

of opinion, there are a number of amendments tabled, and the hon. Minister must make up his mind whether he would like it to stand over unless there is some urgency in which case...

**Shri Biswas:** There is no urgency.

**Mr. Deputy-Speaker:** Is it the desire of the House that this should be postponed?

**Several Hon. Members:** Yes.

**Mr. Deputy-Speaker:** The House agrees to postpone decision on this to the next session. In the meanwhile, the necessary steps will be taken.

#### MAINTENANCE ORDERS ENFORCEMENT (AMENDMENT) BILL

**The Minister of Law and Minority Affairs (Shri Biswas):** I beg to move:

"That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, be taken into consideration."

This Bill has been brought before you on very much the same grounds as the previous Bill which has now been adjourned. The difference is this. I will not ask for an adjournment of the present Bill, because here there is no separate mention of any specific country. This provision is in general terms. The Maintenance Orders Act which is now in force provides for enforcement in India of maintenance orders made in other countries and for enforcement in other countries of maintenance orders passed in India, on a reciprocal basis. Now, in the Act as it stands, the countries with which reciprocal arrangements may be made are countries lying within the Commonwealth—His Majesty's Dominions and Protectorates. We want to extend that definition so as to include all countries outside India. Instead of the existing section 3, we say:

"If the Central Government is satisfied that legal provision exists in any country or territory outside India for the enforcement within that country or territory of maintenance orders made by courts in India, the Central Government may, by notification in the Official Gazette, declare that this Act applies in respect of that country or territory and thereupon it shall apply accordingly."

The only amendment of any significance which has been received is that for the words "Central Government" the words "Union Government" be substituted. That, Sir, overlooks the General Clauses Act, because in the General Clauses Act the words "Central Government" are defined to mean the President and so forth, and the words "Union Government" are not to be found there. We have followed the terminology of the General Clauses Act. Therefore, I do not see any point in the suggested change from "Central Government" to "Union Government".

There is another amendment. I shall deal with it when it comes up. But we say in one clause:

"'reciprocating territory' means any country or territory outside India in respect of which this Act for the time being applies by virtue of a declaration under section 3."

We have added "by virtue of a declaration under section 3"; because that is bound to be so. If you want to delete these words, delete them; but there is no use deleting them, because this Act may apply to such territory only by virtue of a declaration. That is a statement of fact.

**Mr. Deputy-Speaker:** What about the amendment seeking to exclude Pakistan?

**Shri Biswas:** I do not know what point there is in it. As a matter of fact it rests with the Central Government to issue the notification. If you do not want to enter into reciprocal arrangements with Pakistan, it will always be open to you not to do so; you need not say "except Pakistan" in the Act. It is always possible for India to exclude Pakistan if the situation demands. That is another matter. That power is already there.

Another amendment seeks to insert the words "express or implied" in line 23:

"If the Central Government is satisfied that legal provision exists in any country....."

The mover wants it to read:

".....any legal provision express or implied".

This is a matter for the Central Government to decide; therefore, why put in these words there? That will only lead to unnecessary controversies and leave it open to the courts also to go into the question. The matter is left entirely in the hands of the Central Government. The amendment is wholly unnecessary. That is my submission.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, be taken into consideration."

There is an amendment by Shri Vishnu Ghanashyam Deshpande:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the end of September, 1952."

The Bill is short. It removes those objections which were raised with respect to the previous Bill as regards discrimination in favour of a country. What is the object of the amendment?

**Shri V. G. Deshpande (Guna):** My purpose is this. It has some reference to another amendment which seeks to insert the words "except Pakistan". We feel that the provisions of this Bill would be misused by persons staying in India for sending large sums of money to Pakistan by getting *ex-parte* decrees passed. That is our fear. It is likely to have very far-reaching effects on our relations with Pakistan. We feel that the framer of the Bill has not sufficiently realised the serious consequences of this Bill. As it is, we know that large sums of money are being remitted to Pakistan for maintenance and other purposes. Our suggestion is that this Bill should be circulated for the purpose of eliciting opinion and it should not be passed hurriedly. The hon. Mover of the Bill himself did not realise what is the meaning of the insertion of the words "except Pakistan". That shows that sufficient thought has not been given to this Bill by the mover. Therefore, more calm consideration is needed so far as this Bill is concerned and therefore I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the end of September, 1952."

**Shri Biswas:** If I may say so, my hon. friend is entirely under a misapprehension. We are only providing for enforcement of decrees passed in the courts of one country in the other country. So far as actual remittance of money is concerned, which involves sending of currency of one country to the other country with a different currency, that will be regulated by the ordinary exchange control restrictions. It is only the right to enforce a decree of one country in another country that is in contemplation here.

**Shri V. G. Deshpande:** It is not a question of currency only.

**Shri Biswas:** That is what my hon. friend said: he referred to remittances from one country to the other. If the decree is enforced, that question of remittance will be regulated by exchange regulations.

**Shri V. G. Deshpande:** That is not the question. I will make it explicit. Suppose in a Pakistan court a decree is passed in favour of the mother of a person staying in India or having property here. The question is, whether that decree can be executed in India. Such decrees can be obtained and money can be sent to Pakistan. That is what I say. It is not a question of exchange of currency only. We feel that this provision will be used for the purpose of helping Muslims who are living there who will be allowed to enjoy the profits of property situated in India. From this point of view, we feel that some more consideration is necessary for this Bill and that is why it should be circulated for eliciting public opinion.

**Mr. Deputy-Speaker:** Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the end of September, 1952."

This is a general provision. Wherever the maintenance orders are passed, they will be executable in any reciprocating territory. Of course exception can be made: it is open to the Government to say, "No. I am going to exclude Pakistan."

**Shri S. S. More (Sholapur):** Will it be possible to say that? Once a court passes this order, it does not rest with the Government.

**Mr. Deputy-Speaker:** Any arrangement entered into will be on a reciprocal basis. This provision only enables the Government to enter into reciprocal arrangements with various other Governments. If pressure of opinion here is against entering into any such arrangements with Pakistan the Government will know it and act accordingly.

**Shri S. S. More:** May I ask the Law Minister whether he accepts the proposition of the Chair?

**Shri Biswas:** Sir, I do not think this matter is of such importance that public opinion should be elicited. It is a very simple measure.

**Shri S. S. More:** That is another matter.

**Mr. Deputy-Speaker:** As I said, this will be a general measure under which it will be open to the Government to enter into arrangements with other countries that their decrees will be executable here in case our decrees are executable in those countries.

**Shri Biswas:** It is entirely on a reciprocal basis.

**Sardar Hukam Singh (Kapurthala-Bhatinda):** Our fear is this. West Pakistan has driven out all the minorities from that part of Pakistan, and they are driving out the minorities from East Pakistan as well. And when this provision is there, our Government will certainly be ready, out of very good motives, to reciprocate and enter into an agreement with Pakistan whereby decrees passed there—which it will be very easy to procure—would be, executable here, so that they would enable those persons who are living there to get maintenance funds from India, and there will be a large flow of money from here into Pakistan. That is what we fear.

This is what we are pressing that Pakistan should not be included because our citizens would not be able to take advantage of it. While we enter into that reciprocal arrangement with Pakistan, the Pakistanis who are living here but leaving their sons, daughters and wives there in Pakistan will be able to avail of this provision and there will be much flow from India to Pakistan. These are, Sir, our genuine fears.

**Shri S. S. More:** I wanted one more clarification from the Law Minister. Supposing a certain Muslim has gone to Pakistan and his property here has been declared to be evacuee property and placed under the custody of Custodian and supposing there is a certain decree passed against him and that decree is transferred to the Indian Government for execution, will it not be executed.....

**Shri Biswas:** That will depend upon not the provisions of this Act but upon the provisions of the Evacuee Property Act.

**Mr. Deputy-Speaker:** I can only say this much that the hon. Members may confine themselves to this amendment which is there. The House may decide one way or the other on this amendment if they think that statutorily the Government ought to be prevented from having any negotiations. Does the hon. Member want to withdraw his amendment?

**Shri V. G. Deshpande:** If the Government accepts the position, I will withdraw.

**Mr. Deputy-Speaker:** Then I will place the amendment to the vote of the House. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the end of September, 1952."

The motion was negatived.

**Mr. Deputy-Speaker:** Now I will put the motion before the House.

The question is:

"That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

**Clause 4.—(Substitution of new section for section 3)**

**Shri M. S. Gurupadaswamy:** I beg to move:

In page 1, lines 22 and 23 and lines 25 and 26, of "Central Government", substitute "Union Government".

**Mr. Deputy-Speaker:** Amendment moved:

In page 1, lines 22 and 23 and lines 25 and 26, for "Central Government", substitute "Union Government".

**Shri M. S. Gurupadaswamy:** I may submit, that this amendment is drafted in consonance with the provisions of the Constitution where the word "Union" has been mentioned. This amendment will make it more agreeable. I therefore request that the words 'Union Government' may be substituted for the words 'Central Government'.

**Mr. Deputy-Speaker:** The General Clauses Act makes it clear.

**Shri Raghuramaiah (Tenali):** It will be seen that this word 'Central Government' occurs not only in this enactment but in many other enactments. The fact that the Constitution refers to 'Union Government' does not preclude the usage of any other word in a statute provided it is made quite clear that the reference is to the Union Government. This is done by the General Clauses Act. There is therefore no need for this amendment.

**Shri S. S. More:** The General Clauses Act was passed at the fag end of the 19th century. If we are legis-

[Shri S. S. More]

lating under the Constitution—the power vested in us is due to the Constitution—we should use the phraseology that is used in the Constitution. The phraseology used in the Constitution is Union Government on the one side and States on the other side. So it is for the Government to amend this provision. They can bring in one amending omnibus Bill by which all these things should be done away.

**Mr. Deputy-Speaker:** No further argument is necessary.

**Shri Biswas:** May I submit one thing, Sir? This provision in General Clauses Act which has been referred to was inserted after commencement of the Constitution. I am not referring to the General Clauses Act as it stood before 1947.

**Mr. Deputy-Speaker:** I will now put the amendment to the vote of the House. The question is:

In page 1, lines 22 and 23 and lines 25 and 26, for "Central Government", substitute "Union Government."

The motion was negatived.

**Sardar Hukam Singh:** I beg to move:

In page 1, line 24, after "India" insert "except Pakistan".

**Mr. Deputy-Speaker:** Amendment moved:

In page 1, line 24, after "India" insert "except Pakistan".

**Sardar Hukam Singh:** It is said in the Statement of Objects and Reasons that the Maintenance Orders Enforcement Act, 1921, facilitates the enforcement in India of maintenance orders made in "His Majesty's Dominions and Protectorates" and that there should be genuine power to reciprocate with any country outside India. The object is very good. But we ought to have been given certain more information about that, whether since that Act was passed in 1921 at any time the necessity was felt to have this reciprocal arrangement with any other country or whether there were any decrees or whether it was thought necessary that some arrangement of this kind should be made. And also whether this question ever came up before the Government or before the Central Legislature to make such a law? If there was no necessity felt during the last 30 years to reciprocate with any other country and this continued for so long a time, what necessity is there now particularly

that such a law, such a modification or such an alteration should be made? That rouses fears in our minds so far as our neighbour is concerned because we see that the Government has not been able to restore anything to those refugees who have been turned out and whose properties have been forfeited. Keeping in view the fact that other minorities in East Pakistan also are being driven out and the attitude that we have adopted as against Pakistan, we have those fears and our fears are genuine. There is no doubt that the Government out of sheer courtesy and out of generosity would be ready to reciprocate whatever Pakistan does but then we are afraid that that will do very great harm to our people.

Therefore we have put in this amendment and I appeal to the Members of the House to consider coolly over it. Of course, it does not on the face of it look nice that there should be a discrimination against any particular country at this stage. We should not do that, but we have to be practical people, we have to see the realities and not base our policies merely on theories and on noble principles. Therefore, I press my motion.

**Dr. S. P. Mookerjee (Calcutta South-East):** If it is not possible for the Law Minister to accept the amendment which has been moved by Sardar Hukam Singh—I appreciate his difficulties—may I ask him to consider one other possible solution? Now the difficulty with regard to our relations with Pakistan has been that even though legal provisions may exist in that country or promises may be made by its Government, they are not actually implemented. The clause as has been drafted here says that our Government will adopt the principle of reciprocity when Government is satisfied that legal provision of a similar nature exists in the other countries. I would ask the Law Minister to amend clause 4 suitably and lay down that our Government has to be satisfied not only as regards the existence of a legal provision but also that that is implemented in fact. Now, what will happen with regard to Pakistan is that it may adopt a similar provision but as has been our experience in the past, and as has also been the experience of the Minister himself in another capacity, the legal provisions may not be actually implemented. Supposing some such cases are brought to our notice that persons who are in India, who have got any orders to be executed in Pakistan, are not getting the relief which they are entitled to get under

the law in Pakistan, then it will be possible for our Government to withdraw this principle of reciprocity and say that reciprocity will not apply to Pakistan. I appreciate the difficulty of Government in excluding Pakistan *in toto* from a Bill like this. So the *via media* which I am suggesting is that our Government should be satisfied not only with regard to the existence of a similar legal provision in Pakistan but also with regard to the fact that such laws are being actually implemented in favour of those living in India who may hold orders and be desirous of seeing them executed in Pakistan. I think if at least that point is made clear, then the apprehension, the genuine apprehension which has been expressed from this side of the House may be met or at least there will be less ground for any such apprehension.

**Shri Biswas:** I will first point out that this amendment which is embodied in clause 4 of the Bill is just on the lines of the existing section 3 of the Act which is in these terms:—

"If the Central Government is satisfied that provisions have been made by the legislature of any part of His Majesty's dominions for the enforcement within that part of..." etc. etc.

Instead of "provisions made by the legislature" of that country, we substitute the words "legal provisions—practically the same, nothing more exist." What my hon. friend, Dr. Mookerjee suggests is that we should introduce something else in this clause.

**Mr. Deputy-Speaker:** He only wants an assurance.

**Shri Biswas:** The question is this. If it is on a reciprocal basis we cannot be satisfied unless reciprocity has already been established. It begs the question. How are we to satisfy ourselves that in point of fact the Pakistan courts are not actually honouring this provision? It will be on a reciprocal basis; with effect from a particular date orders of either country will be enforceable in the other. We cannot wait and see saying, "First of all we shall see whether you do your part of the work and then we shall reciprocate on our side." That is not the scheme. The scheme is reciprocal, so that the arrangement comes into force on the same date in the two countries.

**Dr. S. P. Mookerjee:** That is a purely technical difficulty. Then power should be taken by our Government so that in case it finds that the provisions are not being implemented then the

reciprocity will be withdrawn. That makes it simpler still.

**Mr. Deputy-Speaker:** But that always is the agreement.

**Shri Biswas:** As a matter of fact, if that order is made for reciprocity it is always open to this Government to revoke it—that is provided for in the General Clauses Act itself. My hon. friend need not be in any doubt about that. If we find that Pakistan is not reciprocating *de facto*, not merely *de jure*, then it will be open to this Government to withdraw the concession.

**Dr. S. P. Mookerjee:** Quite.

**Shri Biswas:** Apart from that, I shall refer to the use of the word "may". Sometimes "may" means "shall" according to the ordinary canon of interpretation, but I do not think that that is the meaning here.

As regards the other question, I can say that there are quite a large number of countries with which India has already entered into reciprocal arrangements. I have here a list which mentions sixteen such countries. That is under the existing Act. Apart from England and Ireland and countries of the British Commonwealth you have such reciprocal arrangements with other countries, like Mauritius, Kenya, Zanzibar and so on.

**Sardar Hukam Singh:** If that arrangement has already been made with sixteen countries then it means that it can be made with any country. So, where is the need for this legislation?

**Mr. Deputy-Speaker:** This extends it to all the countries. Now I will put the amendment to vote.

The question is:

In page 1, line 24, after "India" insert "except Pakistan".

The motion was negatived.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

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

**Shri Biswas:** I beg to move:

"That the Bill be passed."

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill be passed."

श्री नन्द लाल शर्मा : उपाध्यक्ष महोदय मैं हिन्दी में बोलूंगा क्योंकि मैं ने पहले ही दिन घोषणा की थी कि वहाँ पर मैं हिन्दी ही बोलना चाहता हूँ। तथा इस संसद् के समय में सिद्धान्त रूप से हिन्दी बोलना चाहता हूँ और वह इसलिये कि इस समय ला मिनिस्टर महोदय ने समस्त देशों के साथ पारस्परिक सम्बन्ध स्थापित करने के लिये इस विधेयक को प्रस्तुत किया है।

मेरा निवेदन यह है कि इस विधेयक में पाकिस्तान को दूसरे सभी देशों के साथ स्थान न देना चाहिये। इस समय हम लोगों के वस्तुस्थिति से बाँझ मूँद लेने से काम नहीं चलेगा। हम ने आज तक वह देखा है कि भारतवर्ष के साथ पाकिस्तान का जितना सम्बन्ध रहा है सब में भारत का ही नुकसान रहा। पाकिस्तान से आये हुए जितने सरपार्शी हैं उन की हानि रही और यहाँ से आये वाले, जिन की सम्पत्ति भारत में है वे उस क पूर्ण लाभ उठा रहे हैं।

इसलिये हमारा यह कहना आवश्यक हो गया है। हमारे आदरणीय डाक्टर मुखर्जी के संशोधन के सुझाव के अनुसार एक गड़-बड़ाहट इस प्रकार की हो गई है कि जितने भी और देश हैं जिन के साथ उस में पारस्परिक विनिमय हो सकता है उन के लिए भी हम को यह लिखना पड़ेगा। You are to see that this thing is being carried out into practice. हम कहते हैं कि समस्त देशों के साथ सन्देश करना आवश्यक नहीं है। लेकिन जिस देश ने निरन्तर कितने ही ऐग्रीमेंट किये और उन को पूरा नहीं किया उस के साथ ऐसा करना आवश्यक हो सकता है। दिल्ली पेंकट तो अभी प्रसिद्ध ही है। इस के लिये वह कहते रहते हैं कि वह इस को सत्यता से और पवित्रता से निभा रहे हैं और उन की और कोई गड़बड़ी नहीं है। लेकिन वहाँ जो

व्यवहार अल्पसंख्यकों के साथ हो रहा है वह निरन्तर हमारे सामने जाता रहता है। इसलिये मेरा यह निवेदन है कि पाकिस्तान को इस पारस्परिक विनिमय में सम्मिलित न किया जाय। और पाकिस्तान के अतिरिक्त और देशों के साथ हमारा यह सम्बन्ध हो कि जो देश हमारी डिग्री का सम्मान करता है उस की डिग्री का यहाँ सम्मान किया जाय। बहुतो हम समझ सकते हैं। अगर पाकिस्तान के साथ भी यह सम्बन्ध रहा तो जिस तरह से और ऐग्रीमेंटों के प्राचीनत्व का वह दुरुपयोग कर रहे हैं उसी तरह उस के प्राचीनत्व का भी वह दुरुपयोग करेंगे। इस दुरुपयोग के कारण से भारतवर्ष में रहने वाले वा भारत वर्ष में आये हुए व्यक्तियों को भारतीय सम्पत्ति के सम्बन्ध में हानि पहुँच सकती है और वहाँ बाकों को इस में विशेष लाभ होना। इस समय तक भी कमसे कम १५-२० करोड़ रुपये की सम्पत्ति भारत से पाकिस्तान को जा चुकी है। और निरन्तर जाती रहती है। इसलिये मैं बार बार यह निवेदन करता हूँ कि पाकिस्तान को इस में शरीक न किया जाय पाकिस्तान को छोड़ कर बाकी देशों के साथ रैसीप्रोसिटी का सम्बन्ध रखा जा सकता है यही मेरा मतलब है।

Shri Namdhari rose—

Mr. Deputy-Speaker: Hon. Members must know that they should not only not repeat what they have said, but also what others have said.

Shri Namdhari: Nothing of the sort, Sir.

عزری یہ درخواست ہے کہ ہندی  
کا چلنا تو مبارک ہے - لیکن چونکہ  
ہم نے حال ہی میں چینج اوور کیا  
ہے اسلئے اگر کمپلیکس ہندی کی جگہ  
اردو ملی ہندی بولی جائے، تو ہم اپنا  
گذارا کر لینگے -

श्री नन्द लाल शर्मा : अगर इसका नाम कम्प्लेक्स हिन्दी है तो मिक्सड बोली न जाने क्या होगी ।

**Pandit Balkrishna Sharma:** It is a shame that he does not know the language of his Gurus.

(English translation of the above speech).

**Shri Nand Lal Sharma (Sikar):** Mr. Deputy-Speaker, I shall speak in Hindi, because on the very first day I announced in Parliament that it shall be a matter of principle for me to speak in Hindi. The Law Minister has moved for the consideration of a Bill for entering into reciprocal arrangements with other countries. My submission is that Pakistan should be excluded from the list of such countries. We cannot afford to close our eyes to facts. It has been our experience that in all Indo-Pakistan dealings India has always stood to lose. The refugees who have come from Pakistan have been put to loss, while those who have migrated from India are still enjoying the profits of their property in India. It is because of this that one is constrained to say so. According to the amendment proposed by Dr. Mukerjee, we shall have to insert the following words in respect of all the countries with which reciprocal arrangements are to be entered into: 'You are to see that this thing is being carried out into practice'. It is not necessary to entertain doubts about all the countries, but it is quite natural to do so in the case of a country which has consistently failed to fulfil its obligations. The Delhi Pact is still fresh in our minds. They (the Pakistanis) claim that they are implementing it honestly and faithfully and say that there is no slackness on their part. But we daily witness what kind of treatment is being meted out to the minorities there. I, therefore submit, that Pakistan should not be included in these reciprocity arrangements. It is of course understandable to provide that the decrees of all countries, which enforce our decrees, should be enforced in this country. But if these arrangements are entered into with Pakistan, it would misuse this provision just as it has been misusing the provisions of other agreements. In this way, Indian citizens or the persons who have migrated to India, shall stand to lose in respect of property in India, while they (the evacuees to Pakistan) shall stand to gain. Upto this time property worth 15 to 20 crores of rupees has already been transferred from India to Pakis-

tan and such transfer is continuing. That is why I repeat again and again that Pakistan should not be included in these arrangements. Barring Pakistan, we can enter into reciprocal arrangements with all other countries.

**Shri Namdhari rose—**

**Mr. Deputy-Speaker:** Hon. Members must know that they should not only not repeat what they have said, but also what others have said.

**Shri Namdhari (Fazilka-Sirsa):** Nothing of the sort Sir. My submission is that the use of Hindi is quite welcome, but since the change-over has been very recent, it shall be of advantage to us if Hindi mixed with Urdu is spoken instead of this complex Hindi.

**Shri Nand Lal Sharma:** If this is complex Hindi, I do not know what the mixed language will be like.

**Pandit Balkrishna Sharma (Kanpur Distt. South cum Etawah Disst.—East):** It is a shame that he does not know the language of his Gurus.

12 Noon

**Mr. Deputy-Speaker:** Does the hon. Member take exception to the word बदि ? I am glad that hon. Members have not understood what has happened. There is nothing strange if Sanskrit words are used. After all, whenever new words have to be coined, the basic language is Sanskrit. It cannot be Arabic or Persian. Sanskrit is a language already in use, and it is one of which everybody in this country must be proud. If some hon. Members have not had the opportunity to know it, it is not too late for them to learn it.

The question is :

"That the Bill be passed."

The motion was adopted.

#### NOTARIES BILL

**The Minister of Law and Minority Affairs (Shri Biswas):** I beg to move:

"That the Bill to regulate the profession of notaries be taken into consideration."

In a sense, legislation regarding notaries is not new to this country. There is provision in the Negotiable Instruments Act for the appointment of notaries. Section 138 of that Act provides:—

"...the Central Government may, from time to time, by notification in the Official Gazette, appoint any person by name or by virtue of his office to be a notary public under