

force or any other circumstances. There is no such allegation here.

Shri Feroze Gandhi: You say that this should have been raised immediately after the result was declared yesterday. For about half an hour we did not know what was happening here and we were outside. After the result was declared, the doors were kept locked for a long time.

Mr. Speaker: Order, order. Assuming that the point could be raised after the result was declared, it was open to the hon. Member immediately to come to the House and straight to the Chair. In such circumstances, it is very difficult to decide what the truth is, what the true circumstances were after a long lapse of time.

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): Before the Chair announced the result a chit was sent to him—I think, it was carried by one of the deputy whips—that 15 Members were standing outside. That was before the result was announced.

Mr. Speaker: That really does not touch the point at issue. The point of enquiry is as to why they were out. The *prima facie* reason was that they could not enter in. They should have come in in time.

Shri A. C. Guha: That was the point. They might be allowed to come in.

Mr. Speaker: They could not be allowed. They did not claim any exceptional circumstances, fraud force or any such thing. I have not the chit before me, but *prima facie* their point was that they were late for some reason or other and they should be allowed to come in. How can the Chair go against the rules and open the doors?

Pandit K. C. Sharma (Meerut Dist.-south): I raised the point yesterday.

Mr. Speaker: Now, yesterday's business is closed. We will proceed to the next business.

Dr. Gangadhar Siva (Chittoor—Reserved—Sch. Castes): Yesterday, an old Member who was engaged in the post office was not able to reach this House within two minutes. That is the case....

Mr. Speaker: We shall think of revising the rules to enable Members from all over the country to come for a division.

MAINPUR (COURTS) BILL

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri Datar yesterday:

“That the Bill to provide for the establishment of a Judicial Commissioner's Court and other Courts in Mainpur, be taken into consideration.”

I may inform the House that 28 minutes have been taken and 32 minutes are now available for this measure to be put through.

[MR. DEPUTY-SPEAKER in the Chair]

Shri L. Jogeswar Singh (Inner Manipur): Yesterday I was pointing out that it is necessary for the judicial officers to be conversant with Manipuri language. The original court must necessarily know Manipuri language. If the Judge carries on his business as presiding officer of the court without this knowledge, the efficiency of the administration of justice will not be up to the mark.

The Bill envisages that the administrative officers who are going to be posted in the hilly areas will be vested with the powers of a civil court. If an administrative officer posted in the hilly areas is vested with the powers of a civil court, he must necessarily know the local customs and the customary laws prevalent in those hilly areas. Otherwise, he will not be in a position to discharge his duty effectively and successfully. The only

[Shri L. Jogeswar Singh]

solution for this is to train young Manipuri law graduates or other Manipuri graduates as the case may be both from the hilly areas and from the plains to become suitable officers in these areas, and after proper training is given to them, they should be appointed.

Because of the peculiar social conditions and the customary laws prevailing in the hills and the plains, the nature of the civil suits in the courts in the plains and in the hill areas is full of complexities. The present Bill does not seek to remove these complexities. The only solution to remove these complexities is to appoint a committee consisting of the present judicial Commissioner, two senior-most Manipuri law graduates who at the moment are the Judges of Manipuri courts and two Manipuri S. D. Os. representing major communities in the hilly areas to advise the Government of India regarding legislation in this matter.

During the change-over in 1949 the powers which were vested in the Maharaja as well as in the then Revenue Tribunal were vested in the Chief Commissioner, as also the powers vested in the then Hill Bench. So, the position of the Chief Commissioner after independence is this, that he has the greatest judicial power. And no appeal can lie against the decision of the Chief Commissioner.

Another point that I would like to mention in regard to the administration of justice in the hill areas is that the so-called justice done in the hill areas is of a harmful and dangerous character because the Deputy Commissioner whose status is lower than that of a district and sessions judge can pass orders of death sentence against the hill Manipuris. I would like to know from the hon. Minister whether the present Bill would remove the anomalies which I have just cited with regard to the powers vested in the Deputy Commissioner in the matter of administration of justice

in the hill areas, or whether even after the passing of this Bill the present position would continue and the powers for trying criminal cases would be vested as before in the Deputy Commissioner. I shall be glad if the hon. Minister could clarify the situation.

I think I have now dealt with all the points that need to be dealt with in regard to this Bill, and I hope the Bill will get the assent and approval of all the Members of Parliament, to whatever party they may belong.

Shri Raghavachari (Penukonda): I do not belong to Manipur. Nevertheless, I would like to draw the attention of the House to one or two points which struck me as I read through the Bill.

The first point that struck me is in regard to clause 13, under which the power of admitting, suspending, removing or dismissing the people who are entitled to practise as advocates in these courts is entirely vested in the Chief Commissioner. Of course, I realise that generally the Chief Commissioner here is tantamount to a High Court, and therefore such powers must be vested in him. But the point is that there is no reference to the causes or reasons or the conditions under which he exercises these powers. It seems to be a case of an arbitrary power conferred upon him. So, unless there is absolute subservience there is the danger. . . .

The Deputy Minister of Home Affairs (Shri Datar): The words 'reasonable cause' are there.

Shri Raghavachari: I dare say the hon. Minister knows that when discretion is vested in a particular individual, reasonable cause means some cause which he mentions, and then there is an end of it.

Apart from this, what strikes me is that possibly the rules and conditions that ordinarily govern the legal practitioners under the Legal practitioners Act might be made applicable in a way, or at least in the rules to be made something like this should be

provided, for it is essential that some kind of control is there on the exercise of the powers vested solely in the Chief Commissioner. Otherwise, the whole body of lawyers will be at the mercy of this gentleman. If he happens to be a reasonable man, then we can expect reasonable exercise; otherwise, the reasons may be anything.

My second point is in regard to sub-clause (2) of clause 13, which reads:

"No person other than an advocate, vakil or pleader shall be allowed to plead or to act for parties and accused persons except that any party may appear, plead or act on his own behalf or on behalf of another party if so authorised."

One can understand that any party may appear, plead or act on his own behalf, because it is not necessary that there must always be a lawyer, and the party may himself become his own lawyer. But you go further and say: "or on behalf of another party if so authorised". That means that one party may plead for another party. At least the words 'in the same case' should have been there. But the provision here only says that one party can plead for another party. That means that every accused, or defendant or plaintiff in these courts can plead for others. In other words, you have allowed a number of people who chance to be parties to become lawyers. That is what this provision seems to imply. At least if you add the words 'in the same case' that would be something.

I can quote to you my own experience in this regard. In our courts, there was one Sivasankara Pillai, against whom there was a case for having done something in connection with a taluk board. He as the president of the board was one of the accused; and there were also 25 other co-accused. Now this man was a lawyer, and so, he said, 'I am an accused, I can plead my own case'. And he added, 'As for the other co-accused,

I am a lawyer, and therefore I can represent them.' Thus, he wanted to be an accused and also a lawyer. And that led to another difficulty, for he began to argue as to why he should stand in the dock always. He said, 'When I am put questions I shall be in the dock, but when I plead for others, I shall be in the place where a lawyer should be'. A contention like this actually arose in that case.

So, I would like to point out that the provision here that any party may plead for any other party (not necessarily in the same case) is likely to lead to some kind of confusion. I do not know what the intention of Government is in this matter. Perhaps, there are no lawyers in that part of the country, and therefore the parties are much better than lawyers, or at any rate, they must be given the privilege of pleading the cases of other people. That is how it looks to me. There is probably some such difficulty. So, at least if the words 'in the same case' be added at the end of sub-clause (2) of clause 13, it might possibly lead to some clarification.

Mr. Deputy-Speaker: The words 'save with the permission of the court' are there.

Shri Raghavachari: There are no such words in this clause.

Mr. Deputy-Speaker: If you read sub-clause (3) of clause 39 you will find:

"(3) The Code of Civil Procedure, 1908, shall apply to all suits and proceedings before the court of an officer invested with powers under sub-section (1) subject to the following exceptions, namely:—

(c) no appearance, application, or act in or to court, required or authorised by law to be made or done by a party in such court shall be made or done by a pleader (as defined in the Code of Civil Procedure, 1908) save with the permission of the court;"

Shri Baghavachari: But that refers only to the defence in a civil case. Anyhow, this is one point which may be clarified. That is how it struck me.

My third point is in regard to clause 7. I am not sure whether it actually leads to the fear which I am anticipating in my mind, but reading the clause as it is, it looks as if the jurisdiction of the Judicial Commissioner and the Additional Judicial Commissioner is co-extensive and also concurrent. Both of them can exercise all the powers. And between a 'Chief' and an 'Additional', if they could exercise all the powers, sometimes it might lead to confusion. The earlier portion, "Subject to such orders as the Judicial Commissioner may make as regards the distribution of business between himself and the additional Judicial Commissioner", might possibly avoid this confusion that might arise out of these concurrent or co-extensive powers. Otherwise, there is this danger, that people may choose one court for the other. I may just cite an analogy with regard to the Criminal Procedure Code. The revision powers after a discharge vested both in the District Magistrate and in the Sessions Court. Often times people, if they feel that they will have a better hearing—I do not wish to express it exactly—before the District Magistrate, will go to him; if they feel that they will have a better hearing before the Sessions Judge, they will go to him. It is a concurrent affair. Similarly, in all cases where this concurrent jurisdiction is vested, there is the possibility of this kind of consideration coming in. That might possibly be avoided.

Barring these two things, that struck me as I read the Bill, I would welcome the Bill because it now makes for uniform dispensation of justice in the manipur country—the hill and non-hill areas—and this might probably lead to a better and safer administration.

Shri S. S. More (Sholapur) rose—

Mr. Deputy-Speaker: The time-limit is 33 minutes.

Shri S. S. More: May I seek a clarification? I do not want to make a speech.

Shri Kamath (Hoshangabad): I am not going to speak on this Bill, but I would like to mention that we have saved about 1 hour and 50 minutes on the Indian Stamp (Amendment) Bill.

Shri M. S. Gurupadaswamy (Mysore): And also time saved on the Constitution (Seventh Amendment) Bill.

Mr. Deputy-Speaker: Let us wait until the session is about to be over. Then we will know exactly how much time is saved. Then we will strike the balance.

Shri Kamath: Here it is easier. It is not for myself that I am speaking.

Shri S. S. More: Clause 8 says:

"Save as otherwise provided by this Act or any other law for the time being in force, the Court of the Judicial Commissioner shall, with reference to any civil or criminal proceeding under any law for the time being in force in the State of Manipur, be the highest court of appeal, revision or reference".

My submission is that under the Constitution, the Supreme Court is the highest court of appeal, revision or reference. I believe I am correct so far as that position is concerned. Then does this mean that this Judicial Commissioner's Court shall be the highest court of appeal? How can it be? It is more in the nature of a sort of High Court.

Shri Datar: Powers given by the Constitution are supreme and those are covered by "Save as otherwise provided by this Act or any other law for the time being in force".

Mr. Deputy-Speaker: Subject to that, the other thing applies.

Shri S. S. More: My submission is this. If we take notice of that and

concede that the Supreme Court is the highest court, what is the point in saying that in spite of that law, this court shall be the highest court of appeal?

Mr. Deputy-Speaker: Supreme Court has not got normal jurisdiction in every case.

Shri S. S. More: Take, for instance, articles 132 and 136 of the Constitution.

Mr. Deputy-Speaker: Subject to the jurisdiction of the Supreme Court.

Shri S. S. More: What about another question that arises? Under article 226 of the Constitution, the High Courts have the power of issuing writs. As far as this Judicial Commissioner's Court is concerned, has it any power to issue writs, because under the Constitution High Courts have been conferred that power by a special article—226?

Mr. Deputy-Speaker: Is this a High Court?

Shri S. S. More: There is no definition to that effect. So what is the position? As far as Manipur is concerned, this would be the highest court. This will be in the place of a High Court, according to the scheme—if I am correct. But article 226 will not be applicable in this case.

These are the two points for the Minister to examine and say whether there is any substance in what I have said.

Shri M. S. Gurupadaswamy: This Bill wants to take away or remove certain anomalies and discrepancies found in the previous Acts, and this will appeal all the previous acts, in respect of the administration of justice in Manipur.

I want to raise one or two pertinent points in regard to the utility of the Bill. Firstly, we are all agreed that there should be one law in the country and there should be one procedure. Uniformity of law and procedure is a very sacred principle—if not sacred, a very important principle—that should be adhered to by all

concerned, especially by the executive. In this Bill, what are we doing? The Bill contemplates giving a law to Manipur different from the laws and practices prevailing in the rest of the country. I feel that this is highly discriminatory. The hon. Minister seems to have said yesterday—I was not here yesterday when he spoke—that the Manipuri people are very simple, comparatively, ignorant and are not well-versed in legal technicalities; so the law that is provided for Manipuris should be very simple. So this Bill seems to simplify the law for the benefit of Manipuris. Here I want to raise a very important issue; that is, whether we should adopt different laws, different procedures and apply them differently to different parts of the country. Is it consistent with the principle of the generality of laws which most of us have accepted?

Apart from this, the Bill gives enormous powers—delegated powers—to semi-judicial and executive officers. For instance, I may draw your attention to clause 9(1). According to this, the Judicial Commissioner may appoint a Registrar and the Registrar may deal not only with quasi-judicial and non-judicial matters, but also judicial affairs when they are entrusted to him by the Judicial Commissioner. This entrustment of judicial powers to an executive official will militate against the very principle of justice. The principle is that the executive officers should not be given or entrusted with judicial powers. That will lead to tyranny. We have been seeing in the last few months how the administration of justice is working in Manipur State and other States on the border. Many instances have been cited by various Members in this House and also by me as to how the laws in Manipur and other areas have been operating. So our previous experience and the present experience show that everything is not all right in the administration of justice in these areas. The main trouble, as far as I know and believe, is that.

[Shri M. S. Gurupadaswamy]

there has been perversion of justice or misapplication of justice, because the laws we have made for Manipur, the procedure and practices that are followed by those courts have not been consistent with the fundamental tenets of justice, fundamental principles of law that are applicable to various other parts of the country.

Sir, I want to know what is the special purpose in applying different sets of rules, different procedure, different law and a different pattern to Manipur? I think the only reason that the Minister can give is that Manipur State is a border State, it is a strategic area and it should be treated separately from the rest of India. If that is the reason, I should say that is not a valid reason. Strategy, tactics, expediency or cheapness of administration of justice should not come in the way of giving proper justice or administering proper law. What are you doing? By saying that you want to simplify the law for Manipur State you are taking away justice from the Manipur people. By saying that you want to give a simple procedure, you are entrusting a lot of powers to the executive officers. What is the Judicial Commissioner's Court? According to the Bill, the Judicial Commissioner is appointed by the President. He can be there and be removed at the will of the President. There are different sets of courts provided, District Courts, Subordinate courts and munsif's courts. But the rules for these courts are framed by the executive officials. Most of the sections of the Criminal Procedure Code and the Civil Procedure Code are given a go-by by the Minister. For what purpose? What is it that he is achieving by doing so? Is it because the Manipuris do not understand law that he brings this measure? Most of our people are ignorant of law. Take any part of India. You will see the common man cannot understand the technicalities of law and the rules of procedure. But, that does not mean that we should apply different sets

of laws or simplify laws for the sake of simplification. That is not necessary. And, as I said before, it will militate against the very spirit of democracy and the spirit of the Constitution.

Administration of justice should be governed by the fundamentals of jurisprudence. Justice should not be distributed by executive officials in a summary fashion. There should be proper evidence, proper procedure in the courts and there should be separation of powers between the judiciary and the executive. We have accepted all these tenets for the rest of India. Why not we apply the same thing to the Manipur State? I beg of the Minister to consider all these matters and see whether this particular law, if passed, will not set up a bad precedent, a bad law for a part of our country. I appeal to him that this Bill may be withdrawn and a new Bill may be introduced on the lines of other legislation. I appeal to him again before I close that this is a very bad law and I think the Manipuris will not be happy for it.

Shri Datar: Sir, a number of hon. Members have raised certain points while generally approving of the provisions of this Bill. I should like to answer all of them as briefly as possible.

The hon. Member from Manipur, Shri Jogeswar Singh, raised two or three questions. One was about the language to be used in the courts of Manipur State. In Manipur, Manipuri and English are official languages used in the courts; and, whenever it is found that any of the litigants does not know either English or Manipuri—because there are tribal languages also—then the proceedings are translated by civil interpreters attached to the court. I would assure the hon. Member that proper steps would always be taken for bringing home to the litigant the nature of the proceedings that are going on by interpreting them either in Manipuri or in any of the tribal languages to which he is accustomed. Under the Code of

Civil Procedure, which will subsequently be applied, these two languages will be recognised as the official languages of Manipur, namely, Manipuri and English.

So far as the local customs are concerned, even now the local customs are being followed. But, the suggestion made by my hon. friend Shri Jogeswar Singh is worth considering and, therefore, with a view to meet his point, I am just putting in an amendment by which I shall be making it clear that where, in any suit or proceeding, it is necessary for any court under this Act to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, any custom, if there be such having the force of law, or any personal law governing the parties or the property of the parties to such suit or proceeding shall form the rule of decision except in so far as such custom or personal law has, by legislative enactment, been altered or abolished.

Therefore, this new clause 42 which is to be added to this will meet the objection that the hon. Member has in view. It has been further stated that in the absence of any such custom that the Judge shall give his decision according to the justice, equity and good conscience. These are the ordinary provisions and, therefore, with a view to....

Shri Kamath: On a point of order, Sir. I expected—less than 24 hours after the defeat of the Government yesterday on the Constitution (Amendment) Bill, Members would be more attentive to the provisions of the Constitution and the rules made here. At least when the Minister is speaking, I expected that the ruling party would provide him a quorum. On a shortfall of only 2 the Government was defeated yesterday. There are hardly 20 or 25 Members now.

Shri Kasliwal (Kotah.—Jhalawar): It is nearing one o'clock.

Pandit K. C. Sharma (Meerut Dist.—South): They should have been

present here. At least the Whip should be present; he is paid for being present here.

Mr. Deputy-Speaker: I will have the bell rung.

I wonder what attraction is there in the Hall which is not here.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): The only way to have quorum is to close that Hall.

Shri Datar: May I proceed now?

Mr. Deputy-Speaker: It may be possible for the Opposition to defeat or rather prevent or block the passing of Bills sponsored by Government by absenting themselves from the House. There are several cases in which they can obstruct. Therefore, there is no point in counting on the Opposition to constitute the quorum to keep the Bill going. If it is a Bill where the Government is interested, they must always take care to keep the quorum because the Opposition cannot be trusted to help the Government. The hon. Minister may continue.

Shri Kamath: At any rate in this matter, no.

Shri Datar: In order to meet the point raised by my hon. friend, I am requesting you to allow an amendment which will be added as a new clause—it will be clause 42. It will point out that the customary law will have the force of law except where the custom has been abrogated or altered by any legislation, and that will meet the point that the hon. Member has raised.

Some other friends have raised one or two questions. So far as the application of the procedural law is concerned, there is no distinction at all between the rest of India and Manipur except to a very small extent, and that has been pointed out in clause 39. All that has been done is that instead of a written application, an oral request shall be taken into account and the procedure for re-

[Shri Datar]

ording evidence should be as simple as possible. My hon. friend Shri Gurupadaswamy will kindly understand that there is no desire to apply any other laws to Manipur. Therefore, my submission is that the administration of justice would be the same in Manipur as in the other parts of India.

So far as the objections raised by Shri Raghavachari are concerned, you will find that the position has been made very clear in the Bill itself. A lawyer or an advocate who has been allowed to practise can do so except where on reasonable grounds the Judicial Commissioner or judicial officer comes to the conclusion that his conduct is not proper. In all the other Acts like the Legal Practitioners' Act, we have got similar provisions.

One point was made out by him that a party can appear on behalf of another party to a suit or a criminal proceeding. I have just found in the Code of Civil Procedure a similar provision allowing one party to authorise another party, either the plaintiff or the defendant as the case may be, to carry on the work of a civil suit or a criminal complaint, and therefore there is nothing objectionable or unusual so far as this question is concerned. The rules that are to be made in this connection are the rules made by the Judicial Commissioner in consultation with the Chief Commissioner and, therefore, all the objections that have been raised are answered by me. I would point out again to this House that the principles of justice have not only not been taken away but they are fully made applicable to the Manipur Courts.

Mr. Deputy-Speaker: What difference will it make regarding clause 8? Some statement was made regarding writs and so on.

Shri Datar: In this connection I would invite your attention to clause 45, which says:

"The Court of the Judicial Commissioner established under sec-

tion 3 is hereby declared to be a High Court for the purposes of articles 132, 133 and 134 of the Constitution; and the provisions of the Judicial Commissioners' Courts (Declaration as High Courts) Act, 1950 shall apply to that Court as they apply to a Judicial Commissioner's Court in existence at the commencement of this Act."

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the establishment of a Judicial Commissioner's Court and other Courts in Manipur, be taken into consideration."

The motion was adopted.

Clauses 2 to 41 were added to the Bill.

Mr. Deputy-Speaker: The new clause that is proposed will be added as clause 42 and the existing clauses 42, 43, 44 and 45 will be renumbered 43, 44, 45 and 46.

Shri Datar: I beg to move:

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after line 34 insert:

"42. *Certain decisions to be according to custom or personal law.*—(1) Where in any suit or proceeding, it is necessary for any court under this Act to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, any custom (if such there be) having the force of law, or any personal law, governing the parties, or the property of the parties to such suit or proceeding shall form the rule of decision except in so far as such custom or personal law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force,

the court shall decide the suit or proceeding according to justice, equity and good conscience."

Sir, this is a new clause that is to be added and it will be clause 42. The existing clauses 42 to 45 will be renumbered as 43 to 46.

Mr. Deputy-Speaker: The question is:

"42. Certain decisions to be according to custom or personal law.—(1) Where in any suit or proceeding, it is necessary for any court under this Act to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, any custom (if such there be) having the force of law, or any personal law, governing the parties, or the property of the parties to such suit or proceeding shall form the rule of decision except in so far as such custom or personal law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the court shall decide the suit or proceeding according to justice, equity and good conscience."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That new clause 42 be added to the Bill."

The motion was adopted.

New clause 42 was added to the Bill.

Amendment made:

Renumber existing clause 42 as clause 43.

Renumber existing clause 43 as clause 44.

Renumber existing clause 44 as clause 45.

Renumber existing clause 45 as clause 46.

—[Shri Datar]

Mr. Deputy-Speaker: The question is:

"That clauses 43 to 46 stand part of the Bill."

The motion was adopted.

Clauses 43 to 46 were added to the Bill.

Shri Raghavachari: About the new clause I wish to point out that we have passed other laws uniformly applicable to all in the rest of India except a particular community. You want some customary law which is current in this part of India to be valid in this Act. In that case, you must say "Notwithstanding anything contained in other laws etc., etc." and that would be a much better wording.

Shri Datar: Even now customary law is prevailing in various parts of India and custom in some cases has actually the force of law; custom need not be proved.

Shri Raghavachari: What I was submitting was just to use the wording "Notwithstanding anything contained in other laws....."

Shri Datar: It has been made clear here that if at all any custom having the force of law is there, then only this section will come into operation; otherwise, it will be governed by the ordinary laws.

Mr. Deputy-Speaker: Yes, that is the intention and it is all right.

The question is:

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

The motion was adopted.

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

1 P.M.

Shri Datar: Sir, I beg to move:

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

Shri U. M. Trivedi (Chittor) rose—

Mr. Deputy-Speaker: We have already exceeded the time allotted. I will put the motion to the House.

The question is:

“That the Bill, as amended be passed.”

The motion was adopted.

An Hon. Member: One hon. Member is standing, Sir.

Mr. Deputy-Speaker: He is standing for another Bill.

RAILWAY STORES (UNLAWFUL POSSESSION) BILL

The Deputy Minister of Railways and Transport (Shri Alagesan): I beg to move:

“That the Bill to provide for the extension of the law relating to the punishment of the offence of unlawful possession of railway stores, as now in force, to the whole of India and to re-enact its provisions, passed by Rajya Sabha and as reported by the Select Committee, be taken into consideration.”

The House will remember that almost all the implications of the Bill have been gone into very thoroughly on the previous occasion when this Bill was before this House. In fact, during that discussion several doubts and apprehensions were expressed by hon. Members who participated in the debate saying that the definition is too wide and innocent persons may be put to difficulty and they may be harassed. It was with a view to remove those apprehensions and doubts that I agreed to the motion for reference to a Select Committee and it will be found that the Select Committee has made very considerable changes in the wording of the Bill. In fact, the objections raised have been sought to be met by the Select Committee and I should say the Bill as it

has emerged from the Select Committee should be considered much more satisfactory even by those hon. Members who previously expressed doubts regarding this measure.

There are only two clauses in this Bill. I shall just point out the changes made by the Select Committee. Clause 2 of this Bill seeks to define the term “railway stores” more clearly. With regard to clause 3 it was apprehended that it put a great burden on the accused because he had to prove that he came in possession of the article lawfully. Even that has been modified and a certain responsibility for proof has been thrown on the prosecution now. So, if the prosecution has to establish its case now it has to prove three definite things which were not in the Bill previously. Now, they must prove: (i) that the property is the property of the railway administration, (ii) that the accused was in possession of such property and (iii) that the property is reasonably suspected of being stolen or unlawfully obtained. If the prosecution proves these things then it is for the accused to prove that the article lawfully came in his possession. Unless he is able to prove that he suffers the consequences of the law. It would be noticed that some hon. Members—perhaps I should say that they have been unkind enough—have appended dissenting minutes. But, even they, I should point out, have admitted that the Select Committee has certainly improved upon the original Bill. Shri Nambiar and Shri K. K. Basu have said: “We recognise that substantial improvement has been made on the original Bill by the Select Committee.” Even my friend Shri Raghavachari says: “The modified definition is certainly an improvement.”

Shri Kamath (Hoshangabad): Why “even Shri Raghavachari”?

Sardar Hukam Singh (Kapurthala-Bhatinda): He had an objection in the first stage.

Shri Alagesan: I am prepared to omit the word “even” if my hon. friend takes exception to that.