

NOES

Aminad Ali, Shri
Barrow, Shri
Basu, Shri K. K.
Bhawani Singh, Shri
Biren Dutt, Shri
Bovvaraghasamy, Shri
Chatterjee, Shri Tushar
Chatterjee, Shri N. C.
Chowdhury, Shri N. B.
Dasaratha Deb, Shri
Deogam, Shri
Gadilingam Gowd, Shri

Gan Malludora, Shri
Gidwani, Shri
Girdhari Bhoi, Shri
Gupta, Shri Sadhan
Gurupadaswamy, Shri M. S.
Jena, Shri Lakshmidhar
Kamal Singh, Shri
Krishnaswami, Dr.
Majhi, Shri Chaitan
More, Shri S. S.
Muniswamy, Shri
Naidu, Shri N. R.

Nambiar, Shri
Nayar, Shri V. P.
Pandey, Dr. Natabar
Raghavachari, Shri
Ramswami, Shri M. D.
Rao, Shri Mohana
Reddi, Shri Ramachandra
Reddy, Shri R. N.
Singh, Shri G. S.
Subrahmanyam, Shri K.
Veeraswamy, Shri
Waghmare, Shri

✓ The motion was adopted.

✓ Dr. Katju: I introduce the Bill.

ADMISSIBILITY OF AMENDMENTS

Mr. Speaker: The House will now resume further consideration of the Coffee Market Expansion (Amendment) Bill, 1954. Of the 5 hours allotted to this Bill, 37 minutes have been availed of yesterday and 4 hours 23 minutes still remain. This will mean that this Bill will be disposed of by about 4-30 p.m. Thereafter, the next Bill on the agenda, viz., the Rubber (Production and Marketing) Amendment Bill, will be taken up, for which, as the House is aware, 3 hours have been allotted.

12 Noon

I may invite the attention of Members to the nature of some of the amendments which have been tabled, as I find that some of them are outside the scope of the Bill, particularly the amendment proposed by the hon. Minister of Commerce and Industry. The amendment which he has tabled for the addition of a new clause—20A—to the Bill, seeks to amend section 45 of the principal Act which is not sought to be amended either in the original Bill as introduced in the House or by the Select Committee in their report. Therefore, I do not think it is competent for him to move that amendment which is outside the scope of the Bill. The only remedy is, if he thinks fit to bring a separate piece of legislation to amend that particular section. I invited the attention of the House to this because I find that, even in regard to the Criminal Procedure Code,

a very large number of amendments—I have not counted the number—they may come to over 300—are beyond the scope of the present Bill now before the House. Of course, there, the hon. Home Minister has not tabled any such amendment.

Shri Sadhan Gupta (Calcutta—South-East): A ruling may be given.

Mr. Speaker: I shall give it when the occasion arises, when the Bill is taken up,—not at this stage.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I would like to apologise to the House for having tabled that amendment, but the House will understand the purpose behind the amendment. It is to regularise the procedure in conformity with the needs of the Constitution, namely, to empower the Auditor-General to inspect the accounts. But since you have ruled that it should be done by a separate Bill, we should certainly bring a separate Bill for that purpose. So, I would like to offer my apologies for having taken up the time of the House by tabling that amendment.

Mr. Speaker: I am now only concerned with the admissibility of the amendment and not with its merits. I only said that it is out of order and not that the amendment is not a desirable one. It may be very desirable, but the procedure was not correct. That was the only point which I wanted to mention.

Now, I would like to refer also to the Criminal Procedure Code, because

I find that on account of a sort of misapprehension over the scope of the amendments, a large number of amendments are being tabled to the Criminal Procedure Code (Amendment) Bill, with the result that the Secretariat has unnecessarily to go through a large amount of work, ultimately to see that the amendments cannot be permitted. I may, I think, as the occasion has arisen, clear the position here. There may be some misapprehension on the part of Members that in tabling amendments to the Criminal Procedure Code, they may try to touch and amend any section of the Code, because, when the consideration motion for sending the Bill to the Select Committee was made, a direction was given that the Select Committee may consider any other provisions in the Bill which did not find a place in the Bill as introduced. There was, therefore, room for a misconception that such amendments could be tabled. Subsequently, what happened was that the Select Committee has clearly stated in its report thus:

"The Joint Committee desire to state in this connection that many amendments and suggestions relating to certain sections of the principal Act not covered by the amending Bill were submitted to the Committee. As some of these raised important issues, and opportunities for eliciting public opinion thereon had not yet been given, the Committee are of the view that these should be taken up for consideration after circulating them for public opinion. They therefore recommend that all such amendments".....

that is, all amendments to sections not covered by the Bill as introduced,—

"may be referred to the Government, who will obtain the opinion of the public thereon and if necessary bring before the House another suitable amending Bill to the Code of Criminal Procedure,

1898, as far as possible within one year."

After this, when the Bill, as reported by the Select Committee, came before the House, there was an attempt to re-commit the Bill to the Select Committee and send the Bill for eliciting public opinion. These amendments were by Pandit Thakur Das Bhargava and Shri Syamnandan Sahaya—about re-commitment of the Bill and circulating the Bill for eliciting public opinion. The House negatived these amendments, which means the Bill before the House now is the Bill only as originally stood and as reported by the Select Committee, because, the Select Committee, at that stage, had not taken into consideration some of the amendments which, by the first direction of the House, were submitted to the Select Committee. Therefore, there is now, to my mind, no scope for any amendments to sections which are not covered by the Bill as reported by the Select Committee. I make clear this position at this stage as I do not want the work to be multiplied unnecessarily.

Shri S. S. More (Sholapur): Will you permit us to have our say in this matter, or, are we to accept what you have stated as a definite ruling?

Mr. Speaker: It has to be accepted as a definite ruling, because I am proceeding on the clear principle that any section not touched by the amending Bill should not be touched again by any amendments to the Bill. The direction of the House was there—I quite see that—but the Select Committee, after having considered the direction thought it proper not to consider some of those amendments at all, and recommended that Government should do whatever they thought proper in respect of those amendments.

Shri S. S. More: Is it not open to the House to stick to its original direction?

Mr. Speaker: If the hon. Member had heard me, perhaps his point would not have arisen. Therefore, I did not raise any such point as the amendments were coming in. It was only

[Mr. Speaker]

after the rejection of the specific proposition before the House for recommitting the Bill to the Select Committee to consider all amendments as also for circulating the Bill for eliciting public opinion, that there is now the firm decision of the House. The House, in the first instance, gave directions only and required the Select Committee to consider them. The Select Committee gave its own decisions and said that, as they were not circulated for eliciting public opinion, it could not consider them. The directions were complied with by the Select Committee. It considered them, but ultimately the Bill, as it has emerged from the Select Committee, is the original Bill with some amendments and not a Bill with all further additions. If the Select Committee had taken into consideration any of the amendments in pursuance of the directions of the House, had adopted them and laid the Bill before the House, matters would have been different.

Shri S. S. More: May I bring to your notice that the Select Committee had taken certain provisions into consideration, which were not covered by the Bill?

Mr. Speaker: It is no use going back again further on the point. Whatever has been reported by the Select Committee will be taken into consideration. The amendments on these points will be quite in order. But the amendments with regard to which the Select Committee said "we are not going to consider them at all," and those which they advised to be circulated—those amendments—to my mind, to the original sections cannot come before the House as they are not touched by the Select Committee even in pursuance of the directions of the House.

Shri Shihama Singh (Gorakhpur Dist.—South): May I know whether the Select Committee can go against a specific direction of the House, to go into all the provisions of the Criminal Procedure Code irrespective of the Bill pending in the House? I want to know

whether the Select Committee was competent to go against the directions of the House.

Mr. Speaker: The motion was rejected by the House. I did not think I need read the motion, as the matter was there in the minds of the hon. Members. Those amendments were rejected, and a specific amendment, that the Bill be taken into consideration, was moved. The first amendment was:

"That the Bill as reported by the Joint Committee be re-committed to the Joint Committee with instructions to report in respect of amendments which the Joint Committee failed to consider as 'some of these amendments' as mentioned in para. 55 of the report 'raised important issues and opportunities for eliciting public opinion thereon had not yet been given' in spite of instructions by the House to the Joint Committee to report about all such amendments."

The other is,—

"That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon along with the amendments which the Joint Committee failed to consider, for the reason that 'these amendments raised important issues and opportunities for eliciting opinion thereon had not yet been given.'"

These were definitely rejected by the House.

Shri S. S. More: The circulation was rejected.

Mr. Speaker: There is no use making fine distinctions over it. One thing is very clear. The House rejected re-committal and circulation—both.

Shri R. D. Mishra (Bulandshahr Dist.): The Home Minister assured us that all the amendments tabled will be considered in this House. We have

rejected the proposal that this Bill be referred back to the Joint Committee and we have rejected the motion that it should be circulated. The House is authorised to consider all the amendments, and the Home Minister assured us that all those amendments will be considered and the procedure simplified and not complicated. So, we must follow a good procedure here. Any amendments which are within the bounds of the aims and objects of this measure must be considered by the House. When the House threw open the door for the Select Committee to consider any amendment of the whole of Criminal Procedure Code, the House itself should have an opportunity to do so at this stage. I, therefore, submit that this House has full authority to consider amendments to every section of the Criminal Procedure Code.

It is our object that the Criminal Procedure Code should be simplified. It is a complicated piece of legislation at present. So, every opportunity must be given to this House. We do not want it to be referred to a Commission; we do not insist upon its circulation. All that we want is the right to consider every amendment to any of the sections of the Code. Dr. Katju had privately promised to me about this. He made a statement in the course of his speech yesterday, that the House will have every opportunity to consider any amendments. So, my submission is that the whole of the Criminal Procedure Code should be gone into by this House. The Code, as it is at present, is worth nothing. It should be thrown out and the Code simplified.

I am not pleading here as a lawyer that the accused should be given this facility or that facility. All that I want is the evolution of a simple procedure and the key-note of that procedure should be that the guilty should be punished and the innocent should be given every opportunity to defend themselves and if found so let off. I would therefore, request you to reconsider your ruling in the light of these facts.

I have gone through *May's Parliamentary Practice*. When a Bill is referred to a Select Committee that Committee is entitled to go through the whole law on that subject. If the Committee has not done so, our rights are not curtailed thereby.

Pandit Thakur Das Bhargava (Gurgaon): It is very unfortunate that the direction of the House was not complied with by the Select Committee. It was to get that corrected that I placed a motion before the House which I am very sorry I did not succeed in getting passed.

The other day when I was in the Chair and my hon. friend Shri Nemi Saran Jain was speaking the very same question arose. I told him that since the House has taken a decision that the entire Criminal Procedure Code can be amended by the Select Committee he will be perfectly at liberty to bring any sort of amendment he chose to. He put another question to Dr. Katju as to whether his amendment which is not really covered by what has been done by the Select Committee will be in order and Dr. Katju replied that it will be in order and he can suggest any amendment. That is what happened two days back. At the same time the hon. Home Minister in his reply at the consideration stage was also pleased to assure the House in very definite terms that any amendment to the Criminal Procedure Code will be considered by the House. I think, Sir, that the various provisions of the Criminal Procedure Code are so interwoven, inter-mixed and inter-connected that we will not be justified in amending only certain sections leaving the rest for consideration on a future occasion. The Select Committee stated that it is not advisable to go into the whole Bill as opinions have not been elicited upon certain points. We know from the authority of Dr. Katju himself that the House has received many opinions and the Bill has been circulated for even suggestions which were not germane to the original Bill. In these

[Pandit Thakur Das Bhargava]

circumstances, the House will be perfectly justified in taking into consideration all the amendments before the House. If we are going to amend, for instance, section 162 how can we omit section 172. They are parts of the same thing. At the same time no amendment to the Criminal Procedure Code will be justified unless we touch sections 161 and 172. Once the House has taken a decision that the entire Criminal Procedure Code is open to amendment, it should stick to that decision. The fact that the Select Committee did not obey the directions of the House does not take away the rights of hon. Members of this House to make amendments to the Bill.

Shri Sadhan Gupta: Sir, I want only to add this to what Pandit Thakur Das Bhargava said. There is the Home Minister's assurance and there is also the ruling of Pandit Thakur Das Bhargava from the Chair that all amendments to the Code would be open and Members could table any amendment to the Code, in view of the fact that the Select Committee did not consider, did not follow, the instructions of the House to consider and report on amendments.

You will remember, Sir, that during the debate on the Constitution (Amendment) Bill, a question arose about Mr. Pataskar's ruling from the Chair. You then definitely stated that it was not even in your power to reopen the Chairman's ruling. Therefore, I submit that since Pandit Thakur Das Bhargava has ruled from the Chair that amendments would be permissible, it should be open to us to table amendments to any other provision of the Bill, apart from the provisions on which the Select Committee has reported.

Shri T. Subrahmanyam (Bellary): I submit, Sir, it is only proper for us to confine ourselves to the sections that are sought to be amended by the Bill. I cannot vouchsafe for what the hon. the Home Minister said yesterday, but I am positive that even the Home Minister

cannot commit himself to a procedure which would be against the rules that we have adopted. If we reopen this question of allowing amendments to all the sections of the Criminal Procedure Code, I am sure that the time available for this House during this session and the next session also would not be sufficient to complete this work. Therefore, we must confine ourselves to the amendments that have been made in this Bill and not reopen the question of allowing other amendments.

Shri M. A. Ayyangar (Tirupati): Sir, I was present yesterday when the hon. the Home Minister was replying to the debate on the motion for consideration of the Bill. I understood from what he said that he did not give any general assurance that any kind of amendment to any section in the Code, not covered by the Bill, could be taken into consideration. He was referring particularly to the cross-examination of witnesses at the preliminary stage. He said that if the House so wants let us consider that matter. I was then in the Chair. I understood from what he said that he was willing to consider any of those matters which were considered in the Select Committee, and even those matters which were rejected by the Committee, if the House so desired. That is all that he gave on the floor of the House. I do not know how hon. Members have interpreted his statement otherwise.

Regarding the assurance or the ruling that is said to have been given by Pandit Thakur Das Bhargava, normally that was not an occasion when a ruling of that kind could have been given. I am not questioning the ruling of the Chair.....

Shri S. S. More: On a point of order.

Shri M. A. Ayyangar: I know the Rules of Procedure and the position of the Chair also. I also sit in the Chair. I am not impeaching, if the Chairman gives a ruling I am not going to impeach it, nor do I expect that my ruling would be impeached by you. The point for consideration is this. I am only referring to the circumstances

to consider. After all, any ruling has also to be applied to a further case. If we say that that ruling was only to that particular case and not to other cases I am certainly within my rights and any hon. Member can distinguish a particular ruling, never questioning the legality of that ruling.

What I understand is this. At a stage when one of the amendments that was tabled was for recommitment to the Joint Select Committee for the purpose of considering those other sections of the Code which were not touched upon by the Joint Select Committee on the ground that it would involve many matters of importance and substance and that it must go back to the country with opinions and so on and it therefore suggested a separate amending Bill, at that stage an hon. Member said that he wanted to go into that matter, and the Chairman said then that these matters may be considered at the appropriate time with respect to that Bill. But in spite of it, the very hon. Member who gave that ruling pressed his motion for reference back to the Joint Select Committee and then for the Joint Select Committee to consider those other sections of the Code which were not covered by the Bill, and that was thrown out.

Whatever kind of obiter dicta was given by the Chair, it ought not to be considered a ruling. It is not that that Member refused to vote or that the other Members accepted that assurance. When all these matters were taken into the House then there is an estoppel. If they were not taken the position was different. But they pressed it into an issue and divided on this issue irrespective of party considerations.

Under these circumstances that is only an obiter dicta which is not binding on you or me or any Member. I therefore agree with you. It is impossible; then there is no need for a Bill. If the moment a section of an Act is amended the whole Act can be gone into, where is the end to this? Are we bringing proper consideration

on this? It is intended we must consider every single thing we do. It must be interpreted from every section. The Courts are there. They may agree or they may not. What the Joint Select Committee itself found difficult to go into for want of time or for want of sufficient data on this matter, if we on the floor of the House were to introduce amendments relating to those other sections and to accept or not to accept them, it will be the travesty of doing proper legislation on the floor of the House.

With all respect I agree with the ruling you have given. I request you to stick to that ruling.

Mr. Speaker: We are only discussing generally, and therefore a little more vaguely also. All that I intended to do was to point out, incidentally, because of the one specific amendment to the Coffee Bill which I ruled out, that a Member should remember that amendments only within the scope of the Bill will be permitted and no other amendment. And with a view to save further time of the House and work in the Lok Sabha Secretariat, I stated that any amendments to sections not included in the present Bill will not be permissible. That was too wide a statement perhaps.

It is possible to conceive that a matter may be connected, may form part of one substance, and may therefore, require an amendment in another section which is not touched by the particular amending Bill. But in such cases, the rule is very clear that such amendments are permissible. It is not that a particular section only must be referred to; the substance of the matter has to be looked to.

So I was giving general direction about the admissibility so that Members under the old impression, as I thought from the number of amendments tabled, may not spend their time and take the time of the Office in giving and having the amendments scrutinized, I wanted to clear the impression, that it is wrong to sup-

[Mr. Speaker]

pose that because of certain discussions or certain statements in the House, any section of the Criminal Procedure Code, whether related to the Bill before the House or not, can be amended; that would be a wrong thing to go upon. That is the substance.

And in a sense I have clarified the ground. I need not repeat anything more. I think the hon. the Deputy-Speaker has clarified it further. At present it is only an indication as to how the Chair's mind is working and how the Chair will rule; but it will be in the light of specific amendments which will come that I shall have to decide. But just a little word of caution that people may not table amendments to any and every section under the impression that the whole Criminal Procedure Code is open for discussion. That is the only thing which I have to say. When the specific amendments come in, we shall see.

Shri R. D. Misra: On a point of order. I do not follow you, Sir. The whole of the Bill is to be determined. I have not understood the meaning of the word, 'scope'. Whether scope is to be taken from the substance of the Bill or is to be derived from the title and the aims and objects of the Bill—I want your ruling about the meaning of the word 'scope'. In my humble opinion we must take the title of the Bill, the preamble, the enacting formula and the aims and objects in consideration in determining the scope of the Bill. When we are going "to amend the Code of Criminal Procedure", is it the meaning of the word 'scope' that only certain sections laid down in the Bill are to be gone into? I want to understand the word 'scope'.

Mr. Speaker: I do not propose to go into that discussion, because it will be only a general discussion leading us nowhere. It is impossible to exactly define the scope of every Bill and give a general definition which will include all Bills that are likely to come before this House. We have to decide the scope of the Bill on the merits of each case and the facts of each case, as to

what the scope is; and that will be the function of the Chair, and neither that of the Home Minister nor that of any other Member.

In this connection I might also say that the Deputy-Speaker observed during the course of the debate as follows. He has spoken just now and I support him further by quoting him:

"The main point for consideration is that there is an amending Bill touching certain sections. But reference to every section of the Criminal Procedure Code, which calls for repeal or modification will not be within the scope of this amendment. The amendment is for sending the Bill back for reconsideration by the Joint Committee. The sections which have not been touched cannot form the subject matter of discussion now."

That is what the Deputy-Speaker had ruled; and the general directions given in the old precedents are as under:

"The President pointed out that it was conceivable that in certain exceptional cases the scope of an amending Bill might be covered by certain sections of the original Act which were not specifically referred to in the amending Bill"—that is what I stated some time back—"and held, in this particular case, that when Government came before the House with an amending Bill to extend the life of an existing Act which imposed a duty or levied taxation, the amount of that duty or taxation was also open for discussion, and the circumstances the amendment in question was in order."

The point is, as I said, if there is one connected point, then amendments will certainly be admissible, because that subject is touched by the amending Bill. When we say that an amendment cannot be permitted to a section which is not touched, we say so broadly speaking, because each subject is taken in the form of each section. But, a case may arise when one matter is connected with or stated in different sec-

tions, in which case, if there is a connection, then, an amendment even to a section which is not touched by an Amending Bill may be permissible. Each case has to be judged on its own facts. No general rule can be laid down on this. I merely wanted to give a general direction. I can see from the amendments tabled that there was a general misconception. It has also been disclosed during the short discussion on this point that some misconception or misunderstanding has been there.

COFFEE MARKET EXPANSION (AMENDMENT) BILL—concl'd.

Mr. Speaker: The House will now proceed further with the Coffee Market Expansion (Amendment) Bill.

Shri Keshavalengar (Bangalore North): Mr. Speaker, I was submitting to this House yesterday that from any point of view, this is an industry which is akin to agriculture and resorted to mostly by small scale planters and it eminently deserves every help at the hands of the Government.

[MR. DEPUTY-SPEAKER in the Chair]

I would like to suggest that from a consideration of the nature of the commodity involved, coffee is not an essential commodity. Nor is it a semi-essential commodity. It is almost a non-essential commodity. In spite of that, we have to consider other facts. It is the export of this commodity that fetches us a large amount of dollars. Taking into consideration one other aspect namely the consumers who are involved in this matter, even there, coffee is not a drink of the common man. A few rich and perhaps many middle class people resort to this drink. From the production of coffee, it looks as if barely about 20 lakhs of our citizens drink coffee. It comes to this. Barely about 1 per cent. of the population of 36 crores in our country resort to this drink. Even from the point of view of production, this commodity has a world-wide market. Out

of the world output, India is producing only one per cent. and that too of the finest variety of coffee. This variety of coffee is deemed to be so fine that in England and other places, they purchase this coffee even though it may be in a small measure, and blend it with other kinds of coffee from Brazil, South America, South Africa and other countries. That shows how important it is that we should devote every attention possible for the well-being of this industry and improvement of the same.

We find that under this Bill, quite a large number of significant and far-reaching modifications in the structure of the Coffee Board are sought to be made. Before I go into the nature of the changes involved, I would like at once to ask my colleague to point out the need for these changes. Where is the hurry for these changes? Are we to understand that the Coffee Board as it is now in existence is not functioning properly or it has ceased to function. If only you will please see the report on the working of the Coffee Board for 1953 by the Ministry of Commerce and Industry, the Ministry has bestowed some compliments on the working of Board. It reads like this:

"After the industry was helped to tide over the crisis, the Board came to be established on a more permanent footing with a view to setting the industry firmly on the road of steady rehabilitation.

The trend in expanding coffee acreage and increasing production since the Board was founded in 1940, is a measure of the stability and confidence restored to the industry."

These are the terms in which the Ministry of Commerce speaks about the working of the Board.

When we take into consideration how the Board has functioned, we find that the coffee acreage which was 183,000 acres in 1940 now stands at 250,000 in 1952. The production of coffee which was 15,550 tons in 1940 has risen to 29,000 tons this year. In