

Clause 1 was added to the Bill

The Enactment Formula and the Title were added to the Bill.

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

"That the Bill as amended, be passed."

I do not like to say anything more. There has been sufficient discussion on this Bill and I think that the Government will take sufficient steps to minimise the difficulties of the people in the interim period. Publicity work will be done and every step to educate the people in the metric system will be taken. As I have already stated, another measure from the Commerce and Industry Ministry will be coming before this House in due course for implementing the metric system in the weights and measures. As originally said, I hope that within the period of about 15 years it will be possible for the Government to introduce the metric system in all the centres.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

#### LAND CUSTOMS (AMENDMENT) BILL

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move:

"That the Bill further to amend the Land Customs Act, 1924, be taken into consideration."

This is a very simple Bill. We are going to extend some of the sections of the Sea Customs Act also to land customs. Under section 9 of the Land Customs Act, certain sections of the Sea Customs Act are already applicable to land customs also. But the House may recollect that during last session we passed a Bill amending the Sea Customs Act and certain sections were added to the Sea Customs Act. We want those sections to be introduced for the land customs also.

I do not like to say anything in this connection now. If there be any points mentioned by the Members, I shall reply to those points. This is a simple measure and I hope that the Bill would be passed.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Land Customs Act, 1924, be taken into consideration."

Shri Kasliwal (Kotah-Jhalawar): The hon. Minister in moving that the Bill be taken into consideration has said that this is a very simple measure. In the Statement of Objects and Reasons also it is said that:

"The object of the Bill is to include in the existing Schedule to the Land Customs Act, 1924 the new provisions contained in the Sea Customs (Amendment) Bill, 1954."

I have carefully examined some of the provisions of the Sea Customs (Amendment) Bill which has become an Act, which are proposed to be incorporated in the Land Customs (Amendment) Bill. If you please see the Schedule which is proposed to be amended, you will see section 25 of the Sea Customs Act, which was amended by the Sea Customs (Amendment) Bill of 1955. It reads like this:

"In the proviso to section 25 of the Sea Customs Act, 1878 (hereinafter referred to as the principal Act), for the words "without payment of duty", the following shall be substituted, namely:—

"without payment of duty if no drawback in respect of the goods has been allowed under section 43B, and on payment of duty equal to the amount of the drawback if drawback has been allowed under that section."

I would like to know from the hon. Minister which particular section is being made applicable now, whether it is section 25 as amended by the Sea Customs (Amendment) Bill is being incorporated or whether it is the old section 25 which is proposed to be

[Shri Kasliwal]

introduced by this amendment. The amendment which has been made in the Sea Customs Bill, I respectfully submit, has no application to the Land Customs (Amendment) Bill. That is one of the points that I wanted to bring to the notice of the hon. Minister.

Another section which is proposed to be made applicable is section 37. This section was also amended by the Sea Customs (Amendment) Bill. The amendment reads like this:

"Explanation.— A bill of entry shall, for the purposes of this section, be deemed to be delivered—

(a) when it is first presented to the proper officer of Customs; or

(b) where it is delivered in anticipation of the arrival of the importing vessel, on the date on which an order is given under section 57 for the entry of the vessel inwards."

I want to know how these words are being made applicable to the Land Customs (Amendment) Bill. Land Customs have nothing to do with any vessel whatsoever. As I said, in the previous Bill, the provisions related to drawback and vessel. Here also the same thing is occurring. Sections 57 and 43-B are not being incorporated in the Land Customs Act. I would like to know whether the hon. Minister has given thought to these two or three points or whether just because some Customsmen have put in these clause in the Sea Customs Act, they are sought to be incorporated in the Land Customs Act.

Then, they want to incorporate section 81 of the Sea Customs Act. That section was not amended by the Sea Customs (Amendment) Bill, 1955. In a very funny manner this section was only amended by the Sea Customs (Amendment) Bill. It says:

"In the Schedule to section 167 of the principal Act—

(a) after item 76, the following items shall be inserted, namely.....

(b) in item 80.....the following shall be substituted.....

(c) after item 80, the following item shall be inserted...."

They propose to take hold of section 81 of the Sea Customs Act and incorporate it in the Land Customs Act. This is a penal clause. The penal clause is already there in existence in the Land Customs Act, section 7. There is a conflict between sections 7 and 81. I really do not know how these two sections are proposed to be incorporated in the Land Customs Act.

As I have already referred to, the Statement of Objects and Reasons shows that new provisions contained in the Sea Customs Act are being incorporated. On the otherhand, all the provisions are not being incorporated. Take clause 7 of Sea Customs (Amendment) Bill. Clause 7 clearly relates to arrival of vessel. Again, clause 8 relating to section 86 is not being incorporated. It is quite wrong to say that all the provisions of the Sea Customs (Amendment) Bill are being incorporated into the Land Customs Act. What I want to say is this. I have no objection to these amendments being incorporated in the Land Customs Act. The point that I am driving at is the method in which this Bill is being brought. That is why all these small mistakes are occurring. The Land Customs Act is being amended in the light of the Sea Customs Act. The Sea Customs Act has been amended half a dozen times. Some of the amendments have been incorporated in the Land Customs Act by way of amendments. The Sea Customs Act was amended by this House in 1955. Certain provisions were incorporated. Those amendments are being incorporated into the Land Customs Act now, by way of amendments. All this confusion has arisen. I wish the hon. Minister had brought a comprehensive measure. You may call it a consolidating measure or an amending measure. If a comprehensive measure had been brought, all these difficulties would not have arisen. In that case, the common people themselves would have been able to

understand what is really meant by Land customs. I myself am unable to understand this measure. Everything you refer to some provision in the Sea Customs Act. The Sea Customs Act has been amended dozens of times. We really do not know what the amendments are. That is all I have to say.

बीडित ठाकुर दास भार्गव (गुरुगांव): लैंड कस्टम्स का जो नया बिल लाया है उसके अंदर एक जनरल बात यह है कि जो एंमंडमेंट सी कस्टम्स एक्ट में हुआ था उसको इस बिल के अन्दर भी इनकारपोरेंट किया जा रहा है। मरं लायक दोस्त श्री कासलीवाल ने तीन, चार संवशंस की तरफ तबज्जह दिलाई जिन में न वेंसेल का ही सवाल है और न सी का ही सवाल है। फिर भी उसको लैंड में लागू कर दिया गया है। इस में कोई शक नहीं है कि जो ऑरिजिनल लैंड कस्टम्स एक्ट है उसके अन्दर जो आखिरी दफा ६ है, उसमें जनाब मुलाहजा फरमाएंगे कि बहुत सी बातें इस तरह से तब्दील कर दी गई हैं और इस तरह से लागू कर दी गई हैं कि जैसे सी के बजाय लैंड कर दिया गया हो, लेकिन वह सिर्फ सी कस्टम्स में ही लागू होती। वेंसेल की भी तारीफ कर दी गई है और उसको सी और लैंड दोनों में ही बकसां लागू कर दिया गया है। मैं यह समझ सकता हूँ कि लैंड और सी कस्टम्स एक्ट अलाहदा बनाने में दिक्कत होती इसलिए सी कस्टम्स एक्ट को ही लैंड कस्टम्स के लिए भी लागू कर दिया गया। लेकिन जनाब को याद होगा कि अब पिछली मर्तबा एंमंडमेंट किया गया तो एक दफा के ऊपर बड़ा सख्त तनाजा हो गया जो कि बर्हन आफ प्रूफ के बारे में थी। मैं उस सारं तनाजे को रिवाइव नहीं करना चाहता। हाउस के अन्दर फेंसला हो गया, और दोनों तरफ की बातें सुन ली गई। लेकिन मैं गुहा साहब की खिदमत में अर्ज करना चाहता हूँ कि गां उस वक्त उनकी तजवीज पास हो गई लेकिन वह तजवीज अपने नेचर से ऐसी है, यानी कि लैंड कस्टम्स में और सी कस्टम्स में बर्हन आफ प्रूफ फस पर हो, इसमें दोनों में बहुत ज्यादा फर्क है। जो हालात सी कस्टम्स के मुताबिक हैं वह सारं के सारं हालात लैंड कस्टम्स को एंफाई नहीं

करते। सी कस्टम्स के अन्दर जो स्मर्गलिंग होती है और लैंड कस्टम्स के अन्दर जो स्मर्गलिंग होती है वह दोनों आइडीन्टिकल तरीके से नहीं होती। दोनों के अन्दर जो परंशानियां हैं उनके अन्दर बहुत फर्क है। मैं अर्ज करता हूँ कि पिछले मर्तबे पर बर्हन जोर शोर से इस हाउस में कहा गया था कि इस बर्हन आफ प्रूफ को बंद करने से लोगों को बड़ी सख्त तकलीफ होगी और बहुत से बंगु-नाह आदमी क्लबज आफ ला में आ जाएंगे। मैं गुहा साहब की खिदमत में अर्ज कर देना चाहता हूँ, गां मैं इस पुरानी कंट्रोवर्सी को रिवाइव नहीं करना चाहता, लेकिन मैं इस चीज को अपने दिल से हटा नहीं सकता कि उस वक्त मैं ने बर्हन सख्त अल्फाज इस्तमाल किए थे, यहां तक कि कई मिनिस्टर साहबान ने बाकजात के बर-खिलाफ बहस कर दी थी कि यह कानून सिर्फ ट्रेडर्स को ही लागू होगा। मैंने उस वक्त भी कहा था कि यह बात गलत है कि इस में एंमंडमेंट करने से सिर्फ ट्रेडर्स का ही सवाल है। मैं अब भी अर्ज करता हूँ कि इसका बहुत बड़ा ताल्लुक पब्लिक से है। बर्हन आफ प्रूफ के तब्दील करने से नतीजे दिगर्ग हो जाते हैं—अगर महाब किसी आफिशल के माइन्ड में यह आ जाए कि एक चीज स्मगल है तो उसको साबित करने की उसको जरूरत नहीं रहती। क्योंकि जब हर एक मुकदमे में, हर चीज में यह साबित करना होता है कि यह चीज स्मगल है तो क्यों ऐसे मुकदमे में यह साबित करने की जरूरत नहीं है। अगर किसी आफिशल के दिमाग में आ गया कि उसको रीजनेबल बिलीफ है तो वह साबित करने की जरूरत नहीं है कि यह स्मगल है। रीजनेबल बिलीफ के क्या माने हैं यह मैं नहीं जानता हूँ क्योंकि जहां तक मैं ने क्रिमिनल प्रोसीजर कोड को पढ़ा है और उसको समझा है उसके मुताबिक तो इसके कुछ भी माने नहीं हैं। हर एक थानेदार को यह अख्तियार है कि रीजनेबल बिलीफ की बिना पर किसी को भी गिरफ्तार कर ले, चाहे बाद में वह आदमी छूटता ही फिर। वह अल्फाज बंग, अनइन्टेलीजबल और फ्लॉक्सीबल है और हर एक चीज इसमें आ जाती है। इसका कोई स्टैंडर्ड नहीं है। रीजनेबल बिलीफ के अल्फाज को रखने से वह नतीजे

### [पंडित ठाकुर दास भार्गव]

निकलेगा कि जो बर्द्धन आफ प्रूफ होगा वह एक्यूज्ड पर पड़ेगा। पिछली मर्तबा यह गलती हो गई थी और अब मैं चाहता था कि इस गलती को फिर नए सिरे से दखा जाता। पिछली दफा जब सी कस्टम्स बिल पर बहस हुई थी उस वक्त मैं ने और श्री टंक चन्द जी ने कई मिसालें दी थीं कि इससे कितनी ज्यादा तकलीफ होगी। उस वक्त यह सवाल तब कब दिया गया था। अब उसी के आधार पर और उसी बिल की प्रॉविजनस के बेसिस पर लैंड कस्टम्स बिल तैयार किया गया है। मैं समझता हूं कि इससे आसान और कोई चीज नहीं हो सकती थी। इस तरह से एक से एक कानून बना देना ठीक नहीं है। हालात डिफरेंट होते हैं और उन हालात को देखते हुए ही बिल तैयार किए जाते हैं। अगर ऐसा न हो तो बड़ी दिक्कतें पैदा आती हैं। मुझे एक मिसाल याद आती है :

हिसाब ज्यों का त्यों  
कड़ा दबा क्यों।

मैं अर्ज करता हूं कि यह दोनों चीजें एक तरह की नहीं हैं। आपको उन्हीं बातों को रिपीट नहीं करना चाहिए था। मैं जानता हूं कि यह बिल चन्द मिनटों में पास हो जाएगा। मैं जानता हूं कि सी कस्टम्स बिल जो पास हो चुका है उससे लोगों को बहुत ज्यादा तकलीफ होगी लेकिन मैं यह कहना चाहता हूं कि इस बिल से लोगों को और भी ज्यादा तकलीफ होगी। इसलिए मैं अर्ज करता हूं कि कम से कम गुहा साहब हमको यह एशोरेंस दे दें कि अगर दो बरस या तीन बरस के बाद उनके नोटिस में यह चीज आए कि इससे इन्फॉर्मेट आदीमियों को तकलीफ हुई है तो वह इस को चेंज करेंगे। मैं उन लोगों के बारे में नहीं कहता जो स्मगल करते हैं, उनके लिए तो सख्त से सख्त कानून अगर आए तो मैं उसका स्वागत करूंगा और चाहता हूं कि उन को सख्त सजा मिले। मैं सिर्फ इन्फॉर्मेट पीपल को बचाना चाहता हूं। उनके काज को मैं प्लीड करता हूं। मैं मानता हूं कि गुहा साहब आखिरी क्षण कर चलते हैं। लेकिन मैं चाहता हूं कि वे हम को कम से कम यह एशोरेंस जरूर दें

कि अगर उनके नोटिस में यह आए कि इससे इन्फॉर्मेट लोगों को तकलीफ हुई है तो वह इसको चेंज करेंगे। अगर वह यह एशोरेंस दें तो मेरा खयाल है कि इस हाउस के सब मेंबर इस बिल को पास करने के लिए एक मत हो सकते हैं। और दरअसल मैं खुद एक एमोडिग बिल लाना चाहता था ताकि इस पर दुबारा बहस हो सके। लेकिन हाउस के रूलज के मुताबिक छः महीने के पहले कोई ऐसा बिल नहीं लाया जा सकता है। इसलिए मैं चाहता हूं कि वह यह एशोरेंस दें दें.....

रक्षा संगठन मंत्री (श्री त्यागी): कौन सी क्लोज एंसी है जिसका कि मेरे दोस्त जिक्र कर रहे हैं ?

पंडित ठाकुर दास भार्गव: मुझे खुशी है कि हमारे मिनिस्टर साहब ने यह जानने की कोशिश की कि वह कौन सी क्लोज है। मैं तो समझता था कि अब उनको फाइनंस से कोई ताल्लुक नहीं है। लेकिन मुझे बड़ी खुशी है कि वह इस में हिस्सा लेने को तैयार हैं। मैं उनको.....

श्री ए० सी० गुप्ता : आपको मालूम होना चाहिए कि ज्वॉयंट रिसर्पोर्सीबिलिटी है।

पंडित ठाकुर दास भार्गव : यानी जब डिफेंस का मामला आएगा तो यह नहीं बॉलेंगे और आप बॉलेंगे।

खैर मैं अर्ज करता हूं कि वह दफा जो मेरे दोस्त ने पढ़ी है वह दफा है १७८(ए) जिसके अन्दर बर्द्धन आफ प्रूफ का जिक्र किया गया है। मेरा खयाल है कि जब सी कस्टम्स बिल जेरें गॉर था उस वक्त त्यागी साहब बहस में मौजूद नहीं थे। उस वक्त कई मिसालें दे कर समझाया गया था कि बर्द्धन आफ प्रूफ जो एक्यूज्ड पर डाला गया है यह कितना हार्श है। मैं एक मिसाल दे कर आज फिर इसको वाजें कर देना चाहता हूं आज आप बाजार में जाते हैं और एक फाउंटन पेन खरीदते हैं और वह फाउंटन पेन अगर स्मगल गूड्स में से है और आपके कब्जे से पकड़ा जाता है तो चाहे आपने उसको बाजार से खरीदा हो तो उस सूरत में आप को यह साबित करना होगा कि यह स्मगल नहीं है.....

श्री त्वागी: अगर चोरी का माल किसी सुनार के यहाँ से पकड़ा जाता है तो सुनार को साबित करना होगा कि यह चोरी का माल नहीं है।

पंडित ठाकुर दास भार्गव: अब आप ठीक रास्त पर आए। सुनार के कब्जे में जो माल है जब तक आप यह साबित न कर दें कि यह चोरी का माल है आप उसको गिरफ्तार नहीं कर सकते। इस बिल के मुताबिक आप यह एज्यूम करते हैं कि यह चोरी का माल है। यह है इन दोनों में डिफ्रेंस। मैं उम्मीद करता हूँ कि अब आप की समझ में आ गया होगा कि बर्धन आफ प्रूफ किस पर है।

श्री ए० सी० गुप्त: यह अब पुरानी बात हो गई है।

Mr. Deputy-Speaker: Hon. Members will address the Chair.

Pandit Thakur Das Bhargava: This rule applies to Ministers as well as Members.

Mr. Deputy-Speaker: Certainly.

Pandit Thakur Das Bhargava: Then I would request the hon. Minister to address you and not to address me.

Mr. Deputy-Speaker: Certainly.

पंडित ठाकुर दास भार्गव: तो मैं अर्ज कर रहा था कि बर्धन आफ प्रूफ एक्यूज्ड पर न हो बल्कि इस्तागस पर हो। इस बात को साबित करना कि यह स्मगल चिज है इस्तागस का काम होना चाहिए। अब मैं यह कहता हूँ तो मैं इन्सैंट आदीमियों के काम को सामने रख कर कहता हूँ कि कहीं उनको तकलीफ न हो। जो बाकई में गुड्स स्मगल करते हैं मैं चाहता हूँ कि उन को सख्त से सख्त सजा मिले। मेरी तो सिर्फ इतनी सी दरखास्त है कि यह दखा जाए कि इस से इन्सैंट आदीमियों को तकलीफ न हो। मैं चाहता था कि इसके बारे में अभी कुछ कर दिया गया होता और मैं यह भी विचार कर रहा था कि मैं एक प्राइवेट बिल लाऊँ लेकिन मैं प्राइवेट बिल का इन्त है वह आप को भी मालूम

है। इसलिए मैं कांजाप्रीटिव स्पिरिट में काम करने पर विचार करता हूँ। अगर आप मेरी इतनी छोटी सी बात को भी नहीं मानते जो मैं ने अभी अर्ज की है तो फिर जो कुछ होगा दखा जाएगा। मैं अर्ज करता हूँ कि जो सैवशन बैसल के बारे में है या शिप के बारे में है और जिनका कोई ताल्लुक लैंड से नहीं है उसकी तरफ भी आप गौर करें। जो चीज सी पर लागू होती है वह आप लैंड पर लागू न कर दें। अगर लैंड कस्टम्स बिल में टांगे का जिक्र होता तो माना जा सकता था। इस वास्तव में अर्ज करता हूँ कि आप इन बातों का भी ध्यान रखेंगे।

आप ने फरमाया कि हमारे सब-इन्स्पेक्टर और लैंड कस्टम्स ऑफिसर बहुत अच्छे आदमी हैं, बहुत अच्छे अफसर हैं। जैसे सब-इन्स्पेक्टर हैं वह तो हम जानते ही हैं और अगर लैंड कस्टम्स अफसर अच्छे आदमी हैं तो मैं उन्हें मुबारकबाद देता हूँ। इससे और ज्यादा खूशी की बात और क्या हो सकती है। लेकिन मैं तो सिर्फ इतना ही अर्ज करना चाहता हूँ कि अगर आपके नोटिस में दो तीन बरस के बाद ऐसी बात आवे जिस से कि यह पता लगे कि इन्सैंट आदीमियों को तकलीफ होती है तो आप इसको रिब्यू करें और लैंड और सी कस्टम्स बिल के बारे में इन चीजों को ध्यान में रखते हुए मुनासिब तरकीबी बिल लाएं।

Shri Bogawat (Ahmednagar South): All the laws applicable to the sea customs will not be applicable to land customs, and if these are made applicable, there will be too many difficulties. We know that the burden of proof is cast on the person possessing the property. If persons coming from overseas or other territories bringing property with them do not want to pay customs, then they have to prove all this. But this would be wrong in the case of land customs, and, as was pointed out by Pandit Thakur Das Bhargava, there would be every possibility of mischief and it would be a curse if we pass such a law. I will request the hon. Minister to withdraw this Bill for the present and think over it twice or even a hundred times

[Shri Bogawat]

before applying such provisions which will bring difficulties and make confusion worse confounded. For instance, in big cities like Bombay, Calcutta and Madras, there are persons who possess some property, say, ancestral property or some such property. If any officer wants to play any mischief, then he can go and harass the person and ask him to prove how he had come in possession of that property by lawful means, failing which he will be made an accused and he will be prosecuted. So, judged in the light of these considerations, this is a very bad law.

6 P.M.

What is now sought to be done is that the burden of proof is cast on the accused, just as is done under the Sea Customs Act. I think that is not the proper way of dealing with a matter where people are to be prosecuted. As was pointed out by my hon. friend Shri Kasliwal, this Bill contains only the numbers of a few sections of the Sea Customs Act. I feel that we should not have a Bill of this nature, which will create difficulties and confusions.

If this Bill is passed in its present form, it will result in a good deal of hardship even to persons who are not coming from overseas. So, in order to avoid any injustice, harassment and trouble I would request the hon. Minister not to press this Bill in its present form, but to think over the suggestions that have been made here; and if after thinking over the various suggestions, he comes to the conclusion that there would be difficulties, then he should kindly withdraw this Bill for the present, and later on bring forward a Bill in more specific terms wherein the burden of proof would not be on the accused as is the case under the Sea Customs Act.

With these few words, I humbly request the hon. Minister to think over what I have said, and to withdraw this Bill if he really wants to do justice and to avoid harassment.

Shri Tek Chand (Ambala-Simla):

One objective of law and the cardinal principles underlying the making of laws is that laws be knowable. They are beacon-lights for people to know what they can do and what they ought not to do, what is forbidden and what is not forbidden. And in so far as laws are presumed to be knowable, their is that presumption that everybody is supposed to know law, whether he happens to be an ignorant person, an ignoramus of ignoramuses or somebody well-versed in law. It should certainly not be the endeavour of the legislature that law should seemingly appear to be a trap for the unwise, that the legislature should bait an innocent person, and that he may transgress the stated limit so that the officers may have the satisfaction of catching him.

An attempt is being made to create a criminal for the pleasure and satisfaction of punishing him. There is in this an important provision like section 178A of the Sea Customs Act, which is most revolutionary, and with respect to which, when the debate on the sister Bill, namely the Sea Customs (Amendment) Bill, was going on here, a sharp criticism had been levelled as to the desirability of that provision. Now, by the backdoor this mischievous provision is being introduced in the Land Customs Act also, namely that the burden of proof that certain goods are not smuggled goods is on the person in whose possession the goods happen to be. That is the provision in the Sea Customs Act. I can hardly make a distinction here, though my hon. colleague has tried to do so; this particular provision is going to create considerable harassment for the innocent.

Shri Bogawat: Exactly so.

Shri Tek Chand: And it really depends upon the whim and caprice of your customs officer, whether he happens to be the sea customs officer or the land customs officer, that he may harass and embarrass any law-abiding citizen. I recall to my mind giving certain homely illustrations. A man who does not know the status,

perhaps of a Minister or a very high officer, has only to say, your fountain pen happens to be a smuggled property, go and prove your innocence. There are a hundred and one articles which are imported articles, and with respect to their source, the date of purchase, the papers, the cash memos etc. you have no proof. None the less, the officer has got to point his finger of suspicion at you, and you remain a guilty person till you are in a position to prove and establish your innocence. This measure, sinister, improper and unjust as it is, is now being introduced through the back-door in the Land Customs Act as well, without anybody taking the slightest pains to see that anybody in possession of an important article can be treated as a criminal, or as a suspect, and he has got to enter upon his defence in a criminal court, or in proceedings of a criminal nature which are of the exacting type.

I thought that this amending Bill is confusion-dispelling, but it seems to be confusion-creating. My hon. and learned colleague has in a most trenchant manner drawn the attention of the hon. Minister with respect to particular provisions. It is almost laughable that with all earnestness, with all gravity and with all sense of responsibility, we are called upon to lend support to a measure which says that when a vessel comes this way, all right, the land customs people shall have this right, unless the new proposal is that certain vessels are going to be tugged by the ropes on the land surface.

Kindly picture to yourself your Land Customs Act or your Sea Customs Act. They are legislative measures, which have to be studied with great depth by foreigners as much as by our citizens. And when they are going to examine your draftsmanship and they see that even your sea vessels have to be dragged over your land customs, we make ourselves in their eyes and in our eyes almost scoffable. Why could not somebody who was in-charge of this measure devote an extra ten minutes or an extra half an

hour to examine and sift the particular provisions which he wanted to be incorporated in the Land Customs Act; or even if he wanted them to be incorporated in the Land Customs Act, why could he not sit down in patience and think of a suitable language whereby the provisions could be adjusted to land customs? Now, vessels shall have to come, and I dare say, it will not need much greater scrutiny in order to find that certain provisions which exclusively and entirely pertain to sea have been dragged in under the Land Customs Act.

Legislation made in hurry can reap ugly fruit and end in embarrassment and confusion; and it does not add to the great reputation of the draftsmen who are responsible for bringing in these clumsy pieces of draftsmanship and who want to have them rammed down our throats. It certainly is not acceptable to us.

**Shri A. C. Guha:** I think some Members, particularly Shri Tek Chand and his predecessors, have levelled some abuses on the Government....

**Shri Tek Chand:** I was not abusive, but only vigorous.

**Shri Bogawat:** Not abuses.

**Shri A. C. Guha:** All right. I withdraw the word 'abuses'. I think there have been some misapprehensions in the matter. The section which they referred to, section 37, is already in the schedule of the Land Customs Act—section 37 of the Sea Customs Act is already in this schedule. And those sections which are mentioned here except, I think, 7 or 8 are all in the present schedule.

**Shri Tek Chand:** Therefore, an error once perpetrated must be perpetuated!

**Shri A. C. Guha:** It is not an error. So long as this section 37 was proved to be useful for the land customs officials, there must have been some sense in keeping it.

**Shri Kasliwal:** I think there is a lot of misapprehension in the mind of the hon. Minister. I have already

[Shri Kasliwal]

said that section 37 has been amended by clause 4 of the Sea Customs (Amendment) Bill, 1955, and in that the word 'vessel' has been put in. They are incorporating the same section 37 now. I am putting this question: does he want to keep the old section 37 or the new section 37? There is no mention whatsoever of it.

**Shri A. C. Guha:** There cannot be any old 37.

**Mr. Deputy-Speaker:** There cannot be any old 37.

**Shri Kasliwal:** If there cannot be..

**Shri Tek Chand:** Still worse.

**Shri A. C. Guha:** Section 37 being amended, the new section 37 is the relevant section of the Act. What is the amendment of section 37? Only the explanation. The real section stands as it is—the basic section stands as it is. Only the explanation has been amended. And this section is necessary for the land customs because of the applicability of the rate of duty or the tariff value for any articles exported or imported under the Land Customs Act. The difference will be that instead of the bill of entry, we shall take the import application. So it is not all nonsense that the Government have been following all these years.

**Shri B. S. Murthy (Eluru):** More nonsense—is it?

**Shri Tek Chand:** May I seek a clarification? The word 'vessel' introduced in section 37 was introduced recently, in 1955. Therefore, if in the previous schedule, there was a reference to section 37, that reference is to section 37 minus 'vessel'. 'Vessel' came in in 1955, and you want to drag the vessel over to the Land Customs Act.

**Shri A. C. Guha:** In the previous Bill also, reference to 'bill of entry' was there. It can refer only to a ship. But here for the Land Customs Act, instead of 'bill of entry', we take the import application.

**Shri Tek Chand:** Earthen pitcher!

**Shri Tyagi:** Here it might mean 'brass vessel'.

**Shri Kasliwal:** What about section 25?

**Shri A. C. Guha:** Section 25 was also there.

**Shri Kasliwal:** It has been amended.

**Shri A. C. Guha:** The amendment has not changed the nature....

**Mr. Deputy-Speaker:** I am sorry that a new procedure is being adopted. It seems to be going on. Shri Kasliwal was called upon to speak and he spoke. I allow every opportunity to hon. Members to speak in detail, so that the other side may answer. But when the Minister is on his legs, this sort of cross-examination cannot go on. It is very very wrong. Every hon. Member will have only one opportunity. No hon. Member can go on putting questions in this manner; it is endless. If he did not make himself understood, he must thank himself.

**Shri A. C. Guha:** Regarding section 25 also, there is no difficulty. It refers to drawback. Articles may be exported both by land and sea. If the articles are exported over the land side, then this drawback provision will apply. So there is no contradiction or difficulty about introducing this section on the land customs side.

Then as regards the point mentioned by Pandit Thakur Das Bhargava, I can assure him that I have not forgotten that he would raise all these questions. So before coming to this House to pilot this Bill, I made a special enquiry as to how the amended section of the Sea Customs Act has been working. I can give him this assurance that the information we have received constitutes no reason to be very much apprehensive about its working. From the Calcutta and Madras side, the information we have been able to gather so far is that there has been no action taken as yet under the amended section which he referred



to—section 178. From Bombay. We have got one case under section 167(81), prosecution for smuggling one case under section 171R, power to summon persons to give evidence, and four cases under section 172, warrant to seize documents; then there is section 178A—the section which Pandit Thakur Das Bhargava and Shri Tek Chand have in view—regarding some gold and diamond seized in the town, these may involve the new provision regarding burden of proof. We have not so far received any complaints against any officer of the customs in administering this new provision. I can also tell him that our latest report is that the smuggling of gold and other precious metals in Bombay has gone down.

Then Shri Tek Chand referred to his previous speech on section 178A, but I think he has not forgotten that the clause, as put in the original Bill, was drastically changed and now nobody can seize his spectacles or pen. It is now applicable only to certain articles, gold, gold manufactures, diamond and other precious stones, cigarettes, cosmetics and any other article which the Government may hereafter notify, and which notification will be placed on the Table of the House. It is not so omnibus as it was originally, and we have also sent special directives, as I gave assurance on the floor of the House, to all our customs officers that this section should be operated with care and caution and with some consideration causing no undue hardship to the public by their over-zealousness. The assurance that Pandit Thakur Das Bhargava has asked from me I can give, that periodically we shall get this matter examined, and if we find that there has been too many complaints about it or there has been much hardship caused by the operation of this section, we shall see what we can do in the matter. But I can give him this assurance also that so long there has been nothing; no complaint has been received. On the other hand, there has been a considerable reduction in the

smuggling of gold and other precious metals. That is our report. So I hope there will be no reason to be apprehensive about this small Bill.

**Mr. Deputy-Speaker:** The question is:

“That the Bill further to amend the Land Customs Act, 1924, be taken into consideration.”

*The motion was adopted.*

*Clauses 1 and 2 were added to the Bill.*

*The Enacting Formula and the Title were added to the Bill.*

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

“That the Bill be passed.”

**Mr. Deputy-Speaker:** The question is:

“That the Bill be passed.”

*The motion was adopted.*

#### SPIRITUOUS PREPARATIONS (INTER-STATE TRADE AND COMMERCE) CONTROL BILL.

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** I beg to move:

“That the Bill to make provision for the imposition in the public interest of certain restrictions on inter-State trade and commerce in spirituous medicinal and other preparations and to provide for matters connected therewith, be taken into consideration.”

As indicated in the Statement of Objects and Reasons, the reasons for introducing a Bill of this nature is that as a result of prohibition in several States of India, the consumption of certain articles like medicinal or near-medicinal preparations has gone up very much. Therefore, the Bill proposes that the inter-State trade in such articles should be controlled, so that the policy of prohibition, which is being operated in various States in India and which is a directive principle of the Constitution, may be more