity to make the net still more tight.

Shri M. S. Gurupadaswamy: They will cut your net.

Shri A. C. Guha: I do not think it will be so easy for them even if they get the advice of Shri M. S. Gurupadaswamy. Even with his intellectual advice, they will not be able to get out so easily.

I think I have replied to all the points mentioned by the Members. I hope the Bill will be passed. I have some amendments. There is only one other point. Some Members asked why the Bill had been so badly drafted, because the Minister himself has moved so many amendments. That is only because the Government have been responsive to public suggestions. As and when we have received representations and suggestions from the Members of the House and the trade, we have made suggestions and improvements ourselves. That should not be taken as any condemnation on the part of the Government; that is a point on which Government should be commended. With these words, I commend this Bill for the consideration of the House.

Shri Bansal: What was the difficulty in submitting it to a Select Committee?

Shri A. C. Guha: I do not think it necessary at all because the main principle of placing the burden of proof on the accused has been accepted in the case of many Bills, and only recently two Bills have been passed in this House conceding this point.

Mr. Chairman: The question is:

"That the Bill further to amend the Sea Customs Act, 1878, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Insertion of new sections 29A and 29B etc.)

Shri A. C. Guha: I beg to move:

In page 2,

- (i) line 7, after "real value" insert "or quantity".
- (ii) line 10, after "real value" insert "or quantity".
- (iii) line 48, after "real value" insert "or quantity".

This is only a sort of explanation or elucidation of the intention of Government. There may be certain articles the real value of which may not be easily assessable. So the word 'quantity' has been put.

Mr. Chairman: The question is:

In page 2,

- (i) line 7, after "real value" insert "or quantity".
- (ii) line 19, after "real value" insert "or quantity".
- (iii) line 48, after "real value" insert "or quantity".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 3, as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

مولانا معسودی (جموں و کشمیر):

آن اے پولیٹیک آف آرڈر جہاں تک مجھے یاد ہے اسپیکر صاحب کا یہ آرڈر ہے کہ ایک بجے سے لیکر ڈھائی بجے تک کسی کورم کی ضرورت نہیں ہے اور نہ ہی اس دوران میں کسی چیز پر ووٹ لئے جا سکتے ہیں۔ اس وقت دونوں ہی باتیں ہیں۔ کورم بھی نہیں ہے اور وقت بھی مقررہ وقت ہے۔ ووٹ بھی آپ لیتے جا رہے ہیں۔

[Maulana Masuodi (Jammu and Kashmir): On a point of order. So far as I remember, the ruling of the hon. Speaker is that no quorum is needed from 1 P.M. to 2-30 P.M., nor can division be had on anything during this period. We have both the things here: there is no quorum and the time also is covered. How is it that we are having division.]

Mr. Chairman: The question of quorum is out of the question now, according to the direction of the Speaker. I think the idea was that if there be actual division, in that case we shall hold it up.

Maulana Masuodi: As far as I remember, it is not so.

Mr. Chairman: The quorum will not be challenged during this period, that is, from 1 P.M. to 2-30 P.M. That we have accepted. So if there be any division call, in that case we shall hold it up.

Maulana Masuodi: I submit to your ruling.

Clause 5.—(Amendment of section 39 etc.)

Shri A. C. Guha: I beg to move:

In page 3,

for clause 5, substitute:

“5. Substitution of new section for section 39 in Act VIII of 1878.—For section 39 of the principal Act, the following section shall be substituted, namely:—

“39. *Payment of duties not levied, short-levied or erroneously refunded.*—(1) When customs duties or charges have not been levied or have been short-levied through inadvertence, error, collusion or misconstruction on the part of the officers of Customs, or through mis-statement as to real value, quantity or description on the part of the owner,

or when any such duty or charge, after having been levied, has been, owing to any such cause, erroneously refunded,

the person chargeable with the duty or charge which has not been levied or which has been so short-levied, or to whom such refund has erroneously been made shall pay the duty or charge or the deficiency or repay the amount paid to him in excess, on a notice of demand being issued to him within three months from the relevant date as defined in sub-section (2);

and the Customs Collector may refuse to pass any goods belonging to such person until the said duties or

charges or the said deficiency or excess be paid or repaid.

(2) For the purposes of sub-section (1), the expression “relevant date” means:—

- (a) in a case where the duty or charge has not been levied, the date on which the Customs Officer makes an order for clearance of the goods;
- (b) in a case where the duty is re-assessed under section 29A, the date of re-assessment;
- (c) in a case where the duty is provisionally assessed under section 29B, the date of final adjustment of duty;
- (d) in a case where the duty or charge has been erroneously refunded, the date of refund; and
- (e) in any other case, the date of the first assessment.”

I should say a word only about this. This change was necessitated by the following fact. Our idea was that ‘short levied’ would also include non-levy of any duty. But then, there was some doubt about that—‘short levied’ might not cover ‘non-levy’. So we have put in here ‘non levied short levied or erroneously refunded’.

Shri K. C. Sodhia: What about the words ‘collusion or misconstruction on the part of the officers’? Some people are honest, but nothing is said about the officer with whose collusion the whole thing has happened.

Shri K. K. Basu (Diamond Harbour): He will be promoted!

Shri A. C. Guha: If the officer is found to be in collusion with some anti-social elements or found to be doing something wrong and illegal, he will naturally be punished.

Shri K. K. Basu: Natural justice.

Mr. Chairman: The question is:

In page 3,

for clause 5, substitute:

"5. *Substitution of new section for section 39 in Act VIII of 1878.*—For section 39 of the principal Act, the following section shall be substituted, namely:—

'39. *Payment of duties not levied, short-levied or erroneously refunded.*—(1) When customs duties or charges have not been levied or been short levied through inadvertence, error, collusion or misconstruction on the part of the officers of customs, or through misstatement as to real value, quantity or description on the part of the owner,

or when any such duty or charge, after having been levied, has been, owing to any such cause, erroneously refunded,

the person chargeable with duty or charge which has not been levied or which has been so short levied, or to whom such refund has erroneously been made, shall pay the duty or charge or the deficiency or repay the amount paid to him in excess, on a notice of demand being issued to him within three months from the relevant date as defined in sub-section (2);

and the Customs Collector may refuse to pass any goods belonging to such person until the said duties or charges or the said deficiency or excess be paid or repaid.

(2) For the purposes of sub-section

(1), the expression "relevant date" means:—

(a) in a case where the duty or charge has not been levied,

the date on which the Customs Officer makes an order for clearance of the goods,

(b) in a case where the duty is re-assessed under section 29A, the date of re-assessment;

(c) in a case where the duty is provisionally assessed under section 29B, the date of final adjustment of duty;

(d) in a case where the duty or charge has been erroneously refunded, the date of refund; and

(e) in any other case, the date of the first assessment."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 5, as amended, stand part of the Bill".

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6 to 10 were added to the Bill.

Clause 11.—(Insertion of new section 170A etc.)

Pandit Thakur Das Bhargava: I beg to move:

(1) In page 4, line 52,

for "has reason to believe" substitute:

"has credible information or reasonable suspicion".

(2) In page 5, lines 4 and 5,

for "until he can bring him before the nearest Magistrate" substitute:

"and produce him without unnecessary delay before the nearest Magistrate".

(3) In page 5, line 43,

for "out of moneys provided by Parliament" substitute:

"by the Government".

In regard to the first two amendments, I submit to the hon. Minister that this matter should be considered from a broad standpoint. The standpoint is this. So far as the criminal law of the country is concerned, the Criminal Procedure Code is the standard code or standard law on which all other Acts and criminal laws dealing with Criminal Procedure should be based. So far as the powers of the person who is duly empowered to prevent smuggling are concerned, they are just like those of the sub-inspector of police. His powers are also the same. Therefore, we should see that so far as the basic laws of the country are concerned, there are no deviations from them unless we are forced to have deviations on account of particular circumstances. In a case of this nature where powers are given to officers of the Customs Department for the purpose of prevention of smuggling etc., I should think that those powers should be the same as those which are given to sub-inspectors. It so happens that the words used in clause 11 are these:

"Power to screen or X-ray bodies of persons for detecting secreted goods. (1) Where any officer of Customs duly employed in the prevention of smuggling has reason to believe that any person on board of any vessel in any port in India or any person who has landed from any vessel has any dutiable, or prohibited goods secreted inside his body, such officer of Customs may detain such person until he can bring him before the nearest Magistrate."

Then in (2) we find:

"A Magistrate before whom any person is brought under subsection (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person."

It means—if you keep these words as they are—that the Customs officer

Code, we find a different thing. In who is duly employed in the prevention of smuggling has only to say that he has got reason to believe. What is this reason to believe? This is very vague, very indefinite; this is something airy on which any person can just deprive another person of his liberty. Now, in the corresponding provision in the Criminal Procedure section 54 of the Criminal Procedure Code, which is, I should say, the basic provision in the law so far as arrests are concerned, we find that the words are:

"Any police officer may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned."

Now, to say that a person has reason to believe is quite different from saying that a person who wants to arrest another person must have credible information or reasonable suspicion that a certain person has been concerned in a particular offence or is in possession of certain goods. My humble submission is, if you arm these officers with such large powers, corruption is bound to grow. Before you allow any person, be he an officer or otherwise, to arrest another person, a human being like himself, you must ensure that he must have either credible information or he must have reasonable suspicion. Only on mere reason to believe, he should not be armed with such wide powers as will give him almost despotic powers. Even with regard to crimes like murders and the possession of stolen property and others the law of the land says that he should be given the power to arrest only if he has credible information or that he has reasonable suspicion that a certain person has been concerned in committing a particular offence and not otherwise.

[Pandit Thakur Das Bhargava]

As soon as the person is brought before the magistrate, the magistrate discharges him because the words used here are reasonable belief. Do you want that all innocent persons should be arrested like this and as soon as they are brought before the magistrate, the magistrate, should discharge them? My hon. friend is not affected. To him confiscation is nothing. He does not care whether a person is harassed. I do not think any person would like to be arrested and then discharged by a magistrate. If you allow a man such wide powers, then he is surely likely to misuse those powers either for personal benefit or for harassing any other person. Therefore, I am quite clear in my mind that nothing will be lost if this law is brought into line with the Code of Criminal Procedure and only such powers are given as are given to a sub-inspector of police or other police officers in circumstances like this which are mentioned in the Code of Criminal Procedure and not as are mentioned in this section. As you proceed further you will find that the powers of arrest are also the same in all other matters.

The second provision to which I have taken objection is this. The section says:

“...such officer of Customs may detain such person until he can bring him before the nearest Magistrate.”

What does it mean? It means that he can detain him for such period as he chooses.

Shri R. K. Chaudhuri (Gauhati): How long will he be detained, 24 hours or more?

Pandit Thakur Das Bhargava: I understand that he may not detain him for more than 24 hours.

The words in the Code of Criminal Procedure are very clear. It says that the police officer shall produce him without unnecessary

delay before the nearest magistrate. I think the Minister is not a Minister for law and order and he is a Minister for Revenue. He should try to get revenue from each and every person whether there is harassment or not, as appears from the Notes on Clauses. In regard to clause 14, he says:

“Such a provision is necessary in order to safeguard to the revenues of the State.”

To him the revenues of the State are much dearer than the liberty of his fellow-men. I think the hon. Mr. Guha has changed a bit after his change from this bench to another bench (*Interruptions*). But the difficulty is this I want that as soon as a person is arrested, he must be brought all at once to the nearest Magistrate. I want that the provision here should be the same as that in the Criminal Procedure Code. Nothing will be lost by bringing it into line with the Criminal Procedure Code. But, at the same time, his department will be improved if these powers are in line with the powers given to a sub-inspector and the provision about bringing before a magistrate is the same. Therefore, I want to submit that if he accepts these two amendments in the Sea Customs Act, he will stand to gain and not to lose.

In respect of the third matter, in capital letters they say in this Bill that certain charges will be paid out of moneys provided by Parliament. In sub-clause (8) in capital letters it is said:

“Any expenditure incurred for the purpose of enforcing the provisions of this section (including any fees payable to a radiologist or a registered medical practitioner) shall be defrayed out of moneys provided by Parliament.”

This is in capital letters. I fail to see the importance of it. In any case where the police is concerned or

the customs people are concerned, the expenditure must be defrayed out of the funds with them. They are always provided by Government. What is the use of saying provided by Parliament here. This should not have been put in capital letters. Ordinarily such expenses are defrayed out of the funds provided by Parliament or Government. I say there is no use laying stress on this matter. What is the difference between provided by Government or provided by Parliament.

I do not want to say anything further with regard to this clause. I shall have to say something when we come later on to other clauses. But, here, the basis is the same, the principle is the same. Therefore, I think we should base it as in the substantive laws regarding criminal procedure, as we have got in the Criminal Procedure Code and, therefore, I submit that these two amendments may be accepted.

Shri R. K. Chaudhuri: The amendments may be read out.

Pandit Thakur Das Bhargava: I have read them out. Perhaps, the hon. Member was not alert when I read them out.

Mr. Chairman: May I just ask one thing? How does it improve matters by simply using the words 'reasonable suspicion' instead of the words that are put here, unless that officer is made responsible for his reasonable suspicion. The hon. Member wants 'reasonable belief' to be changed to reasonable suspicion. He must have reasons to believe.

Pandit Thakur Das Bhargava: Because I want to change the ideology of that person. The person who arrests must not go out of his way only for his reason to believe to arrest any other person unless he has reasonable suspicion, as any other ordinary Sub-Inspector of Police or a Superintendent of Police or any other person in the police must have reasonable suspicion before he exercises the power of arresting any other person.

Mr. Chairman: The wording of sub-clause (2) remains the same.

Pandit Thakur Das Bhargava: Yes; I wish to arm the Magistrate with full powers and so I have not sought to change it.

Mr. Chairman: Amendments moved:
(1) In page 4, line 52,

for "has reason to believe" substitute:

"has credible information or reasonable suspicion".

(2) In page 5, lines 4 and 5,

for "until he can bring him before the nearest Magistrate" substitute:

"and produce him without unnecessary delay before the nearest Magistrate".

(3) In page 5, line 43,

for "out of money provided by Parliament" substitute:

"by the Government".

Shri R. K. Chaudhuri: I wish to present before the House some ugly features of the clause under discussion. First of all, as has already been stated by the hon. Mover of the amendment, how can any man have reason to believe or disbelieve that certain things are inside the body of another person? What is the criterion? The Customs Officer can say that he has reason to believe that a particular woman has inside some part of her body certain objectionable articles. At that stage, Sir,.....

डा० राम सुभग सिंह (शाहाबाद-दक्षिण) : आप क्यों वोमेन कहते हैं ? मैं कहिये ।

Shri R. K. Chaudhuri: There is a distinction between man and woman in this case.

Mr. Chairman: The hon. Member will appreciate that we have to finish this Bill before ten minutes to two.

Shri A. C. Guha: This has nothing to do with any ornaments on the body of any person.

Shri R. K. Chaudhuri: I am not saying anything about ornaments. I am asking this. Supposing an

[Shri R. K. Chaudhuri]

officer says that he has reason to believe. In order that he may have that reason to believe he must take certain measures. At that stage there is no question of bringing in any registered medical practitioner. At the stage a man or woman is arrested for the first time, there is no question of bringing in any medical practitioner. At that stage, how can the customs officer say that he has reason to believe....

Mr. Chairman: He will have to take him before the Magistrate.

Shri R. K. Chaudhuri: He can take any measure.

Secondly, the arrested person is to be produced before the Magistrate. No particular hours are fixed. There should be a maximum period within which the person under suspicion is produced before the Magistrate. With due deference, I do not agree with the hon. Mover of the amendment that the mere use of the words 'without unnecessary delay' will solve the problem.

Pandit Thakur Das Bhargava: It is given in the Constitution; not more than twenty-four hours. (*Interruption*).

Shri R. K. Chaudhuri: I submit that in a case of this kind, a certain period much less than 24 hours should be fixed as the maximum period, because it is not necessary to detain the man for a long time in order to find out the thing.

Secondly, it appears that a lay man can find out whether a man has any thing inside his body and that a magistrate can say that there is nothing inside his body. It all depends on a mere opinion or belief. On that opinion and belief, whether it is well-grounded or not, a respectable man or woman can be detained for any number of hours within the discretion of the magistrate or the person, that is the Customs officer. That I think, is objectionable, and a period less than 24 hours must be fixed as the maximum for this purpose.

Then, it is said "as soon as he has landed from any vessel", that is, not only such action can be taken on board of any vessel but also after he has landed. Up till what time this process can continue? If a man or a woman takes a train and goes to another part, whether at that destination he or she can be arrested and whether it can be found out if something is inside his or her body is not clear. The word 'landed' is not clear. Does it mean immediately after landing that the action can be taken or does it mean that it can be taken at any time, even after two or three days? That is a point which ought to be made clear.

Mr. Chairman: I think the hon. Member should be brief.

Shri R. K. Chaudhuri: I have not finished my speech yet.

Shrimati Renu Chakravarty (Basirhat): Order, order.

Shri R. K. Chaudhuri: She can say that when she is in the Chair, I cannot understand why I am interrupted like this?

Mr. Chairman: Order, order. The House has fixed a time-limit and we have to finish this Bill by 2 P.M.

Shri R. K. Chaudhuri: I have obeyed your ruling and have resumed my seat.

Mr. Chairman: I take exception to his attitude. I have never been discourteous to him: I simply reminded him that we should proceed according to the time-limit fixed. I hope he will not behave in that way in future.

Shri A. C. Guha: It is a very delicate matter for me to contest my esteemed friend, Pandit Thakur Das Bhargava, on legal matters. He has the reputation of a very eminent lawyer, but I have never been a lawyer and I can only remind him that this phrase "reason to believe" has

been defined in section 26 of the Indian Penal Code as follows:

"A person is said to have reason to believe a thing if he has sufficient cause to believe that thing, but not otherwise."

It has been sufficiently explained and categorically defined here and I do not think there will be any difficulty for Pandit Thakurdasji to be reassured of this definition.

As for his second amendment, I do not know how the position will be improved by changing the phraseology from "until he can bring him before the nearest magistrate" to "and produce him without unnecessary delay before the nearest magistrate". Who will be the judge of the necessary and unnecessary delay? It is only the Customs official. Then also we know that under article 22 of the Constitution, within 24 hours the man will have to be produced before a magistrate. Our difficulty is that sometimes, a man may be arrested, not in Bombay or Calcutta, but somewhere far off and there it may not always be possible to get a magistrate just close by. Anyhow, the obligations of the Constitution for producing any arrested person within 24 hours will surely operate and, therefore, I do not know how this will improve the position. Pandit Thakurdasji's phrase also has not put any time-limit. It will be left to the discretion of the Customs official as to which is a necessary delay and which is not a necessary delay.

As for the third amendment, "out of moneys provided by Parliament" is the phrase we are generally using. Government as such has not got any money. Government gets the money only by the gift of Parliament. We have just taken the usual, conventional phrase. I do not know how the amendment will improve the position in any way.

I hope I have been able to remove his doubts and that he will not press any of his amendments.

Pandit Thakur Das Bhargava: The hon. Minister wants me to say why I press my amendment "and produce him without unnecessary delay before the nearest magistrate". If there is any delay, then his officer will be liable under section 342 for illegal detention of that man, if you put the words as I have suggested. Otherwise, he will not be liable.

Shri A. C. Guha: If the hon. Member insists, I am ready to concede his point. I can guarantee that generally there will be no delay.

Mr. Chairman: Do I take it that the hon. Minister accepts the second amendment?

Shri A. C. Guha: If the hon. Member insists, then I have no objection to it. I do not think it will in any way put any difficulty on our side or improve the position on their side.

Mr. Chairman: Let me put the second amendment to vote.

The question is:

In page 5, lines 4 and 5,

for "until he can bring him before the nearest Magistrate" substitute:

"and produce him without unnecessary delay before the nearest Magistrate".

The motion was adopted.

Pandit Thakur Das Bhargava: I am particular about my first amendment but am not particular about the third.

Shri A. C. Guha: I may point out that sections 169 and 171 of the Sea Customs Act have used exactly the same phrase "has reason to believe"

Mr. Chairman: Does the hon. Member wish to withdraw his first and third amendments?

Pandit Thakur Das Bhargava: I would like to withdraw them.

The amendments were, by leave, withdrawn.

Mr. Chairman: The question is:

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

The motion was adopted.

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

Clause 12.—(Insertion of new section 171A etc.)

Shri A. C. Guha: I beg to move:

(1) In page 6,

(i) lines 12 to 14,

for "Any duly empowered officer of Customs or other person duly employed in the prevention of smuggling" substitute:

"Any officer of Customs duly employed in the prevention of smuggling"; and

(ii) line 17,

omit "or person".

(2) In page 6, lines 25 to 26,

omit "or other person".

We are deleting the words "or other person" and this is what Shri Ban-sal's amendment also intended to do.

Mr. Chairman: The question is:

In page 6,

(i) lines 12 to 14.

for "Any duly empowered officer of Customs or other person duly employed in the prevention of smuggling" substitute:

"Any officer of Customs duly employed in the prevention of smuggling"; and

(ii) line 17.

omit "or person".

The motion was adopted.

Mr. Chairman: The question is:

In page 6, lines 25 to 26,

omit "or other person".

The motion was adopted.

Pandit Thakur Das Bhargava: I beg to move:

(1) In page 6, line 27,

for "state the truth" substitute "make a statement",

(2) In page 6,

omit lines 33 to 35.

In regard to these two amendments, I have already submitted— I do not want to repeat them—that under the Criminal Procedure Code, if an investigating officer or a person who has got powers like those which are enjoyed by persons who are duly empowered to prevent smuggling, then these powers are similar to those which are enjoyed by sub-inspectors. Before a sub-inspector if any person goes, he is not bound to say the truth under section 162 of the Criminal Procedure Code. There is a long discussion over this line of argument, as you are aware, and ultimately we have come to the decision that he is only bound to make a statement and not to make a true statement.

Similarly, proceedings before an officer are regarded as judicial proceedings under this Bill, whereas according to me those proceedings can never be of a judicial character. He is not a magistrate; he is only an investigating officer. He enjoys only such powers as a sub-inspector. Therefore, these proceedings should never be regarded as judicial proceedings.

If you refer to our Constitution, you will find the following words occurring in article 20:

"No person accused of any offence shall be compelled to be a witness against himself."

This officer has a right to call persons who are accused and also those who are liable for abetment, or are connected with the offence. In that case if the person does not state facts truly he becomes guilty under the

provisions of sub-section (4). This is again the provisions of article 20 of our Constitution.

My humble submission is that if this is right, if my assumption that these persons who are duly empowered to prevent smuggling have got the same powers as a sub-inspector of police, they should not force any person to make a true statement. At the same time they should not force the accused or any person who is connected with him to make a statement, failure to do which would involve him in prosecution. That will go against the Constitution, that will go against the basic principles of the Criminal Procedure Code. To that extent these provisions are inconsistent with our principles.

Shri A. C. Guha: I am afraid I cannot accept this amendment, because if the suspected person is simply to make a statement which need not be true, it does not serve any purpose. Under section 19 of the Indian Penal Code, a witness has to make a true statement; he if does not make a true statement he can be punished. If he is simply asked to make a statement which may or may not be true, the clause will lose all its value. I do not know why my hon. friend is so much afraid of truth.

Mr. Chairman: The question is:

In page 6, line 27,

for "state the truth" substitute "make a statement".

The motion was negatived

Mr. Chairman: The question is:

In page 6,

omit lines 33 to 35.

The motion was negatived.

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.

Clause 13 was added to the Bill.

Shri S. C. Samanta (Tamluk): On a point of information. The Chair has ruled that no quorum is necessary from one to half past two. The discussion of the clauses of this Bill is going on, I have been noticing that when you are asking Members in favour of a motion to say "Aye" or "No" very few people respond.

Mr. Chairman: Order, order. That point has already been raised by another hon. Member.

Shri S. C. Samanta: My point is different. Except for one or two solitary voices, the other hon. Members are silent. I would like to know whether those hon. Members who are silent are indifferent to the motions put to the House.

Mr. Chairman: The convention has already been accepted that from one to half past two, there will not be any regular division. Otherwise, voting on legislative and other business will certainly go on.

Shri S. C. Samanta: My contention is this. I have no objection to the business of the House being carried on. But am I to take it that these Members who are silent are indifferent to what is going on?

Mr. Chairman: That is not so.

Clause 14.—(Insertion of new section 178A etc.)

Shri A. C. Guha: I beg to move:

In page 6, line 46,

for "on the ground" substitute "on reasonable grounds".

By this amendment, I think most of the apprehensions ventilated by hon. Members here will be removed and I hope the clause will be accepted.

Mr. Chairman: Amendment moved:

In page 6, line 46,

for "on the ground" substitute "on reasonable grounds"

Shri Bansal: I beg to move:

In page 6,

after line 48, add:

"Provided that such persons shall be deemed to have discharged the burden if they prove that they paid full price in respect of the goods and that they had no reason to believe that they were smuggled goods."

I would like to say a word in connection with this amendment. When we met at the residence of the hon. Finance Minister the wording which is there in his amendment was suggested by me as a compromise. But after listening to the debate in the House today I think my amendment still remains better from the point of view of safeguarding innocent men. Therefore, I trust that the hon. Minister will accept it.

Mr. Chairman: Amendment moved:

In page 6,

after line 48, add:

"Provided that such persons shall be deemed to have discharged the burden if they prove that they paid full price in respect of the goods and that they had no reason to believe that they were smuggled goods."

Pandit Thakur Das Bhargava: I beg to move:

In page 6, line 46,

after "smuggled goods" insert:

"and from the nature of goods and other attendant circumstances, reasonable belief or strong suspicion (amounting to a *prima facie* case) arises that the goods have been smuggled".

The hon. Minister in charge of this Bill had occasion to refer to many other acts of a similar nature, which according to him are similar, but are dissimilar to the provision before

us, he wants to imply that since there the burden of proof is shifted to the accused in all cases under the sky the burden can be shifted to the accused. Now, he himself seems to be overwhelmed by the suspicion that in ordinary cases the provision as contained in section 14 is not enough. The original provision is:

"Where any goods are seized under this Act on the ground that they are smuggled goods, the burden of proving that the goods are not smuggled goods shall be on the persons from whose possession the goods are seized."

He is also seized with the idea that the word 'ground' is not enough. He says it should be 'reasonable ground'. Now, what are those reasonable grounds? Who shall find that the grounds are reasonable? How will that result be brought about? According to him it is the investigating officer who has got a reason to believe. Now that reason to believe ripens into reasonable grounds in his own opinion. He is the sole master of the situation. If he reports that the grounds are reasonable then the onus will be shifted on to the accused. I want to know from the hon. Minister what difference it would make whether the word 'ground' is there or the words 'reasonable ground' are there. A ground can only be a ground when it is reasonable. Otherwise, it is quite flimsy, and it is no ground at all. So, simply adding the word 'reasonable' to the word 'ground' does not improve matters at all.

So far as my hon. friend Bansal's amendment and the other amendments on the point are concerned, I very respectfully beg to point out that as a matter of fact they have fallen into the trap of the hon. Minister.

Shri A. C. Guha: I have no trap.

Pandit Thakur Das Bhargava: First of all, he says that there is a reasonable ground or there are reasonable grounds. The presumption is that they are smuggled goods, and then they begin to discharge the burden.

But the question is whether the burden is shifted on to the accused or not. What does the amendment say? And when they are finding out means to see that the burden is discharged by the accused, they first of all assume that the burden has been shifted and then there are other circumstances which may be considered. Those circumstances are quite relevant, no doubt, and the circumstances which are indicated by my hon. friend Shri Bansal are certainly very good circumstances, that if a person could prove that he came by the goods honestly, that he purchased them in the open market etc., etc. then I do not think any sort of presumption of guilt arises. Similarly, in regard to the other amendments also, hon. Members have assumed that the burden has been shifted, and then they begin to discharge the burden in that way. For instance, the amendment of my hon. friend Shri C. C. Shah is also just like that. He has also conceded that the burden is shifted, and then he says that it can be discharged in that way. My humble submission is that this is not the law.

The law is this. When a case is brought against a person, when the question is whether there are smuggled goods or not, it is a game of seesaw. When it goes before the magistrate, he has to find out whether the goods are smuggled or not, and he has to consider many matters, such as for instance, the nature of the property itself. The property may not be such as may be found in the market. For instance, it may be a part of the goods which have been imported, and they may have a particular brand, or they may be called by a particular trade mark or factory mark that cannot be found in the market; or they may be part of another consignment. In the latter case, it is quite safe to conclude that the goods have been smuggled. Thus, the nature of the goods is important. There are other attendant circumstances also. For in-

stance, a person is seized on the high seas doing something suspicious. That is another circumstance. There are a number of such circumstances from which a person will have a sort of shifting seesaw. On one side, he attends to one fact on which he comes to the conclusion that it appears to be a case of smuggled goods; on the other side, he finds another circumstance which he finds in favour of the person in whose possession the goods are.

Now the difficulty is this. I know that so far as this law is concerned, there is no provision that a person found in possession of smuggled goods is a thief or has done anything wrong, or is guilty of any offence. But at the same time we know that a certain kind of sinfulness, a certain kind of stigma, a certain kind of liability or a penalty attaches to the possession of smuggled goods. As soon as the goods are regarded as smuggled, they can be confiscated under a certain procedure. My hon. friend thinks that when the goods are confiscated, it is nothing. He does not care. He says that if the man is not proved to be guilty, he is not sent to jail, and he asks, what then do you want. He fails to remember that there are good many people in this world who regard the possession of their own property much more important than even going to jail. I know that persons were sent to jail in political movement, and their property was confiscated; that injury was regarded as more severe than their even being sent to jail. Even if it was a case of recovery in respect of some fines, it was felt much more than a person remaining in jail. If Rs. 1 lakh worth of property of a person is confiscated, to my hon. friend it does not mean anything, it may be very little for him, but to the person affected, it means a lot.

So, my humble submission is that unless and until the circumstances are such that there is a *prima facie*

[Pandit Thakur Das Bhargava]

case, the person in possession of the goods should not be called upon to discharge that burden; only after there is a *prima facie* case, the person in possession of the goods should be called upon to discharge that burden, not before that, because the burden is always on the prosecution. Even in regard to possession of stolen property, the law is that to start with the burden is always on the prosecution even in regard to a possession which is recent. The burden is sometimes shifted, and sometimes not shifted; it depends upon the circumstances and merits of the case. Therefore, I am submitting that so far as this question is concerned, namely whether the goods are smuggled or not, this conclusion can be reached at only after thoroughly shifting the circumstances of each case and after the court or the person who has to decide comes to the conclusion from the nature of the goods and the attendant circumstances and other things on which he can base a reasonable belief or a very strong suspicion amounting to a *prima facie* case that the goods are smuggled. Only in that case a presumption might be made, and it may be discharged in any of the ways that have been indicated by my hon. friend Shri Bansal or Shri C. C. Shah or in many hundreds of other ways.

So my humble submission is that to start with the presumption that the goods are stolen or smuggled and that the onus or burden should be on the accused is very unjust. We are offering the presumption raised by section 110 of the Evidence Act. My hon. friend has referred to several other pieces of law. For instance, he has referred to the Telegraph Wires (Unlawful Possession) Act. You remember telegraph wires are made of a special brand. In the whole of India no other factory, and no other person, can possibly have possession of those things. So we can understand if we pass a law like that. As a matter of fact, we can predicate

in regard to those goods that the goods have been obtained only in a particular way and in no other way, that they could not be manufactured here, etc

But where is the question of smuggled goods here? It can be anything. As my hon. friend Shri Tek Chand has stated, it may be the spectacles, or the fountain pen or anything else belonging to my hon. friend. My hon. friend referred to opium. But in regard to opium, the thing is quite distinct, and there is a distinct law. He also referred to the Essential Supplies (Temporary Powers) Act; under that Act if a person had a licence, he had to prove that he had a licence, and so on. But what have those Acts to do with this matter in issue here?

He also referred to the Railway Stores (Unlawful Possession) Act. It has been referred to a Select Committee, and it has a provision like the one which my hon. friend has; but ultimately they have put in an amendment. But that amendment has not been accepted by the House. What is the use of telling us that the Select Committee has made that Report. We do not stand by the Report of the Select Committee. We shall see here that that Bill in that form is not passed. Whether it is that Bill or this Bill, the point is that you are seeking to harass innocent people. My hon. friend Shri Tek Chand laid very great stress upon that point, and I join with him in submitting that this land of ours must be allowed to be a land worth living in. If you have such kinds of presumptions in regard to ordinary matters and ordinary laws, then it means that no innocent person will be free from harassment. And your minions and these Customs Officers about whom we have heard so much from Shri M. S. Gurupadaswamy and others will make a hell out of everything. You are giving these powers to these people who have been prov-

ed not to be very honest. I would submit that before they are proved to be very honest, do not give these powers to them.

My hon. friend quotes the case of England; in England, the policeman's word is gospel truth. If a policeman says that such and such a person has confessed before him, his confession is quite relevant. But in India the position is that unless a person confesses before a magistrate, the policeman's word cannot be considered even as evidence. So circumstances differ.

Shri D. C. Sharma (Hoshiarpur): Why is it so?

Shri Tek Chand: Experience. Common experience of the judges.

Pandit Thakur Das Bhargava: It is because the police here is not like that in England.

Shri D. C. Sharma: Why is it so?

Pandit Thakur Das Bhargava: I would request my hon. friend to stand up and then interrupt so that I might hear his words.

Shri D. C. Sharma: Why is it so? Why is there this difference?

Mr. Chairman: No interruptions please. May I remind the hon. Member that we have already overstepped the time-limit?

Pandit Thakur Das Bhargava: As a matter of fact, we have saved about ten minutes from the question hour, and for the other Bill which is coming up we have got only half an hour. So I would submit that I will finish by 2 P.M.

At the same time, I must submit that this is a very debatable point. I am most sorry that as pointed out by my hon. friend Shri S. C. Samanta the House is not full. Also, we have not got full time to give all our arguments in respect of this matter. This is one of the most important matters in the criminal law. Every day Government are coming forward

with Bills here under which they want to shift the burden to the accused; because of the inefficiency of their men, because their men cannot prove anything, they want to shift the burden to the accused. My submission is that this is not the way to tackle with the matter.

For how many years has the Sea Customs Act been in existence? The Act was passed in the year 1878. How did it happen that up till 1955 none of these changes were thought of to be incorporated in the law? Why do they want to make a change in the law now? And on what are they basing these changes? They are basing them on the most flimsy ground. There is absolutely no ground for changing the law in this respect.

As there is not enough time left, I would rather request my hon. friend not to press this amendment at this stage. Let there be a full debate, and let him satisfy the House, and let the House be also satisfied that these changes are necessary, and then we shall pass this. This is not the proper time for just standing up and saying. I do not accept this amendment. Either he should accept the amendment or he should for the time being forgo this part of the Bill so that we can have a full debate, and we can go through all these things more carefully.

My humble submission is that the amendment of Government should be rejected to start with, because there is absolutely no substance in that amendment. The other amendments which after shifting the burden of proof on to the accused want to say that it shall be discharged in such and such a manner are out of place. The main issue under consideration is whether the onus is to be shifted at all.

I would request my hon. friend the Minister very earnestly not to press this clause at this stage.

Mr. Chairman: Amendment moved:

In page 6, line 46,

after "smuggled goods" insert:

"and from the nature of goods and other attendant circumstances, reasonable belief or strong suspicion (amounting to a *prima facie* case) arises that the goods have been smuggled".

2 P.M.

Shri Tek Chand: With all the logic, with all the fairness, with all the sense of justice, may I implore the hon. Minister to think very deeply before he insists upon clause 14? It has very far-reaching consequences.

Mr. Chairman: May I ask the Minister whether he would like to postpone the consideration?

Shri A. C. Guha: Then there will be hardly any time for Government to get it passed in the other House.

Shri Tek Chand: This is a very serious matter, and I feel from the speech delivered by the hon. Minister a short while ago at the conclusion of the First Reading that his advisers do not seem to have briefed him properly. He mentioned opium, railway stores and telegraph wires. I want him to examine with reference to this clause just one point. A normal man in his day-to-day dealing has nothing to do with opium or railway or military stores or telegraph wires. But is there a man today living in a town or in a substantial village who in his house or on his person has not got some imported goods, whether they happen to be glasses or false dentures or a fountain-pen or even cigarettes or matches? I can best state my case in question and answer. Suppose a man has picked up, let us say, a fountain-pen, and if a question is put to him "Will you please explain whether it is not a smuggled article?", ninety-nine out of hundred will say, "I am sorry, I cannot, except that a friend gave it as a present" or "I purchased it from a shop". Therefore, if the law which my hon. friend proposes is going to be on the statute book, the Magistrate is help-

less, the courts are helpless. The things must be seized. And if a conviction is to follow, it must follow because the burden of proof has not been discharged. The honest man says, "I do not know whether they are smuggled, I do not know whether they have been genuinely imported". This will mean that in ninety-nine per cent. of the cases a conviction must follow as a logical consequence. Under these circumstances, when virtually ninety-nine persons out of a hundred have a something imported on their person, must they carry a stigma of guilt all along—unless there is some recourse, some beam of light wherein he can caution the purchaser of any small article, "these are the rules you have got to follow, this is the proof". Are cash memos to be retained for every eight annas worth of article?

Mr. Chairman: Members may please remember that they have to be short. Otherwise we cannot keep to the time schedule. They may just state the new points that they have. Otherwise how can we proceed?

Shri Tek Chand: I am grateful to you, Sir. Therefore, my submission in short is if logic, reason, fairplay, justice has anything to do with this Bill, clause 14 ought not to be insisted upon.

Shri R. K. Chaudhuri: I hold this view that every well-wisher of this Government and every one who wants to maintain the high level in which the Government and legislation has to be maintained should oppose tooth and nail the principle underlying this clause. It is no excuse to say that we have already introduced this principle in the Telegraphs Wires Act, in the Essential Commodities Act, in this Act and that Act. No two wrong things can make one right. It is absolutely a wrong idea to put the burden on the accused to prove his innocence, especially in a matter like this.

The reason which has been put forward for this change has been given in the Notes on Clauses and

one reason which has been put forward is that it is not always easy—mind you, the words which have been used are—that it is not always easy to prove that a particular article which has been seized is a smuggled article.

Pandit Thakur Das Bhargava: And they want revenue.

Shri R. K. Chaudhuri: It is not easy to prove it. If a man is innocent, it is difficult to prove that he is guilty. In the normal course of things it is difficult to prove that he is guilty. What does Government want? Government wants that the moment a Customs officer seizes certain articles the burden should be on the person who has got that article and he has to prove it. And the reason which has been put forward is that it is not easy always to prove that a particular article is smuggled. Is it not more difficult for me, for any man in the street who has purchased certain articles years ago, is it easy for him to prove that it is not smuggled goods? It is not easy for the Customs to prove that they are smuggled goods. Is it easy for the man who has purchased an article in all innocence and who does not retain the cash memo, to prove that it is not smuggled goods?

So the reasons which have been put forward by the Government for this clause are absolutely unconvincing, and I think the hon. Minister will act up to the tradition of the Congress principles and the Government if he agrees to the suggestion which has been made from different sections of this House. If we allow this burden of innocence to remain on this measure, another Bill will come. They want to have the time easy. The officer likes to have soft business, so that he can just put a line "I believe these are smuggled goods". So another Bill may be put forward in order to make the things easier for the officials to prove guilt on them.

Mr. Chairman: Dr. Lanka Sundaram.

Shri Dabhi: My amendment refers to this burden of proof.

Mr. Chairman: You have tabled an amendment to add a proviso. That will come later on.

Shri Dabhi: Both the amendments refer to burden of proof.

Dr. Lanka Sundaram (Visakhapatnam): I endorse the view put forward by the preceding speakers, namely that this Bill should not be proceeded with, including this clause 14, as drafted. I will be very brief.

We have announced a welfare State. But the legislation which is being brought before the House almost every day is highly restrictive, leaving this concept of a welfare State to be eventually substituted by that of a police State. I regret I have to say this.

Recently I served on a Select Committee on another Bill which is shortly going to come before us, namely the Bill relating to railway stolen property. It is not for me now to go into the various implications of the report of that Select Committee, but I am sure, Mr. Chairman, you will permit me to say that legislation of the type contemplated here will be diametrically opposed to other legislation which has been drafted, processed and finalised by the honourable House. In other words, there will be different scales of weights and measures, so to speak, as far as legislation of this character goes.

But my objection fundamentally is that unless the prosecution has an element of share or, in other words, unless a definite burden is placed upon it to prove guilt, it should not be empowered with powers to make the accused prove his innocence.

I believe that if only this House is not debating this particular clause at this hour, every one of my colleagues in this honourable House on either side will join issue with the Minister and, first of all, contend that

[Dr. Lanka Sundaram]

this clause 14 is utterly unjustifiable and that it should be dropped. And I do still believe that at this late hour the Minister would remember what exactly is the implication of all the speeches made so far on the clause, namely to agree to the postponement of the consideration, and may be it can be referred to a Select Committee eventually.

Shri Dabhi: I beg to move:

(1) In page 6, after line 48, add:

"Provided that such persons shall be deemed to have discharged the burden if they prove that they purchased the goods *bona fide* without knowing or having reason to believe that they were smuggled goods."

(2) In page 6, after line 48 add:

"Provided that such persons shall be deemed to have discharged the burden if they account satisfactorily how they came by these goods."

Mr. Chairman: Will you move the other amendments also?

Shri Dabhi: I do not want to move the others.

The hon. Minister said that this clause 14, that is, section 178A refers to seizing of goods. Even if that be the case, I ask whether it is proper to seize the goods of a man who is innocent and throw the burden on him which it is impossible for him to discharge. That is the question. The hon. Minister said that in many enactments, the burden is thrown on the accused. In my speech also, I referred to that point. My point is that the wording of section 178A is such that it would be almost impossible, as my hon. friend Shri Tek Chand put it, for any accused to discharge this burden. Therefore I asked the hon. Minister why he should not accept at least my second amendment, because it has got this virtue that in the Railway Stores (Unlawful Possession)

Bill, 1954, as passed by the Select Committee and presented to this House, clause 3 has these words:

"If any person is proved to have been in possession of any article of Railway stores reasonably suspected or being stolen or unlawfully obtained, cannot account satisfactorily how he came by the same....."

Here, in my second amendment, I use the same wording:

"Provided that such persons shall be deemed to have discharged the burden if they account satisfactorily how he came by these goods."

It would be only proper to use similar words in similar laws. I do not understand what objection the hon. Minister can have to accepting my amendment which has already been moved by the Government themselves in another similar Bill. I appeal to the hon. Minister that there would be nothing wrong. I am not against the whole section. This is a *via media*; this is a middle course suggested by me. I hope the Government would accept my first amendment or if that is not acceptable, they would accept the second one, which is practically on the same lines as clause 3 of the Railway Stores (Unlawful Possession) Bill.

Mr. Chairman: Amendments moved:

(1) In page 6,

after line 48, add:

"Provided that such persons shall be deemed to have discharged the burden if they prove that they purchased the goods *bona fide* without knowing or having reason to believe that they were smuggled goods."

(2) In page 6,

after line 48, add:

"Provided that such persons shall be deemed to have dis-

charged the burden if they account satisfactorily how they came by these goods."

Shri Punnoose: (Alleppey): I agree with those hon. Members who have argued against placing the burden of proof on the person from whom the smuggled goods are taken. Smuggling is to be prevented. There is no doubt about that. Very stern measures have to be taken. But, I am afraid, by accepting this amendments, what will happen is that big smugglers who have got the machinery to look after the legal affairs will escape. The ordinary, average man will be in difficulty. As it is, I have got a watch which I purchased from Honkong on my way back from China.

Some Hon. Members: Smuggled.

Shri Punnoose: I do not know what records have been made in the Customs office. After two years, if somebody takes hold of it and question, what happens?

Dr. Lanka Sundaram: Were you not Shanghaied?

Shri Punnoose: In my case, I may find some arguments and some lawyer friends may help me. But, in the case of an ordinary man, it would become difficult. I would request the hon. Minister to go into this matter more seriously. The expert smuggler will have all the machinery to protect him. The real difficulty will be that of the ordinary man. I oppose this amendment.

श्री अलगू राम शास्त्री (जिला ब्राह्म-गढ़-पूर्व व जिला बलिया-पश्चिम) : एक शब्द में कहना चाहता हूँ। जो व्याख्यान अभी हम ने पंडित ठाकुर दास जी भागवत का सुना और जो भाषण हम ने इस सम्बन्ध में श्री टेक चन्द जी का सुना, और जितनी बातें यहाँ कही गई हैं, उन से मुझ को ऐसा लगता है कि यह एक बड़ा महत्वपूर्ण प्रश्न है और सम्यक् इतना कम है कि जिस से न

इस के ऊपर वादविवाद पूरी तरह से हो सका, न गवर्नमेंट के पक्ष को हम अच्छी तरह समझ सके और न इस हाउस में काफी सदस्य ही मौजूद हैं ताकि इस पर ठंडे दिल से विचार हो, और अगर वह आशंकायें ठीक हैं कि इस बिल के पास हो जाने से जनता को यह सारे कष्ट हो सकते हैं और लोगों को अनावश्यक असुविधा पहुंच सकती है तो मैं बहुत विनती के साथ माननीय मंत्री जी से अनुरोध करूंगा कि इसका विचार कुछ समय के लिये वह स्थगित करें और यह मामला दुबारा बहस के लिये आवे। इस बिल को जल्दी में स्वीकार कर देना मेरे विचार में अच्छा नहीं होगा, इस बात को देखते हुए कि यहाँ पर जो बातें कही गई हैं वह काफी इस के विरोध में हैं और इस से जनहित को क्षति पहुंचने की पूरी सम्भावना है।

Mr. Chairman: I want to find out one thing. I do not think that this Bill can be finished today. There are only 10 minutes left.

Shri Kanavade Patil (Ahmednagar North): I won't take more than two minutes. I want to submit that the proposed amendment to section 178A under this Sea Customs (Amendment) Bill is quite reasonable. Looking to the nature of the offences that are usually committed under this Act, it would be found that the tests that we apply under the Indian Evidence Act and the Indian Penal Code cannot be applied here. Because, the stolen property under Penal Code is often found within the four corners of some house or store, whereas in the case of railway property, it is well known that the property is lying open on the sites near Rail-lines. Smuggling goods, therefore is very easy. The burden of proof is very reasonably thrown on the accused or on the person who smuggled the goods or committed theft of such property. My humble suggestion is this. We have been all along thinking of the principle

[Shri Kanavade Patil]

which we have been following so far as the offences of theft or receiving stolen property are concerned, in which case, the Evidence Act places the burden of proof on the prosecuting authority. Under this Act, the burden of proof is shifted reasonably and rightly to the shoulders of the accused, because, he must give a satisfactory account of as to how he come in possession of this property. In the case of railway properties, to watch reference was made by some hon. Members, the properties are lying in the open and such property is quite vulnerable and as such can be easily stolen by criminals. If the Government has to prove every now and then that the property belonged to the railway authority and was kept in such and such a place, it will be difficult to prove railway theft offences.

Pandit Thakur Das Bhargava: Does he mean to say that the seizure must take place in a particular place and that seizure would change the nature and convert it into smuggled goods?

Shri Kanavade Patil: I humbly submit that the circumstances are such that from such an open place, property can easily be taken away. Therefore, without going into much of details, I submit that the proposed insertion of section 178A is quite reasonable and sound. I support the Government so far as this amendment is concerned.

Mr. Chairman: Let me first know the exact position. The time allotted was up to two o'clock. We have already exceeded that time.

Shri K. K. Basu: This is a very important Bill.

Mr. Chairman: I want to know the wish of the House. We can carry on up to 2-30. Beyond that we cannot go on. I want to ask the hon. Minister, in view of the situation that has arisen, whether this should not be postponed and the House take up some other work.

Sardar Hukam Singh (Kapurthala—Bhatinda): There is a difficulty which you must have appreciated.

The Minister in the Ministry of Law (Shri Pataskar): I might suggest something which might be acceptable to the hon. Members. So far as clause 14 is concerned, as it is worded at present, much of the arguments that I have heard—I came only at a late stage—comes to this. In criminal cases, naturally the burden of proof must not be on the accused. That is the general law. What is probably thought here, I am told, is this. Supposing certain goods are smuggled and those goods are seized and somebody comes forward with a claim that these goods are not smuggled and he lays claim to those goods. There is nothing wrong in this provision regarding such a matter. Whenever such a person comes with such a claim, there is no question of any criminal liability thrown on him, the burden should be on him to prove that what he is in possession of are not smuggled goods, that they are goods obtained from somebody legitimately and he can disclose the source. etc. This is done only to make it clear. It is not for the purpose of any criminal liability being thrown upon him when we say that the burden will be on him, but to make it clear by some such amendment that where any goods are seized, which are believed to be smuggled goods,.....

Shri Dabhi: Please see my second amendment.

Shri Pataskar:and the person comes forward and claims that those goods belong to him, in such a case the burden should be on him to prove as to how he came by them. So I think all the other arguments which were advanced that here we are trying to violate the principle of criminal jurisprudence by saying that the burden of proof is thrown upon him are not correct. So I hope that some such amendment may be acceptable to the hon. Members.

Shri K. K. Basu: What is the solution? We cannot follow.

Sardar Hukam Singh: That would not solve the difficulty that we are experiencing. From that speeches you have heard here this morning, it is clear that every section of the House is feeling that difficulty. The other day we had a similar provision in the Railway Stores (Unlawful Possession) Bill, as well, and the Government conceded the point that that was not a sound law and accepted an amendment.

Shri A. C. Guha: Here we have already an official amendment practically with the same phraseology, that is, 'on reasonable ground'.

Sardar Hukam Singh: Even in that Bill, it did not stand like that. There also it was provided—where there is reasonable suspicion or belief. That was in the original text as well, but now to put in such a wording, where goods are seized under this Act only on the ground of suspicion....

Shri A. C. Guha: There is an amendment saying 'on reasonable grounds'.

Sardar Hukam Singh: Who is to judge the reasonableness?

Shri A. C. Guha: In the Railway Stores (Unlawful Possession) Bill you have accepted the wording 'reasonable suspicion'.

Sardar Hukam Singh: This would upset the whole Criminal Procedure Code. This should certainly be given more consideration. The mere fact that the Business Advisory Committee decided to allot two hours for this should not stand in the way. I request the House that that should be reviewed now.

Pandit Thakur Das Bhargava: May I just submit a few words in regard to what has fallen from the hon. Law Minister?

Shri Pataskar: I will just make myself a little more clear.

Pandit Thakur Das Bhargava: It is quite clear to us.

Shri Pataskar: In the Railway Stores (Unlawful Possession) Bill, there is that wording which was brought to my notice. But there that section—section 3—creates an offence. The wording is:

"If any person is found, or is proved to have been, in possession of any article of railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to five years..."

That is stronger. Here if we make it clear—I do not know what the hon. Minister is going to do—but if it is made clear....

Dr. Lanka Sundaram: Were you not consulted?

Shri Pataskar: They do not want to put in fine and so on; there is going to be no criminal liability for that purpose. Probably—I have not gone through it carefully—there is another section which makes it penal. (*Interruptions*). Have some patience so that I can explain it. I am only trying to see if there is a way by which the purpose of the Act will not be defeated as also the grounds on which it is attacked mainly, that the burden of proof shall not be on him, will be answered.

Dr. Lanka Sundaram: Please examine it and come again.

Shri Pataskar: I am trying to see if that purpose could be achieved by suitably amending this. Suppose Government take possession of some goods and then somebody comes forward and says: 'Well, these are not smuggled goods; these are only my property which I obtained very legally and in a very good manner from such and such source', in that case the burden of proof should be on him. In such matters, at least where there is no criminal liability, we cannot be very lenient. If it could be made clear, and hon. Members are satisfied, that this burden will be thrown on

[Shri Pataskar]

the man only where he comes forward, after the goods have been seized from him, to claim that the goods belong to him, that would serve the purpose.

Then, so far as criminal liability is concerned, I am told that there is already another section. I do not want to interfere in this. But if it is made clear that the burden of proof is being thrown on him not because he is being prosecuted and therefore it is for him to prove innocence. I think that may be acceptable to hon. Members.

Pandit Thakur Das Bhargava: May I make a submission over the new proposals? Under sections 518 and 520 of the Criminal Procedure Code if a person comes forward and claims property which has been believed to have been got by theft and about which the court has made a judgment that the property is stolen, then according to my hon. friend, that person has to prove that as a matter of fact that property belongs to him. On that parity of reasoning, the Law Minister wants us to accept the new provision. Firstly, my submission is that unless and until whatever is suggested is put in writing and we consider what its implications are, we are not in a position to give a reply. At the same time, let me remind him of a section in the Evidence Act, section 110, which says that the person in possession is presented to be the real owner of the thing. If the Government seize it, by the mere fact of seizure, it does not belong to the Government. The rightful presumption that the man from whom the property is seized is the rightful owner has not been disturbed, unless and until you prove that the property you have seized is smuggled property. Merely because some officer has seized it does not prove that the property belongs to Government. There will be many other difficulties. Under the circumstances, I would beg of you kindly to ask the hon. Law Minister

and his colleague to give us their new amendment or new provision which we may be able to consider. It appears that the hon. Law Minister does not stand by my hon. friend, the Minister in charge; he himself is dissatisfied, because according to his own notions of the Criminal Procedure Code, the burden of proof should not be on the accused. Now, my difficulty is this. The hon. Law Minister sides with me on the principle, but the Minister in charge says that it is not so....

Shri A. C. Guha: I have made it perfectly clear that this clause refers only to seizure of goods, not to prosecution, not even to confiscation. It is only for seizing the goods; it has nothing to do with prosecution.

Pandit Thakur Das Bhargava: Let me put this question. Will smuggled goods not be confiscated?

Shri A. C. Guha: May be or may not be.

Pandit Thakur Das Bhargava: The cat is out of the bag. He says that smuggled goods are liable to be confiscated.

Shri A. C. Guha: May or may not. This clause refers only to seizure of goods.

Sardar Hukum Singh: It is a good proposal which he has made. We should have time to consider it. We should have a copy of the amendment that the Government are going to make. If it is acceptable to the Minister, we should have that copy, we should consider that.

Pandit Thakur Das Bhargava: On merits. With your permission, Sir, I beg to move:

"That the debate on the Bill be adjourned."

Mr. Chairman: Motion moved:

"That the debate on the Bill be adjourned."

Shri Mohiuddin (Hyderabad City): May I point out, Sir, that the time allotted by the House is over and it is half past two? The private Members' time begins now. There is no necessity to move a formal motion like this. Automatically the Bill stands adjourned.

Pandit Thakur Das Bhargava: My hon. friend is evidently wrong. He does not seem to realise that it is, after all, in the hands of the House and the Chair to extend the time. If the House wants to continue the debate, it can go on with the business of the House before it.

Mr. Chairman: Once it has been decided by the House, and the time limit has been fixed by the House and the House is going beyond that limit, it is better to have a motion like that.

Shri A. C. Guha: May I make one suggestion that if the debate on this Bill is adjourned now, will the House take it up after five o'clock?

Several Hon. Members: No, Sir.

Mr. Chairman: What is the opinion of the House on this amendment to the motion?

Pandit Thakur Das Bhargava: I have to submit that unless we see the wording of the amendment, we will not be in a position to say whether it would be acceptable or not. I can assure the hon. Minister that we will dispassionately consider it.

Mr. Chairman: For the present, we may just leave it there, and during the course of our discussion on the Private Members' Resolution, the hon. Minister and his colleagues may draft some amendment and show it to the movers of the amendments. If there be some agreement on that.....

Several Hon. Members: No, no.

Mr. Chairman: The Ministry is also hard pressed for time. If the House at that stage, before five o'clock, so

desires, it can sit up for another 15 minutes or thirty minutes. That is not being put now.

Pandit Thakur Das Bhargava: I very respectfully submit that the amendment which is sought to be made involves a very complicated question of law and all the relevant provisions, sections 518. to 520, of the Criminal Procedure Code and section 110 of the Evidence Act and after provisions of Sea Customs Act will have to be gone into. The matter must be thought out. It is a very important question not only in relation to this Bill but also with regard to many other Bills of this nature.

Mr. Chairman: So, the main motion remains.

The question is:

"That the debate on the Bill be adjourned."

The motion was adopted.

Shri A. C. Guha: When will it be taken up, Sir? It will have to be decided also.

Mr. Chairman: That can be decided later on.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): Sir, may I move my Bill? It won't take more than three minutes.

Several Hon. Members: No.

Mr. Chairman: The House is not inclined.

Order, order; it is now 2-30, past 2-30 rather. We shall now take up Private Members' Business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS.

TWENTY-SIXTH REPORT

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

"That this House agree with the Twenty-sixth Report of the