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LOK SABHA

Monday, 18th April, 1955

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS
(See Part I)

11-48 A.M.

PAPERS LAID ON THE TABLE

AUDIT REPORT (CIVIL) 1954 (PART I)

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to lay on the Table a copy of the Audit Report (Civil) 1954 (Part I), under article 151(1) of the Constitution. [Placed in Library. See No. S-126/55]

RESERVE BANK OF INDIA
(AMENDMENT) BILL

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move for leave to introduce a Bill further to amend the Reserve Bank of India Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Reserve Bank of India Act, 1934."

The motion was adopted.

Shri A. C. Guha: I introduce the Bill.

SEA CUSTOMS (AMENDMENT)
BILL—concl'd.

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

Mr. Speaker: The House will now proceed with the further clause-by-

clause consideration of the Bill further to amend the Sea Customs Act, 1878. Clause 14 has been under discussion. The amendments that have been moved to this clause are amendments Nos. 29, 30, 31, 17, 18, 27, 19, 20 and 21.

Shri Bansal (Jhajjar—Rewari): I was on my legs the other day, and I suggested to the House that my amendment No. 13, namely:

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."

should be treated as amendment to the amendment moved by the hon. Minister.

Shri Venkataraman (Tanjore): On a point of order. On the last occasion, amendment No. 29 moved by Shri A. C. Guha was taken up, and amendment No. 30 moved by me to that amendment was put to the vote of the House and passed. So the only thing which had to be done in respect of this clause was to put amendment No. 29 moved by Shri A. C. Guha, as amended by my amendment, to the vote of the House. I do not think any other amendment was at that time before the House. He only suggested in the light of certain observations made by the Commerce and Industry Minister whether Government would not consider his amendment. That was all. I think the matter has now to be put to the vote of the House so far as the amended amendment No. 29 is concerned.

Mr. Speaker: I want to be clear on one point. Amendment No. 29 was moved by the hon. Minister. To that, the hon. Member moved his amendment and it was...

Shri Venkataraman: It was adopted.

Mr. Speaker: Very well. But that does not mean that amendment No. 29 was disposed of.

Shri Venkataraman: It was just on the point of being put to the vote of the House when the clock struck five.

Shri Bansal: No. I was on my legs...

Pandit Thakur Das Bhargava (Gurgaon) rose—

Mr. Speaker: Let me hear the Chairman at that time.

Pandit Thakur Das Bhargava: I was not the Chairman at that time. Sardar Hukam Singh was then in the Chair. At the same time, I also moved an amendment to the original clause and other Members also moved amendments to that clause. The hon. Minister also moved his amendment to the clause. All these amendments to the original clause are before the House, and no amendment can get precedence by the mere fact that Government have been pleased to put in that amendment. The amendment of Shri Bansal was also moved. I would beg of you kindly to put all the amendments to the vote of the House and not only the amendment of the hon. Minister.

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): If I may submit, the hon. Member, Shri Bansal, moved his amendment not on Saturday but on the previous occasion. He also spoke on that amendment, No. 13. All the amendments to clause 14 had already been moved. My amendment was just going to be put to the vote of the House when the House took up the outstanding Demands for Grants. So now it is for the Chair to put all the

amendments to the vote of the House. I do not think there is any further occasion for any Member to speak on the amendments.

Shri Bansal: May I say what actually when the House was about to take up the outstanding Demands, I was on my legs and I had spoken at that time and then the Chair called 'Order, order' because it was five o'clock and the Demands were to be put to the vote?

The Minister of Defence Organisation (Shri Tyagi): 'Order, order' does not mean that he was in possession of the House.

Shri Bansal: I was at that time on my legs and I had spoken for one minute or one and a half minutes and then the Chair called 'Order, order'.

Shri Tyagi: Was he called upon to speak?

Mr. Speaker: Am I clear on the fact that the hon. Member moved his amendment on the previous occasion, as the hon. Minister said?

Shri Bansal: Yes, I will explain. I moved this amendment. I spoke on the amendment. But day before yesterday when we came again to that clause, the hon. Minister brought forward another amendment and the Chair ruled that further amendments to that amendment could be moved, and it was on that basis that Pandit Thakur Das Bhargava moved his amendment. I then got up and said that in view of the fact that Pandit Thakur Das Bhargava was moving his amendment, I would like to move my amendment—the wording of my amendment No. 13—as an amendment to Shri A. C. Guha's amendment. This amendment now does not stand as an amendment to clause 14, but it stands as an amendment to Shri A. C. Guha's new amendment.

Mr. Speaker: That means, there is no question of a second chance of speaking. He wants his amendment to be treated as an amendment to the hon. Minister's amendment.

Shri Bansal: Yes, I do not want to speak.

Mr. Speaker: I think the only thing to be done now is to put that amendment to the vote of the House.

Pandit Thakur Das Bhargava: That amendment and other amendments also, because the original proposition contained in clause 14 was about presumption, and many amendments had been moved to that clause by various Members. Even now Shri A. C. Guha's amendment is that presumption may be raised in respect of certain articles, but on the original thing, that that presumption is to be rebutted in a certain manner, those amendments had been moved. So all of them must be put to the vote of the House.

Mr. Speaker: Yes, I am going to put all those amendments to the vote of the House. First, let me dispose of Shri Bansal's amendment, No. 13, to the amendment of the hon. Minister.

Mr. Speaker: The question is:

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"

The motion was negatived.

Mr. Speaker: Then there is an amendment by the hon. Minister.

Shri A. C. Guha: I beg leave of the House to withdraw my amendment No. 17.

Mr. Speaker: He wants leave of the House to withdraw the amendment. But it falls through. It is the same thing.

The amendment was, by leave, withdrawn.

Pandit Thakur Das Bhargava: I beg leave of the House to withdraw my amendment No. 10.

The amendment was, by leave, withdrawn.

Mr. Speaker: Amendment No. 27 goes with that. So that is also dropped.

Then, as regards amendments Nos. 20 and 21, Shri Dabhi is not present in the House. I shall put them to the vote of the House.

The question is:

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."

The motion was negatived.

Mr. Speaker: The question is:

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."

The motion was negatived.

Mr. Speaker: I shall now put amendment No. 29 as amended by amendment No. 30 to the vote of the House

The question is:

In page 6, for lines 45 to 48, substitute:

"178A. Burden of proof.—(1) Where any goods to which this section applies are seized under this Act, in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be on the person from whose possession the goods were seized.

(2) This section shall apply to gold, gold manufactures, diamonds and other precious stones, cigarettes and cosmetics and any other goods which the Central Govern-

[Mr. Speaker]

ment may, by notification in the Official Gazette, specify in this behalf.

(3) Every notification issued under sub-section (2) shall be laid before both Houses of Parliament as soon as may be after it is issued".

The motion was adopted.

Mr. Speaker: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clause 15 was added to the Bill.

Clause 16.— (Insertion of new section 190A etc.)

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

In page 7, after line 29, add:

"(3) No decision or order passed by an officer of customs shall be revised under this section by the Chief Customs Authority or a Chief Customs Officer, as the case may be, after the expiry of two years from the date of the decision or order."

We are here simply limiting the authority of the Customs Officer to reopen a case. As worded, he may reopen a case at any time, after any number of years. By this amendment, we are putting this clause on par with the income-tax procedure, that a case can be reopened only within two years. As it is rather an improvement on the previous provision, I hope there won't be any objection to this amendment.

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Mr. Speaker: The question is:

In page 7, after line 29, add:

"(3) No decision or order passed by an officer of customs shall be revised under this section by

the Chief Customs Authority or a Chief Customs Officer, as the case may be, after the expiry of two years from the date of the decision or order."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clause 17 was added to the Bill.

Clause 1 and Enacting Formula

Amendments made: (i) In page I, line 4, for "1954" substitute "1955".

(ii) In the Enacting Formula, for "Fifth Year" substitute "Sixth Year".

—[Shri A. C. Guha]

Mr. Speaker: The question is:

"That clause 1 and the Enacting Formula, as amended, and the Title stand part of the Bill."

The motion was adopted.

Clause 1 and the Enacting Formula, as amended, and the Title were added to the Bill.

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

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

Mr. Speaker: Motion moved:

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

Pandit Thakur Das Bhargava: Sir, I congratulate the hon. Minister for having amended this Act in such a way that many practices have been validated and the operation of the Act has been made more smooth in certain particulars. I further congratulate him for having amended the criminal law of this country and paving the way for even more drastic Bill, to come into the House.

Two days before, we discussed this clause 14 of the Bill and, on that occasion, I pointed out that as a matter of fact, the change which was sought to be effected was very drastic and, at the same time, totally unjustified. Today some of the amendments put in by my friends have been rejected by the House. But, I do not think the full effect of the rejection of these amendments has been realised by the House. Two days before when the hon. Minister of Commerce and Industry spoke during the discussion of clause 14, he was pleased to point out to us, and especially to me, that it is only the businessman who would be within the clutches of the law and all other persons are safe. I think, I am right, when I am imputing the statement to the Commerce and Industry Minister who is present before me. I, at that moment, submitted that this was not so and, the position will be clear if I read section 182 of the Sea Customs Act. The words used are:

"In every case.....in which, under this Act, any thing is liable to confiscation or to increased rates of duty or any person is liable to a penalty such as confiscation, increased rate of duty or penalty may be adjudged—without limit, by a Deputy Commissioner or Deputy Collector"

It appears, therefore, that every person in the land can be subjected to confiscation, increased duty or the penalty under the Sea Customs Act and it is not true that only businessmen are liable.

[MR. DEPUTY-SPEAKER in the Chair]

Therefore, it means that this presumption shall apply to all and sundry in the land and if any customs official so chooses to put any innocent person in trouble he can do so. Even by mistake he can do so. It is not necessary that maliciously he ought to do so; even by an honest mistake, he can arrest any person and confiscate anything on the mere reasonable belief according to him, that the person is in possession of certain

goods which have not paid the duty. In regard to smuggling, generally, there is some sort of a stigma as pilfering or stealing associated with it. As a matter of fact, smuggled goods are those on which duty has not been paid. Who is the person that pays the duty? In the first instance, it is the person who imports the goods; he pays the duty, and if he does not pay the duty, the original sin of that man goes down and all those who come subsequently in possession of that property have to undergo penalties for it. If a person who imports the goods in Bombay did not pay the duty and got the goods without duty, then, any person who subsequently handles those goods, be he a trader in Bombay, in Delhi or in the mofussil, or even a purchaser of those articles—the original sin persists and makes him liable to be arrested and the goods seized. After the things are seized, what happens. As to what things can be seized, I will refer to another section, section 182. It says, in every case anything is liable to confiscation or to increased rates of duty or any person is liable to penalty so that nothing is prohibited from the clutches of law and under section 182, anything under the earth can be seized or any person can be arrested in respect of that seizure. This is the difference in regard to stolen property and in regard to smuggled property. So far as stealing is concerned, there is the stigma of stealth and a police officer can take possession of the property; but, at the same time, that property and that person are quite safe because, after all, they have to be produced before a court and the court adjudicates the guilt of the person. Unless the person knows the property to be stolen or has reason to believe that it is stolen and is in possession of the property, he cannot come to any harm. Here, in the case of smuggled property, there is nothing about stealth etc. The only fault of the person is that the person from whom he bought or from whom he got the goods did not pay the duty. Therefore, in cases of this nature, except in cases which come within the province of

[Pandit Thakur Das Bhargava]

section 167 of the Sea Customs Act, I think, properties which did not pay the duty can be seized and they must remain within the possession of the customs officials for such time as they choose. Ultimately, they are brought before the Customs Officers or Collectors and then it is adjudged what should be the fate of those things and of those persons who were found in possession of them. In the Act, section 182 is the only section which says that such and such an officer shall adjudge. These are the words:

"Such confiscation, increased rate of duty or penalty may be adjudged—without limit....."

The only matter which comes before the Customs Officer is whether it is to be confiscated, whether it has to pay the increased duty or some penalties are to be charged.

I looked into the Sea Customs Manual and I have not been able to find that in proper cases these customs officers can also, in respect of innocent persons, release the goods without any confiscation, without any increased duty or without any penalty. What all these amendments wanted to suggest—and my amendment wanted to suggest—was that in cases in which a person is quite innocent and he came in possession of those goods not by way of smuggling but by purchase or in any other manner and, at the same time, he did not know that the duty had not been paid, in cases of this nature, if the difference between the date of smuggling and the date of possession was several years, it was but reasonable to presume that the man was good-intentioned and he had no *mens rea* and his goods should be released unconditionally. I wanted that even if the presumption arises, in the case of innocent people, they ought to be released and the goods also released unconditionally. Even this my friend would not agree to. As he has stated in the Statement of Objects and Reasons and in the Notes on Clauses,

his revenue is suffering. It is perfectly right we all want revenue. At the same time, we do not want that we should suffer even when we are innocent.

In the first place, the law says that only officers of the customs shall adjudge these matters. Ordinarily, when a question of confiscation arises, it is always the Court which adjudges and it is not the Customs Officer himself who ought to adjudge whether the confiscation is to be made or not. According to the provisions of the Criminal Procedure Code, section 556, any matter in which the Judges or Magistrates are personally interested ought not to be decided by them. It does not mean that the interests of the Judge or Magistrate are only in so far as his private affairs are concerned, but this association as an officer has always been regarded as an interest: if he is a Collector of the Department and he directs the prosecution, then he cannot decide the case. In a case of the nature where a subordinate of the Customs Officer arrests a person, the Customs Officer is the final arbiter. I do not object to this as I know that these high-paid officers will be quite independent and they are not going to adjudge against law so far as ordinary persons are concerned. At the same time, however, what I am afraid of is that the Customs Officer does not possess any discretion to release the goods unconditionally even if he thinks that the goods were honestly acquired. The discretion is now given only to the Central Government or the Chief Customs Officer. So far as other officers are concerned, they have got no discretion to say that the goods may be released unconditionally. This means that the attempt of my friend, Shri Guha, of getting all the goods branded as smuggled unless they are proved to be otherwise, is on the same lines as the Bill of Shri Alagesan in which he says that if properties are found in the possession of another person, that is, the accused, then he will have to prove his ownership and

how he happened to come in possession of them. If there was a reasonable suspicion or belief somewhere that the property belongs to the Railways, then the onus of proof or the burden of proof is placed on the accused. Now, what is this belief? The belief, as soon as he seizes the goods, becomes a fact of very great importance. The very seizure of the goods makes these goods smuggled even if they were not smuggled before. That means that as soon as those goods are seized, they become smuggled goods. Once they are said to be smuggled, then my humble submission is that nobody on earth can say that increased duty or penalty should not be levied. Suppose any person inherits certain goods from his parents or family and after a few years if any other person comes and says, "These goods appear to be smuggled and I have got reason to believe so", then what will happen? For instance, an enemy of his may go to the Customs Officer and make a statement on oath on the basis of which the Customs Officer comes forward and says that those goods are smuggled goods and seizes them, and the burden of proof is on the accused. How can that person prove it, particularly when the goods came into the possession of his family 10 or 20 years ago? Therefore, I submit that it does not mean that the goods are smuggled merely because he cannot prove to the contrary at that point of time. Therefore, it will lead to the fact that any innocent man will get into trouble by the seizure of his goods or property simply because the Customs Officer has chosen to seize them. Now, the property goes away to the Customs Office and when adjudged, it will be confiscated or an increased rate of duty or penalty will be levied. I think this is a very harsh law. I understand that many more such laws are in the offing, which would say that if any property of Government is found in the possession of a person, that person has got to prove how he got the property. This is too much. I am very sorry I have to say all this because the Ministers have

taken into their heads to put the burden of proof on the people because they themselves cannot prove the contrary, and in order to cover up the inefficiency of their departments, they have made a cheap resort to this subterfuge to enmesh innocent people. This is going against the fundamental laws of the country. I beg of the Ministers, now that they are getting this law passed—let them be happy but I am very unhappy about it—to stop and not to proceed further with this kind of Bills. Otherwise, the whole country shall think that we are not doing the right thing and we are subverting the principles which have been observed in this country for a very long time.

Mr. Deputy-Speaker: Shri Rohini Kumar Chaudhuri may speak now. This is the third reading stage. I am afraid hon. Members are treating it as if it were the first or the second stage.

Shri R. K. Chaudhuri (Gauhati): I am perfectly conscious of that fact, Sir.

I only wanted to say, as my hon. friend on the left, Pandit Thakur Das Bhargava, has said, that the amendment which was passed at the instance of the hon. Deputy Minister of Finance

Shri K. K. Basu (Diamond Harbour): No more Deputy; he is a Minister of State.

Shri R. K. Chaudhuri: I beg your pardon.....

Shri K. K. Basu: The hon. Member may be hauled up for using that expression.....

Mr. Deputy-Speaker: Under the Sea Customs Act!

Shri R. K. Chaudhuri: I am sorry I am a back number.

Shri Bansal: Back number in what respects?

Shri R. K. Chaudhuri: The objections which we raised or several Members here raised have not been

[Shri R. K. Chaudhuri]

removed by this amendment. However strongly I may be opposed to the use of cosmetics and lip-sticks, I object to this amendment because it has broken the road of operation. It is high time for us to consider whether we are going to adopt the French method of compelling the accused to prove that they are innocent or whether we are adhering still to the British jurisprudence which lays down that a man is presumed to be innocent unless the contrary is proved. I am perfectly alive to this fact that even under the British laws of recent origin, namely, the laws which were conceived and which had to be enacted during the war period, some burden has been laid on the person who has been accused of an offence. But the main thing to consider is this. When you are introducing a legislation, you can introduce that principle or maxim of jurisprudence only when you are dealing with turbulent people, who are very expert in removing even the traces of their offence and with people who generally are unwilling to assist the Government in telling the facts.

Shri A. M. Thomas (Ernakulam): Smuggling has developed into a fine art.

Shri R. K. Chaudhuri: That may be, but still people of this country, as a whole, are on the side of law and order. If we say that there is reason to believe that certain goods are smuggled, they would certainly help the Court to prove the guilt. It is only in those places where you find that the people are unwilling to give evidence, as in the case of the war period, that we must have this law. Now the tendency of the Government has been to adopt this maxim of law in a measure which is most astounding and has created opinion in the minds of all right-thinking people. Let us, for instance, decide for ourselves that we will have this maxim that a man is presumed to be guilty unless the contrary is proved. What is done in France where this law is in force?

There is a regular enquiry before the prefect of the police. A regular trial actually takes place. Only after this has been gone through and the prefect finds that the man is really guilty that the case comes up for trial and this practice is introduced. You must introduce that practice. Have a regular enquiry where the accused has a right of defending or rather showing that he is not guilty of the charge. Then only you can have this done. Otherwise not. The Government is trying to make the job of the officers easier than it is. Why is it so? Why don't they have regular investigation? Why not they come into contact with persons who are actually giving good evidence? Why are they not doing it? So, I submit that we cannot say that the ushering in of this maxim is a red letter day for us. I am apprehensive that one thing is leading to the other. First was with regard to the telegraph wires, then the railway stores and then the essential commodities. Now it has come to smuggling. The next time it can come to something else. Even section 411 of the Indian Penal Code may be changed, and so, whosoever is in possession of a thing, a property, which any other person believes belongs to another with reasonableness, that person will be guilty of an offence. This will come to that.

Sardar A. S. Saigal (Bilaspur): I move for a closure.

Pandit S. C. Mishra (Monghyr North-East): Laws are being made by the scores. The only parallel that I can remember is of the period 1789 to 1894 in France. Laws then were being made by baskets and they were made in the year 1788, 1789, 1790, and they all perished by 1894. I hope that our Congress friends with their laws will not perish so soon. But the picture that they have now made, the picture that has arisen is certainly a peculiar picture. I know our friend, the Finance Minister, is heavily in debts. India is heavily in debt.

An Hon. Member: The Minister is in debt?

Pandit S. C. Mishra: The interest per year that he has now to pay has risen from Rs. 70 crores which was two years back—to Rs. 101 crores. Each year now he pays Rs. 101 crores as interest. We are all in possession of this fact. Perhaps the total debt comes to twenty seven hundred crores. We know that the creditors are men with land, men with money—our friends, our Ministers. And, therefore, all such laws do come up. Yet they say, it does not mean that there should be confiscation. But it will be a straightforward thing if the Government confiscate everything that anybody possesses. We are for that ourselves. We are, I say, that is, the socialists, the communists, all favour confiscation of property by the Government. But why say, we do not like those things and yet do the same. Coming straightforward to confiscation would be better. You will come to realise this then. We could understand it when it came to the railway property confiscation or to the telegraph wires confiscation because they were discernible property.

Mr. Deputy-Speaker: Confiscation of whose property?

Pandit S. C. Mishra: All the property of everybody who lives in India.

Sardar A. S. Saigal: Under the Sea Customs Act?

Pandit S. C. Mishra: It is on the Sea Customs Act that we are speaking.

Shri M. S. Gurupadaswamy (Mysore): He means acquisition.

Pandit S. C. Mishra: I do not mean acquisition. They are out for confiscation and I really mean confiscation. When such laws about the railway goods and telegraph wires were passed, those were at least discernible property, but customs duty has to be paid for ordinary property, for undiscernible properties; ordinary properties, which come from outside and which we use every day and everywhere. It should be. But then how are

we to know, how can the honest man know whether on any property or thing that he is buying especially those of foreign make, duty has been paid or not? It would have been very fine, at least it would have been a little merciful, if you people make an arrangement that every little bit of goods that comes from outside shall be sold in India after it is marked. "duty paid". Take, for instance, the match-sticks. I have seen to this aspect. Match-sticks are not sold by each stick. They are sold in boxes containing a prescribed number of sticks. If each such box has a seal or a mark on it saying "duty paid", then an honest man can know whether to buy it or not, and whether the duty has been paid on it or not. If you can make that arrangement through the customs houses, if almost every little thing that is sold is stamped with the words "duty paid"—some such mark like that is made on it—an honest man can know whether the duty has been paid or not. Then the law is justified. But without making that arrangement, without passing such a law, you are making every one of us a thief or an encourager of theft or something like that. That is bad. Of course you have got your laws, but kindly consider this: do not make the poor people easily guilty. Do not make them compulsorily to get into difficulties. If you pass this law, devise some method by which everybody, every man, can know whether it has got the stamp "duty paid" or not.

Shri A. C. Guha: I am sorry that I could not convince my friend, Pandit Thakur Das Bhargava about the necessity of this clause and I am also sorry that he has imagined many things which are not implied or are not envisaged in this clause. During the discussion of this clause, several Members referred to conviction, prosecution, etc. Pandit Thakur Das Bhargava also, on Saturday last, repeatedly referred to conviction, prosecution, etc. But the clause in question refers only to seizure of goods and it has nothing to do with prosecution and

[Shri A. C. Guha]

conviction. Further, this clause does not automatically mean confiscation of the article. That has to be done by another officer under another clause. That has to be done by a higher officer, not the officer who will seize the article. That is definite. The officer who seizes it will not adjudicate for confiscation and no officer of a lower rank than the Assistant Collector can adjudicate as regards confiscation. The salary of the Assistant Collector is upto Rs. 850 for lower grade and the higher grade officer's salary goes upto Rs. 1,150. The officers that is, Assistant Collectors are entitled to adjudicate on confiscation only on articles whose value is up to Rs. 5,000. For adjudication of those articles whose value is more than Rs. 5,000, the adjudication for confiscation would be done by Deputy Collectors or the Collector of Customs himself whose salary is much higher.

Pandit Thakur Das Bhargava also mentioned that this seizure will be done not by officers but by a set of petty officials of the Customs Department. There also he is not quite correct. This will be done by some authorised officers and not by any set of people employed in the Customs Department.

Pandit Thakur Das Bhargava and Shri R. K. Chaudhuri referred to the fundamental principles of criminal jurisprudence of the country. As this clause does not refer to criminal prosecution, no question of criminal jurisprudence could come in. But even then, if that question is referred to, I can say that the United Kingdom is the homeland of the theory that unless a person is definitely proved to be guilty he has to be taken as innocent and the burden of proof would lie on the prosecution—I can say in England also, in the Customs Department, they have got a law which says that if a person "does not give an account to the satisfaction of the court as to how he came in possession of the article, he shall be deemed to be guilty of misdemeanour." So, in U.K. also the

burden of proof has been shifted to the accused from the prosecution.

Pandit Thakur Das Bhargava: This is the thing that we object to.

Shri A. C. Guha: I am not going to yield to any more interruptions. This process has been going on for the last four days. Further, I think he will admit that it is very difficult for the Customs Department or for the Government officers to find out whether the duty has been paid or not. In most cases, the accused person will be a businessman or a trader or an importer or a smuggler, and it is quite easy for them to say or to prove that the customs duty has been paid. It would be very difficult for the Government to prove the negative, that is that it has not been paid.

Pandit S. C. Mishra: Are there no records kept?

Shri A. C. Guha: Some Members have traced to draw a sort of comparison between the standard of officers here and the standard of officers in U.K. Much of the objection to this clause has proceeded on the presumption that our officers are by and large dishonest. Sir, one hon. Member the other day said that this clause would be a slur on the national character. I do not know if a general condemnation of our officers is not also a slur on our national character. Wherefrom are these officers recruited? They are recruited from our family, from our house and from our own ranks. They do not drop from heaven. We do not import them from outside. If all our officers are dishonest, that means our national character is also dishonest. I say that that is the greatest slur on our national character, to condemn our officers as such. I do not claim that all our officers are quite honest. Everybody is not honest. There is dishonesty in every rank of service all over the world, not only in our country. Therefore, I do not think it would be quite correct for this House to assume or proceed on the assumption

that our officers are generally dishonest and so there will be misuse of this power.

Pandit Thakur Das Bhargava: He is really putting in our mouth words which we have never said. We, on the contrary, place much more confidence in the Customs Officers than he wants to place in them.

Mr. Deputy-Speaker: Order, order. Let the Minister proceed.

Shri A. C. Guha: Further, Sir, on the first day I gave a sort of assurance that by administrative instructions we shall see that the scope of this clause is limited to the barest necessity and that this will operate only in the case of certain articles. We shall also further issue instructions that our officers may use this power with discretion and fairness. I hope, now the Bill will be accepted by the House.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

APPROPRIATION (No. 2) BILL

The Minister of Finance (Shri C. D. Deshmukh): I beg to move*:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1955-56, be taken into consideration."

Mr. Deputy-Speaker: Motion moved:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1955-56, be taken into consideration."

Now, Dr. Lanka Sundaram.

Shri Bansal (Jhajjar—Rewari): Before the hon. Member begins to speak

may I know what is the time that has been allotted to the Appropriation Bill and the Finance Bill?

Mr. Deputy-Speaker: I will refer to the time allowed to the Finance Bill later. So far as this Bill is concerned Dr. Lanka Sundaram will have 15 minutes. Hon. Members are aware that under rule 237(5) only such hon. Members as have given advance notice to the Speaker that they would like to participate in the debate will be allowed to speak. So far I have received only a letter from Dr. Lanka Sundaram. Therefore, after he concludes, I will put the motion to the vote of the House and then we will take up the Finance Bill.

Some Hon. Members: Why not he be given some more time?

Mr. Deputy-Speaker: He may not have enough to say.

Dr. Lanka Sundaram (Visakhapatnam): Sir, the Statement of Objects and Reasons of this Bill states that it is intended to provide for the appropriation out of the Consolidated Fund of India of monies required to meet the expenditure charged to the Consolidated Fund and the Grants made by the Lok Sabha, with the result that I feel I should draw the attention of the House and particularly the attention of the hon. Finance Minister to a question relating to budgeting, spending and non-spending of monies voted by this House.

The House will recall that last year I had the temerity to bring up this question in a different manner and to say that there was dangerous, excessive manipulation of accounts—I am not suggesting any *malafides* there—and I asked the Finance Minister to answer some of the points I raised relating to the non-reconciliation of figures as found in the documents circulated in this hon. House. The House will also recall that at the end of the Budget debate last year my hon. friend the Finance Minister laid two

*Moved with the recommendation of the President.